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Renewal
Rating

CS3B 242 (HES)

Trend plus 15% plus
changes in case
characteristics

Sec. 21.55.120(a)(3)

Renewability

Guaranteed renewable
except "for cause"

Sec. 21.55.130

Whole Groups

Must take whole group

Sec. 21.55.150(6)

Continuity of
Coverage

Plans must credit the
time a person was co-
vered under a previ-
ous employer-based
plan if the coverage
was continuous

Sec. 21.55.150(2)

Reinsurance

Mandatory prospect-
ive. Insurers must
participate in the
reinsurance mechan-
ism.

Sec. 21.55.010

Reinsurance
Price

150% for whole groups
500% for individuals

Sec. 21.55.050(b)

Cost Sharing

First \$5000 of claims

Sec. 21.55.050(a)(5)

CSSB 242 (HES)

Assessments

5% of the premium of small employer market

Sec. 21.55.050(d)(6)

Industry Rating

A rate factor may not vary by more than 15% from arithmetic average of highest and lowest rate factors associated with all industry classifications.

Sec. 21.55.120(a)(6)

Reinsurance Board

9 members selected by participating members, subject to approval by director. At least six members shall be small employer insurers. At least one member shall be insurer principally in small employer market; one principally in large employer market; one to represent a health maintenance organization, one to represent a hospital or medical service corporation.

Sec. 21.55.020

Health Benefit Plan Committee

7 members selected by director. Includes representatives of insurers, small employers, employees of small employers, health care providers, and agents or brokers.

Sec. 21.55.060(a)

Insurers With
Restricted
Charters, e.g.,
Fraternal
Benefits Or-
ganizations

CSSB 242 (HES)

Guarantees issue only
to those permitted by
charter (e.g., the
Lutheran Brotherhood)

Sec. 21.55.160(a)(4)

NEW BILL IN
COMMITTEE 4-16-92

CS FOR SENATE BILL NO. 242 (HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 4/15/92

Referred: Finance

Sponsor(s): SENATORS COLLINS, Menard, Pearce

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to health insurance for small employers; and providing for an effective
2 date."

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

4 * Section 1. PURPOSE. (a) The purpose of this Act is to

5 (1) promote the availability of health insurance coverage to small employers regardless
6 of their health status or claims experience;

7 (2) prevent abusive rating practices;

8 (3) require disclosure of rating practices to purchasers;

9 (4) establish rules regarding renewability of coverage;

10 (5) establish limitations on the use of preexisting condition exclusions;

11 (6) provide for development of "basic" and "standard" health benefit plans to be offered
12 to all small employers;

13 (7) provide for establishment of a reinsurance program; and

14 (8) improve the overall fairness and efficiency of the small group health insurance

1 market.

2 (b) is not the purpose of this Act to shift the cost of providing health insurance to small
3 employers, to other insured persons, or to the state.

4 * Sec. 2. AS 21.36 is amended by adding a new section to read:

5 Sec. 21.36.025. UNFAIR MARKETING PRACTICES PROHIBITED. A person may
6 not violate the applicable provisions of AS 21.55.180.

7 * Sec. 3. AS 21.36.090(d) is amended to read:

8 (d) Except to the extent necessary to comply with AS 21.42.365 and AS 21.55, a person
9 may not practice or permit unfair discrimination against a person who provides a service covered
10 under a group disability policy that extends coverage on an expense incurred basis, or under a
11 group service or indemnity type contract issued by a nonprofit corporation, if the service is within
12 the scope of the provider's occupational license. In this subsection, "provider" means a state
13 licensed physician, dentist, osteopath, optometrist, chiropractor, nurse midwife, advanced nurse
14 practitioner, naturopath, physical therapist, or occupational therapist.

15 * Sec. 4. AS 21 is amended by adding a new chapter to read:

16 CHAPTER 55. SMALL EMPLOYER HEALTH INSURANCE.

17 ARTICLE 1. SMALL EMPLOYER HEALTH REINSURANCE ASSOCIATION.

18 Sec. 21.55.010. CREATION; MEMBERSHIP. A nonprofit incorporated legal entity to
19 be known as the Small Employer Health Reinsurance Association is established. Membership
20 consists of all insurers licensed to transact health insurance in the state that offer a health benefit
21 plan. All members shall maintain membership in the association as a condition of doing health
22 insurance business, or being able to offer subscriber contracts, in the state.

23 Sec. 21.55.020. BOARD OF DIRECTORS; ORGANIZATION. (a) The board of
24 directors of the association consists of nine individuals selected by participating members, subject
25 to approval by the director. The director shall endeavor to appoint at least six board members
26 who are also small employer insurers. If the director is unable to appoint six board members
27 who are also small employer insurers, the director may fill the remaining seats with any insurer.
28 In selecting members of the board, the director shall consider, among other things, whether all
29 types of participating members are fairly represented.

30 (b) To the extent possible, one board member shall represent a health maintenance
31 organization, one board member shall represent a hospital or medical service corporation, one

1 board members' principal health insurance business shall be in the small employer market, and
2 one board member's principal health insurance business shall be in the large employer market.
3 Members of the board may be reimbursed from the association for expenses incurred by them
4 as members, but may not otherwise be compensated by the association for their services. The
5 costs of conducting meetings of the association and its board of directors shall be borne by the
6 association.

7 (c) A member of the board serves for a term of three years and may be reappointed to
8 an unlimited number of terms. The term of a board member shall continue until a successor is
9 appointed. A vacancy on the board shall be filled by participating members, subject to approval
10 by the director. A board member may be removed by the director for cause.

11 Sec. 21.55.030. GENERAL POWERS. The association may

12 (1) exercise the powers granted to insurers under the laws of the state, except that
13 the association may not issue insurance;

14 (2) sue or be sued;

15 (3) enter into contracts with insurers, similar associations in other states, or with
16 other persons for the performance of administrative functions;

17 (4) establish administrative and accounting procedures for the operation of the
18 association;

19 (5) take legal action as necessary to avoid the payment of improper claims against
20 the association;

21 (6) define the array of health coverage products for which reinsurance will be
22 provided and issue reinsurance policies;

23 (7) establish rules, conditions, and procedures pertaining to the reinsurance of
24 members' risks by the association;

25 (8) establish actuarial functions appropriate to the operation of the association;

26 (9) assess members under the provisions of this chapter and make advance interim
27 assessments as may be reasonable and necessary for organizational and interim operating
28 expenses; interim assessments shall be credited as offsets against regular assessments due
29 following the close of the calendar year;

30 (10) appoint appropriate legal, actuarial, and other committees as are necessary
31 to provide technical assistance in the operation of the association, design of a policy or contract,

1 or to assist in other functions of the association;

2 (11) borrow money to accomplish the purposes of the association; notes or other
3 evidence of indebtedness of the association that are not in default are investments for insurers
4 and may be carried as admitted assets.

5 Sec. 21.55.040. PLAN OF OPERATION. (a) The association shall submit to the
6 director a plan of operation and amendments necessary or suitable to assure the fair, reasonable,
7 and equitable administration of the association. The director may, after notice and hearing,
8 approve the plan of operation if the director determines it to be suitable to assure the fair,
9 reasonable and equitable administration of the program on a proportionate basis under the
10 provisions of this section and it does not shift program costs to other insured persons or the state.
11 The plan of operation and amendments become effective upon approval in writing by the director.

12 (b) All members of the association shall comply with the plan of operation.

13 (c) The plan of operation must establish procedures for

14 (1) handling and accounting of program assets and money of the association and
15 for an annual fiscal report to the director;

16 (2) reinsuring risks under the provisions of this section;

17 (3) collecting assessments from all members to provide for claims reinsured by
18 the association and for administrative expenses incurred or estimated to be incurred by the
19 association;

20 (4) selection of an administering insurer and establish the administering insurer's
21 powers and duties; and

22 (5) provisions necessary or proper for the execution of the powers and duties of
23 the association.

24 Sec. 21.55.050. HEALTH CARE REINSURANCE. (a) A member may reinsure
25 coverage of an eligible employee of a small employer or a dependent of an eligible employee of
26 a small employer with the association only under the following provisions:

27 (1) regarding a small employer basic or standard health benefit plan, the
28 association shall reinsure the level of coverage provided;

29 (2) regarding a plan other than a small employer health benefit plan, the
30 association shall reinsure the level of coverage provided up to, but not exceeding, the level of
31 coverage provided in a small employer basic or standard health benefit plan;

1 (3) a small employer insurer may reinsure an entire employer group within 60
2 days of the commencement of the group's coverage under a health benefit plan;

3 (4) a small employer insurer may reinsure an eligible employee or dependent
4 within a period of 60 days following the commencement of the coverage with the small
5 employer; a newly eligible employee or dependent of a reinsured small employer may be
6 reinsured within 60 days of the commencement of coverage;

7 (5) the association may not reimburse a reinsuring insurer regarding the claims
8 of a reinsured employee or dependent until the insurer has paid an initial level of claims for the
9 employee or dependent of \$5,000 in a calendar year for benefits covered by the association;

10 (6) a small employer insurer may terminate reinsurance for one or more of the
11 reinsured employees or dependents of a small employer on any plan anniversary.

12 (b) Premium rates charged for coverage reinsured by the association shall be established
13 as required under (e) of this section and adjusted as follows:

14 (1) for whole group small employer reinsurance coverage, 1.5 multiplied by the
15 base premium rate established by the association for eligible employees, and dependents of
16 eligible employees, of a small employer all of whose coverage is reinsured with the association;

17 (2) for eligible employee or dependent reinsurance coverage, 5.0 multiplied by
18 the base premium rate established by the association.

19 (c) If a health benefit plan coverage for a small employer is entirely or partially reinsured
20 with the association, the premium charged to the small employer for a rating period for the
21 coverage issued under this section shall meet the premium rate requirements established under
22 AS 21.55.120.

23 (d) On or before March 1 of each year, the board shall determine and report to the
24 director the association's net loss for the previous calendar year, including administrative
25 expenses and incurred losses for the year, taking into account investment income and other
26 appropriate gains and losses. A net loss for the year shall be recovered by assessments collected
27 from reinsuring insurers. The board shall establish, as part of the plan of operation, a formula
28 by which to make assessments against reinsuring insurers. The assessment formula must be
29 based on each reinsuring insurer's share of the total premiums earned in the preceding calendar
30 year from health benefit plans delivered or issued for delivery to small employers in this state
31 by reinsuring carriers and each reinsuring insurer's share of the premiums earned in the preceding

1 calendar year from newly issued health benefit plans delivered or issued for delivery during the
2 calendar year to small employers in this state by reinsuring insurers. In determining an
3 assessment, if any, that is collected from a member, the following provisions apply:

4 (1) the formula established under this subsection may not result in a reinsuring
5 insurer having an assessment share that is less than 50 percent or more than 150 percent of an
6 amount that is based on the proportion of the reinsuring insurer's total premiums earned in the
7 preceding calendar year from health benefit plans delivered or issued for delivery to small
8 employers in this state by reinsuring insurers to total premiums earned in the preceding calendar
9 year from health benefit plans delivered or issued for delivery to small employers in this state
10 by all reinsuring carriers;

11 (2) the board may, with approval of the director, change the assessment formula
12 established under this section from time to time as appropriate; the board may provide for the
13 shares of the assessment base attributable to premiums from all health benefit plans and to
14 premiums from newly issued health benefit plans to vary during a transition period;

15 (3) subject to the approval of the director, the board shall make an adjustment to
16 the assessment formula for reinsuring carriers that are approved health maintenance organizations
17 that are federally qualified under 42 U.S.C. 300, to the extent, if any, that restrictions are
18 imposed on those organizations that are not imposed on other small employer carriers;

19 (4) premiums and benefits paid by a reinsuring insurer that are less than an
20 amount determined by the board to justify the cost of collection may not be considered for
21 purposes of determining assessments;

22 (5) annually before March 1, the board shall determine and file with the director
23 an estimate of the assessments needed to fund losses incurred by the association in the previous
24 calendar year;

25 (6) if the board determines that the assessments needed to fund the losses incurred
26 by the association in the previous calendar year will exceed five percent of total premiums earned
27 in the previous year from health benefit plans delivered or issued for delivery to small employers
28 in this state by reinsuring insurers, the board shall evaluate the operation of the program and
29 report its findings, including any recommendations for changes to the plan of operation, to the
30 director within 90 days following the end of the calendar year in which the losses were incurred;
31 the evaluation must include an estimate of future assessments, the administrative costs of the

1 program, the appropriateness of the premiums charged, and the level of insurer retention under
2 the program and the costs of coverage for small employers; if the board fails to file a report with
3 the director within 90 days following the end of the applicable calendar year, the director may
4 evaluate the operations of the program and implement amendments to the plan of operation the
5 director determines necessary to reduce future losses and assessments;

6 (7) if assessments exceed net losses of the association, the excess shall be held
7 in an interest bearing account and used by the board to offset future losses or to reduce
8 association premiums; in this paragraph, "future losses" include a reserve for incurred but not
9 reported claims;

10 (8) the board shall annually determine a member's proportion of participation in
11 the association based on annual statements and other reports determined necessary by the board
12 and filed by the member with the board; an insurer shall report to the board a claim payment
13 made and administrative expense incurred in this state on a semi-annual basis on a form
14 prescribed by the director;

15 (9) the plan of operation must include a provision for the imposition of an interest
16 penalty for late payment of assessments;

17 (10) a member may request a deferment from the director, in whole or in part,
18 from an assessment issued by the board; the director may defer, in whole or in part, the
19 assessment of a member if, in the opinion of the director payment of the assessment would
20 endanger the ability of the member to fulfill the member's contractual obligations;

21 (11) in the event an assessment against a member is deferred in whole or in part,
22 the amount by which the assessment is deferred may be assessed against the other members in
23 a manner consistent with the basis for assessments set out in this subsection; the member
24 receiving a deferment shall remain liable to the association for the amount deferred; the director
25 may attach conditions to a deferment; a member receiving a deferment may not reinsure an
26 individual or group as provided under this section until the assessment is paid.

27 (e) The board, as part of the plan of operation, shall establish a methodology for
28 determining premium rates to be charged by the program for reinsuring small employers and
29 individuals under this section. The methodology must include a system for classification of small
30 employers that reflects the types of case characteristics commonly used by small employer
31 insurers in the state. The methodology must provide for the development of base reinsurance

1 premium rates that shall be multiplied by the factors set out in (b) of this section to determine
2 the premium rates for the association. The base reinsurance premium rates shall be established
3 by the board, subject to the approval of the director, and shall be set at levels that reasonably
4 approximate gross premiums charged to small employers by small employer insurers for health
5 benefit plans with benefits similar to the standard health benefit plan. The board shall review
6 the methodology established under this subsection to ensure that the methodology reasonably
7 reflects the claims experience of the program. Changes to the methodology may be proposed by
8 the board, and are subject to approval by the director.

9 Sec. 21.55.060. HEALTH BENEFIT PLAN COMMITTEE. (a) The health benefit plan
10 committee is established in the association. The committee is composed of seven members
11 selected by the director as follows:

- 12 (1) three members who are representatives of participating insurers;
- 13 (2) one member who represents small employers;
- 14 (3) one member who represents employees of small employers; and
- 15 (4) one member who represents health care providers; and
- 16 (5) one member who represents agents or brokers.

17 (b) The committee shall recommend benefit levels, cost sharing levels, exclusions and
18 limitations for the basic and standard health benefit plan offered under AS 21.55.140. The
19 committee shall also design a basic health benefit plan and a standard health benefit plan that
20 contain benefit and cost sharing levels that are consistent with the basic method of operation and
21 the benefit plans of health maintenance organizations, including restrictions imposed by federal
22 law. The plans recommended by the committee may include the following cost containment
23 features:

- 24 (1) utilization review of health care services, including review of the medical
25 necessity of hospital and physician services;
- 26 (2) case management;
- 27 (3) selective contracting with hospitals, physicians, and other health care
28 providers;
- 29 (4) reasonable benefit differentials applicable to providers that participate or do
30 not participate in arrangements using restricted network provisions; and
- 31 (5) other managed care provisions.

1 Sec. 21.55.070. REQUIRED REPORT. The board shall study and report at least once
2 every two years to the director and to the legislature on the effectiveness of this chapter. The
3 report must analyze the effectiveness of the chapter in promoting rate stability, product
4 availability, and coverage affordability. The report may contain recommendations for actions to
5 improve the overall effectiveness, efficiency, and fairness of the small group health insurance
6 marketplace. The report must address whether insurers, agents, brokers, managing general agents,
7 and third-party administrators are fairly and actively marketing or issuing health benefit plans to
8 small employers in fulfillment of the purposes of the chapter. The report may contain
9 recommendations for market conduct or other regulatory standards or action.

10 Sec. 21.55.080. ADMINISTRATIVE PROCEDURE ACT. The association is exempt
11 from the Administrative Procedure Act (AS 44.62).

12 Sec. 21.55.090. TAX EXEMPTION. The association is exempt from the payment of fees
13 and taxes levied by the state or any of its political subdivisions except taxes levied on real or
14 personal property.

15 Sec. 21.55.100. LIMITATION OF LIABILITY. A member of the association is not
16 liable for civil damages resulting from an act or omission of the member on behalf of the
17 association unless the member acts with gross negligence or intentional misconduct.

18 ARTICLE 2. SMALL EMPLOYER HEALTH INSURANCE PLANS.

19 Sec. 21.55.110. APPLICABILITY. (a) An individual or group health benefit plan is
20 subject to the provisions of this chapter if the plan provides health care benefits covering
21 employees of a small employer and if one of the following conditions are met:

22 (1) any portion of the premium or benefits is paid by a small employer;

23 (2) a covered individual or dependent is reimbursed, through wage adjustments
24 or otherwise, by or on behalf of a small employer for all or a portion of the premium; or

25 (3) the health benefit plan is treated by the employer or any of the eligible
26 employees or dependents as part of a plan or program for the purposes of 26 U.S.C. 106 or 26
27 U.S.C. 162 (Internal Revenue Code).

28 (b) Except as provided in this chapter, other provisions of law requiring the coverage or
29 the offer of coverage of a health care service or benefit and other provisions of law requiring the
30 reimbursement, utilization, or consideration of a specific category of a licensed or certified health
31 care practitioner do not apply to a health benefit plan offered or delivered to a small employer.

1 (c) Except as provided in this subsection, for purposes of this chapter insurers that are
2 affiliated companies or that are eligible to file a consolidated tax return shall be treated as one
3 insurer and a restriction or limitation imposed under this chapter shall apply as if all health
4 benefit plans delivered or issued for delivery to a small employer in this state by an affiliated
5 insurer were issued by one insurer. An affiliated insurer that is a health maintenance organization
6 having a certificate of authority under AS 21.86 may be considered to be a separate insurer for
7 the purposes of this chapter.

8 Sec. 21.55.120. PREMIUM RATE RESTRICTIONS DISCLOSURES; REPORTS;
9 CONFIDENTIALITY. (a) A premium rate for a health benefit plan subject to this chapter is
10 subject to the following provisions:

11 (1) the premium rate charged or offered during a rating period to small employers
12 with similar case characteristics as determined by the insurer for the same or similar coverage
13 may not vary from the applicable index rate by more than 35 percent of the applicable index rate;

14 (2) regarding a health benefit plan issued before July 1, 1992, if premium rates
15 charged or offered for the same or similar coverage under a health benefit plan covering a small
16 employer with similar case characteristics as determined by the insurer exceeds the applicable
17 index rate by more than 35 percent, an increase in premium rates for a new rating period may
18 not exceed the sum of

19 (A) a percentage change in the base premium rate measured from the first
20 day of the prior rating period to the first day of the new rating period; plus

21 (B) adjustments due to changes in case characteristics or plan design of
22 the small employer, as determined by the insurer;

23 (3) the percentage increase in the premium rate charged to a small employer for
24 a new rating period may not exceed the sum of the following:

25 (A) the percentage change in the new business premium rate measured
26 from the first day of the prior rating period to the first day of the new rating period; in
27 the case of a health benefit plan into which the small employer insurer is no longer
28 enrolling new small employers, the small employer insurer shall use the percentage
29 change in the base premium rate, provided that the change does not exceed, on a
30 percentage basis, the change in the new business premium rate for the most similar health
31 benefit plan into which the small employer insurer is actively enrolling new small

1 employers;

2 (B) any adjustment, not to exceed 15 percent annually and adjusted pro
3 rata for rating periods of less than one year, due to the claim experience, health status,
4 or duration of coverage of the employees or dependents of the small employer as
5 determined from the small employer insurer's rate manual; and

6 (C) any adjustment due to change in coverage or change in the case
7 characteristics of the small employer, as determined from the small employer insurer's
8 rate manual;

9 (4) adjustments in rates for claim experience, health status, and duration of
10 coverage may not be charged to individual employees or dependents; any adjustment must be
11 applied uniformly to the rates charged for all employees and dependents of the small employer;

12 (5) a premium rate for a health benefit plan shall comply with the requirements
13 of this section notwithstanding an assessment paid or payable by small employer insurers under
14 AS 21.55.050(d);

15 (6) a small employer insurer may utilize industry as a case characteristic in
16 establishing premium rates, provided that the rate factor associated with an industry classification
17 may not vary by more than 15 percent from the arithmetic average of the highest and lowest rate
18 factors associated with all industry classifications;

19 (7) a small employer insurer shall

20 (A) apply rating factors, including case characteristics, consistently with
21 respect to all small employers; rating factors must produce premiums for identical groups
22 that differ only by amounts attributable to plan design and do not reflect differences due
23 to the nature of the groups assumed to select particular health benefit plans; and

24 (B) treat all health benefit plans issued or renewed in the same calendar
25 month as having the same rating period;

26 (8) for the purposes of this subsection, a health benefit plan that utilizes a
27 restricted provider network may not be considered similar coverage to a health benefit plan that
28 does not utilize a restricted provider network;

29 (9) a small employer insurer may not use case characteristics, other than age,
30 gender, industry, geographic area, family composition, and group size without prior approval of
31 the director.

1 (b) In connection with the offering for sale of a health benefit plan to a small employer,
2 a small employer insurer shall make a reasonable disclosure, as part of its solicitation and sales
3 materials, of the following:

4 (1) the extent that premium rates for a specified small employer are established
5 or adjusted based upon the actual or expected variation in claims costs or actual or expected
6 variation in health status of the employees of the small employer and their dependents; and

7 (2) the provisions of the health benefit plan

8 (A) concerning the small employer insurer's right to change premium rates
9 and factors, other than claim experience, that affect changes in premium rates;

10 (B) relating to renewability of policies and contracts; and

11 (C) relating to any preexisting condition provision.

12 (c) A small employer insurer shall

13 (1) maintain at its principal place of business a complete and detailed description
14 of its rating practices and renewal underwriting practices, including information and
15 documentation that demonstrate that its rating methods and practices are based upon commonly
16 accepted actuarial assumptions and are in accordance with sound actuarial principles;

17 (2) file with the director annually, on or before March 15, an actuarial
18 certificate certifying that the insurer is in compliance with this chapter and that the rating
19 methods of the small employer insurer are actuarially sound; the certification shall be in a form
20 and manner, and must contain information, as specified by the director; a copy of the certification
21 shall be retained by the small employer insurer at its principal place of business;

22 (3) make the information and documentation described in (1) of this subsection
23 available to the director upon request; the information is confidential and not subject to
24 disclosure, except

25 (A) as agreed to by the small employer insurer;

26 (B) as ordered by a court of competent jurisdiction; or

27 (C) the director may use the information or other discovered information
28 in a judicial or administrative proceeding.

29 (d) The director may adopt regulations to implement the provisions of this section and
30 to ensure that rating practices used by small employer insurers are consistent with the purposes
31 of this act, including ensuring that differences in rates charged for health benefit plans by small

1 employer insurers are reasonable and reflect objective differences in plan design, not including
2 differences due to the nature of the groups assumed to select particular health benefit plans.

3 Sec. 21.55.130. RENEWABILITY OF COVERAGE. (a) A health benefit plan subject
4 to this chapter shall be renewable with respect to all eligible employees and dependents at the
5 option of the small employer, except for

6 (1) nonpayment of the required premiums;

7 (2) fraud or misrepresentation of the small employer or, with respect to coverage
8 of individual insureds, the insureds or their representatives;

9 (3) noncompliance with the minimum participation or employer contribution
10 requirements;

11 (4) repeated misuse of a provider network provision; or

12 (5) a small employer insurer who elects to nonrenew all of its health benefit plans
13 delivered or issued for delivery to small employers in this state; an insurer who elects to
14 nonrenew as described in this paragraph shall

15 (A) provide advance notice of the decision to the director and to the
16 director or commissioner of insurance in each state in which the insurer is licensed; and

17 (B) provide notice of the decision not to renew coverage to all affected
18 small employees and to the insurance regulatory office in each state in which an affected
19 covered individual is known to reside at least 180 days before the nonrenewal of the
20 health benefit plan by the insurer; notice to the director under this subparagraph shall be
21 provided at least three working days before the notice to the affected small employers;

22 (6) a health benefit plan for which the director finds that the continuation of the
23 coverage would

24 (A) not be in the best interests of the policyholders or certificate holders;

25 or

26 (B) impair the insurer's ability to meet its contractual obligations.

27 (b) A small employer insurer that elects not to renew a health benefit plan under (a)(5)
28 of this section may not write new business in the small employer market in this state for a period
29 of five years from the date of notice to the director.

30 (c) If a small employer insurer is doing business in only one established geographic
31 service area of the state, the provisions in this section apply only to the insurer's operations in

1 that established service area.

2 Sec. 21.55.140. REQUIRED OFFER OF COVERAGE. (a) Except as provided under
3 AS 21.55.160, a small employer insurer shall, as a condition of transacting business in this state
4 with small employers, offer to small employers at least two health benefit plans. One health
5 benefit plan offered by a small employer insurer shall be a basic health benefit plan and one plan
6 shall be a standard health benefit plan. A small employer insurer shall issue a basic health
7 benefit plan or a standard health benefit plan to an eligible small employer that applies for either
8 plan, agrees to make the required premium payments, and agrees to satisfy the other reasonable
9 provisions of the health benefit plan not inconsistent with this chapter.

10 (b) A small employer insurer shall file with the director, under AS 21.42, the basic health
11 benefit plans and the standard health benefit plans to be used by the insurer.

12 (c) The director at any time may, after providing notice and an opportunity for a hearing
13 to a small employer insurer as provided under AS 21.06.180 - 21.06.210, disapprove the
14 continued use by the small employer insurer of a basic or standard health benefit plan if the plan
15 does not meet the requirements of this chapter.

16 Sec. 21.55.150. REQUIRED HEALTH BENEFIT PROVISIONS. A health benefit plan
17 covering a small employer must include the following provisions:

18 (1) a health benefit plan may not deny, exclude, or limit benefits for a covered
19 individual for losses incurred more than 12 months following the effective date of the
20 individual's coverage due to a preexisting condition; a health benefit plan may not define a
21 preexisting condition more restrictively than

22 (A) a condition that would have caused an ordinarily prudent person to
23 seek medical advice, diagnosis, care, or treatment during the six months immediately
24 preceding the effective date of coverage;

25 (B) a condition for which medical advice, diagnosis, care, or treatment was
26 recommended or received during the six months immediately preceding the effective date
27 of coverage; or

28 (C) a pregnancy existing on the effective date of coverage;

29 (2) a health benefit plan must waive any time period applicable to a preexisting
30 condition exclusion or limitation period with respect to particular services for the period of time
31 an individual was previously covered by qualifying previous coverage that provided benefits with

1 respect to the services, provided that the qualifying previous coverage was continuous to a date
2 not more than 30 days before the effective date of the new coverage; this paragraph does not
3 preclude application of a waiting period applicable to all new enrollees under the health benefit
4 plan;

5 (3) a health benefit plan may exclude coverage for late enrollees for the greater
6 of 18 months or for an 18-month preexisting condition exclusion, provided that if both a period
7 of exclusion from coverage and a preexisting condition exclusion are applicable to a late enrollee,
8 the combined period may not exceed 18 months from the date the individual enrolls for coverage
9 under the health benefit plan;

10 (4) requirements used by a small employer insurer in determining whether to
11 provide coverage to a small employer shall be applied uniformly among all small employers with
12 the same number of eligible employees applying for coverage or receiving coverage from the
13 small employer insurer, except that a small employer insurer may vary application of minimum
14 participation requirements and minimum employer contribution requirements by the size of the
15 small employer group;

16 (5) a small employer insurer may not increase a requirement for minimum
17 employee participation or a requirement for minimum employer contribution applicable to a small
18 employer at any time after the small employer has been accepted for coverage, except as allowed
19 under (4) of this section;

20 (6) if a small employer insurer offers coverage to a small employer, the small
21 employer insurer shall offer coverage to all of the eligible employees of a small employer and
22 their dependents; a small employer insurer may not offer coverage to only certain individuals in
23 a small employer group or to only part of the group, except in the case of late enrollees as
24 provided in (3) of this section;

25 (7) a health benefit plan may not, by a rider or amendment applicable to a specific
26 individual, restrict or exclude coverage by type of illness, treatment, medical condition, or
27 accident, except for preexisting conditions as allowed under this section.

28 Sec. 21.55.160. EXEMPTION FROM REQUIRED OFFER OF COVERAGE. (a) A
29 small employer insurer is not required to offer coverage or accept applications under
30 AS 21.55.140(a)

31 (1) if the small employer is not physically located in the insurer's established

1 geographic service area;

2 (2) if the employee does not work or reside within the insurer's established
3 geographic service area;

4 (3) within an established geographic service area where the small employer
5 insurer reasonably anticipates, and demonstrates to the satisfaction of the director, that it will not
6 have the capacity to deliver service adequately to the members of the groups because of its
7 obligations to existing group policyholders and enrollees; or

8 (4) if the certificate of authority or bylaws of the insurer do not permit the insurer
9 to issue coverage on a marketwide basis; an insurer described in this subparagraph shall comply
10 with AS 21.55.140 regarding small employers that meet the requirements of the insurer's
11 certificate of authority or bylaws; this subparagraph does not apply to insurers who limit coverage
12 based on health status or health risk.

13 (b) A small employer insurer that cannot offer coverage under (a)(3) of this section may
14 not offer coverage in the applicable area to new cases of employer groups with more than 25
15 eligible employees or to small employer groups until the later of 180 days following each refusal
16 or the date on which the insurer notifies the director that it has regained capacity to deliver
17 services to small employer groups.

18 (c) A small employer insurer may not be required to provide coverage to small employers
19 for any period of time for which the director determines that requiring the acceptance of small
20 employers would place the small employer insurer in a financially impaired condition.

21 Sec. 21.55.170. CONDITIONS FOR CEASING TO DO BUSINESS. A small employer
22 insurer or a welfare arrangement may cease doing business in the small employer market if the
23 insurer or welfare arrangement provides notice of the decision to cease doing business in the
24 small employer market to the division, the board, the policyholder or contract holder, and the
25 employer, and coverage under a health benefit plan subject to this chapter is continued for one
26 year after the date of the notice required under this section. A small employer insurer or a
27 welfare arrangement that ceases doing business in the small employer marketplace may not
28 reenter the small employer marketplace for a period of five years from the date of the notice
29 required under this section.

30 Sec. 21.55.180. FAIR MARKETING STANDARDS. (a) A small employer insurer shall
31 actively market health benefit plan coverage, including the basic and standard health benefit

1 plans, to eligible small employers in the state. If a small employer insurer denies coverage to
2 a small employer on the basis of the health status or claims experience of the small employer or
3 its employees or dependents, the small employer insurer shall offer the small employer the
4 opportunity to purchase a basic health benefit plan and a standard health benefit plan.

5 (b) Except as provided in this subsection, a small employer insurer may not, directly or
6 indirectly, encourage or direct small employers to refrain from filing an application for coverage
7 with the small employer insurer because of the health status, claims experience, industry,
8 occupation, or geographic location of the small employer, or encourage or direct small employers
9 to seek coverage from another insurer because of the health status, claims experience, industry,
10 occupation, or geographic location of the small employer. This subsection does not apply to
11 information provided by a small employer insurer to a small employer regarding the established
12 geographic service area or a restricted network provision of a small employer insurer.

13 (c) Except as provided in this subsection, a small employer insurer may not, directly or
14 indirectly, enter into a contract, agreement, or arrangement with an agent, broker, managing
15 general agent, or third-party administrator that provides for or results in the compensation paid
16 to an agent or broker for the sale of a health benefit plan to be varied because of the health
17 status, claims experience, industry, occupation, or geographic location of the small employer.
18 This subsection does not apply to a compensation arrangement that provides compensation to an
19 agent, broker, managing general agent, or third-party administrator on the basis of a percentage
20 of premium, provided that the percentage does not vary because of the health status, claims
21 experience, industry, occupation, or geographic area of the small employer.

22 (d) A small employer insurer

23 (1) shall provide reasonable compensation, as provided under the plan of operation
24 of the program, to an agent, broker, managing general agent, or third-party administrator, if any,
25 for the sale of a basic or standard health benefit plan;

26 (2) or agent, broker, managing general agent, or third-party administrator may not
27 induce or otherwise encourage a small employer to separate or otherwise exclude an employee
28 from health coverage or benefits provided in connection with the employee's employment;

29 (3) may only deny an application for coverage from a small employer in writing
30 and if the reasons for the denial are stated.

31 (e) The director may by regulation establish additional standards to provide for the fair

1 marketing and broad availability of health benefit plans to small employers in this state.

2 (f) A violation of this section by a person is an unfair trade practice for purposes of
3 AS 21.36.

4 (g) If a small employer insurer enters into a contract, agreement, or other arrangement
5 with a third-party administrator to provide administrative, marketing, or other services related to
6 the offering of health benefit plans to small employers in this state, the third-party administrator
7 is subject to this section as if it were a small employer insurer.

8 Sec. 21.55.250. DEFINITIONS. In this chapter,

9 (1) "actuarial certification" means a written statement by a member of the
10 American Academy of Actuaries or another individual acceptable to the director indicating that
11 based on the person's examination, including a review of the appropriate records, actuarial
12 assumptions, and methods used by the insurer in establishing premium rates for applicable health
13 insurance plans that a small employer insurer is in compliance with the provisions of
14 AS 21.55.120;

15 (2) "affiliate" or "affiliated" means a person who directly or indirectly, through
16 one or more intermediaries, controls or is controlled by or is under common control with, a
17 specified person;

18 (3) "agent" has the meaning given in AS 21.90.900;

19 (4) "association" means the Small Employer Health Reinsurance Association
20 created in AS 21.55.010;

21 (5) "base premium rate" means the lowest premium rate charged or that could
22 have been charged under the rating system by the small employer insurer to small employers with
23 similar case characteristics for health benefit plans with the same or similar coverage;

24 (6) "basic health benefit plan" means a lower cost plan offered under
25 AS 21.55.140;

26 (7) "board" means the board of directors of the association;

27 (8) "broker" has the meaning given in AS 21.90.900;

28 (9) "case characteristics" means demographic or other objective characteristics of
29 a small employer that are considered by the small employer insurer in the determination of
30 premium rates for the small employer, provided that claim experience, health status, and duration
31 of coverage may not be case characteristics for the purposes of this chapter;

1 (10) "committee" means the health benefit plan committee established in
2 AS 21.55.060;

3 (11) "dependent" means the spouse or an unmarried child of an eligible employee
4 who is not yet 19 years of age; an unmarried child who is a full-time student, who is not yet 23
5 years of age, and who is financially dependent upon the parent; and an unmarried child of any
6 age who is medically certified as disabled and dependent upon the parent, subject to applicable
7 terms of the health benefit plan covering the employee;

8 (12) "eligible employee" means an employee who works on a full-time basis, with
9 a normal work week of 30 or more hours, and includes a sole proprietor, a partner of a
10 partnership or an independent contractor, provided the sole proprietor, partner, or contractor is
11 included as an employee under a health benefit plan of a small employer, but does not include
12 an employee who works on a part-time, temporary, or substitute basis;

13 (13) "established geographic service area" means a geographic area within which
14 the insurer is authorized to provide coverage under the insurer's certificate of authority as
15 approved by the director;

16 (14) "health benefit plan" means a hospital or medical expense policy, health,
17 hospital, or medical service corporation contract, a plan provided by an insurer or welfare
18 arrangement, and a health maintenance organization contract offered by an employer, but does
19 not include a policy covering only accident, credit, dental, disability income, long-term care,
20 hospital indemnity, fixed indemnity, Medicare supplement, specified disease, vision care,
21 coverage issued as a supplement to liability insurance, worker's compensation insurance,
22 automobile medical payment insurance;

23 (15) "index rate" means for small employers with similar case characteristics and
24 plan designs as determined by the insurer for a rating period, the arithmetic average of the
25 applicable base premium rate and the corresponding highest premium rate;

26 (16) "insurer" has the meaning given in AS 21.90.900 and includes a welfare
27 arrangement, a fraternal benefit society, a health maintenance organization, a hospital service
28 corporation, and a medical service corporation;

29 (17) "late enrollee" means an eligible employee or dependent who requests
30 enrollment in a small employer's health benefit plan following the initial enrollment period for
31 which the employee or dependent was eligible to enroll under the terms of the health benefit plan

1 except that an eligible employee or dependent may not be considered a late enrollee if

2 (A) the individual

3 (i) was covered under qualifying previous coverage at the time of
4 the initial enrollment;

5 (ii) has lost coverage under qualifying previous coverage as a
6 result of the termination of employment or eligibility, the involuntary termination
7 of the qualifying previous coverage, death of a spouse, or divorce or dissolution
8 of marriage; and

9 (iii) requests enrollment within 30 days after the termination of the
10 qualifying previous coverage; or

11 (B) the individual is employed by an employer who offers multiple health
12 benefit plans and the individual elects a different health benefit plan during an open
13 enrollment period; or

14 (C) a court has ordered coverage to be provided for a spouse or minor
15 child under a covered employee's plan and request for enrollment is made within 30 days
16 after issuance of the court order;

17 (18) "member" means all insurers issuing health benefit plans, welfare
18 arrangements and, to the extent permitted under 29 U.S.C. 1001 - 1459 (Employee Retirement
19 Income Security Act), other benefit arrangements providing health benefit plans in this state;

20 (19) "new business premium rate" means the lowest premium rate charged or
21 offered, or that could have been charged or offered, by the small employer insurer to small
22 employers with similar case characteristics for newly issued health benefit plans with the same
23 or similar coverage;

24 (20) "plan of operation" means the plan of operation of the association adopted
25 by the board under AS 21.55.040;

26 (21) "qualifying previous coverage" and "qualifying existing coverage" mean
27 benefits or coverage provided under

28 (A) Medicare or Medicaid;

29 (B) an employer-based health insurance or health benefit arrangement that
30 provides benefits similar to or exceeding benefits provided under the basic health benefit
31 plan; or

1 (C) an individual health insurance policy, including coverage issued under
2 AS 21.84, AS 21.86, or AS 21.87 that provides benefits similar to or exceeding the
3 benefits provided under the basic health benefit plan, provided that the policy has been
4 in effect for a period of at least one year;

5 (22) "rating period" means the calendar period for which premium rates
6 established by a small employer insurer are assumed to be in effect;

7 (23) "reinsuring insurer" means a small employer insurer participating in the
8 reinsurance association under AS 21.55.010;

9 (24) "restricted network provision" means a provision of a health benefit plan that
10 conditions the payment of benefits, in whole or in part, on the use of health care providers that
11 have entered into a contractual arrangement with the insurer under AS 21.86 to provide health
12 care services to covered individuals;

13 (25) "small employer" means a person, firm, corporation, partnership, or
14 association actively engaged in business whose total employed work force consisted of, on at
15 least 50 percent of its working days during the preceding 12 months, at least three but not more
16 than 25 eligible employees, the majority of whom are employed within the state; in determining
17 the number of eligible employees, companies that are affiliated companies or that are eligible to
18 file a combined tax return for purposes of federal taxation, are considered one employer; except
19 as otherwise specifically provided, provisions of this chapter that apply to a small employer that
20 has a health benefit plan continue to apply until the plan anniversary following the date the
21 employer no longer meets the requirements of this definition;

22 (26) "small employer insurer" means an insurer that offers a health benefit plan
23 covering eligible employees of one or more small employers;

24 (27) "standard health benefit plan" means a health benefit plan developed under
25 AS 21.55.140;

26 (28) "welfare arrangement" means a multiple employer welfare arrangement as
27 defined in 29 U.S.C. 1003, but does not include a multiple employer welfare arrangement that
28 is fully insured as provided in 26 U.S.C. 1060.

29 * Sec. 5. AS 21.86.260(a) is amended to read:

30 (a) Except as provided in AS 21.55 and in this chapter, this title does not apply to a
31 health maintenance organization that obtains a certificate of authority under this chapter. This

1 subsection does not apply to an insurer licensed under AS 21.09 or a hospital or medical service
2 corporation licensed under AS 21.87 except with respect to its health maintenance organization
3 activities authorized by and regulated under this chapter.

4 * Sec. 6. AS 21.87.340 is amended to read:

5 Sec. 21.87.340. OTHER PROVISIONS APPLICABLE. In addition to the provisions
6 contained or referred to previously in this chapter, the following chapters and provisions of this
7 title also apply with respect to service corporations to the extent applicable and not in conflict
8 with the express provisions of this chapter and the reasonable implications of the express
9 provisions, and for the purposes of the application the corporations shall be considered to be
10 mutual "insurers":

- 11 (1) AS 21.03
- 12 (2) AS 21.06
- 13 (3) AS 21.09, except AS 21.09.090
- 14 (4) AS 21.18.010
- 15 (5) AS 21.18.030
- 16 (6) AS 21.18.040
- 17 (7) AS 21.18.120
- 18 (8) AS 21.21.321
- 19 (9) AS 21.36
- 20 (10) AS 21.42.345 - 21.42.365, and 21.42.375
- 21 (11) AS 21.51.120
- 22 (12) AS 21.53
- 23 (13) AS 21.54.020
- 24 (14) AS 21.55
- 25 (15) AS 21.69.400
- 26 (16) [(15)] AS 21.69.520
- 27 (17) [(16)] AS 21.69.600, 21.69.620, and 21.69.630
- 28 (18) [(17)] AS 21.78
- 29 (19) [(18)] AS 21.89.040
- 30 (20) [(19)] AS 21.89.060
- 31 (21) [(20)] AS 21.90.

1 * Sec. 7. PREMIUM RATE RESTRICTION. Regarding a health benefit plan subject to
2 AS 21.55.110, enacted in sec. 4 of this Act, that is delivered or issued for delivery before July 1, 1992,
3 a premium rate for a rating period may exceed the ranges set out in AS 21.55.120(a)(1) and (2), enacted
4 in sec. 4 of this Act, through June 30, 1995; on or after July 1, 1995, the premium rate may not exceed
5 the ranges set out in AS 21.55.120(a)(1) and (2). However, through June 30, 1995, the percentage
6 increase in the premium rate charged to a small employer for a new rating period may not exceed the
7 sum of

8 (1) the percentage change in the new business premium rate measured from the first day
9 of the prior rating period to the first day of the new rating period; in the case of a health benefit plan
10 into which the small employer insurer is no longer enrolling new small employers, the small employer
11 insurer shall use the percentage change in the base premium rate, provided that the change does not
12 exceed, on a percentage basis, the change in the new business premium rate for the most similar health
13 benefit plan into which the small employer insurer is actively enrolling new small employers; and

14 (2) any adjustment due to change in coverage or change in the case characteristics of the
15 small employer, as determined from the insurer's rate manual.

16 * Sec. 8. TRANSITION. (a) Within 180 days after the board is appointed under AS 21.55.020,
17 enacted in sec. 4 of this Act, the board of directors of the Small Employer Health Reinsurance
18 Association shall submit a small employer health benefit plan to the director of the division of insurance
19 for approval. If the association fails to submit a suitable plan of operation, the director may, after notice
20 and hearing, adopt reasonable regulations necessary or advisable to effectuate the provisions of this
21 chapter. These regulations continue in force until modified by the director or superseded by a plan
22 submitted by the association and approved by the director.

23 (b) Notwithstanding AS 21.55.140(a), enacted in sec. 4 of this Act, a small employer insurer is
24 not required to offer a small employer a basic or standard health benefit plan until 180 days after the
25 director of the division of insurance has approved a basic and a standard small employer health benefit
26 plan under AS 21.55.140, except that, if the Small Employer Health Reinsurance Association has not
27 adopted a plan of operation, a small employer insurer is not required to offer a basic or standard health
28 benefit plan until the date a plan of operation is adopted as provided under AS 21.55.040.

29 (c) By September 1, 1992, a small employer insurer shall file with the director the insurer's net
30 insurance premium earned from health benefit plans delivered or issued for delivery to small employers
31 in this state in the previous calendar year.

1 (d) The Health Benefit Plan Committee, enacted in sec. 4 of this Act, shall submit the required
2 health benefit plans within 180 days after the members of the committee are appointed.

3 (e) Notwithstanding AS 21.55.070, enacted in sec. 4 of this Act, the board of directors of the
4 Small Employer Health Reinsurance Association shall provide the report required under AS 21.55.070
5 to the director of the division of insurance annually until December 31, 1997.

6 * Sec. 9. This Act takes effect July 1, 1992.

SENATE BILL NO. 242

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY SENATOR COLLINS

Introduced: 4/5/91
Referred: L&C, HES, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to health insurance for small employers; and providing for an effective
2 date."

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

4 * Section 1. FINDINGS. The legislature finds that

5 (1) an unacceptable number of residents of this state are without appropriate health care
6 because of the rapid increase in the cost of health care, the lack of access to health care, and the lack
7 of availability of health insurance coverage;

8 (2) maintenance of proper coverage of employees and dependents of employees of small
9 employers under a health benefit plan is important to ensuring the availability of appropriate health care
10 for the residents of this state and provides more stability and predictability of both rate increases and
11 coverage continuation.

12 * Sec. 2. AS 21 is amended by adding a new chapter to read:

13 CHAPTER 55. SMALL EMPLOYER HEALTH INSURANCE.

14 ARTICLE 1. SMALL EMPLOYER HEALTH REINSURANCE ASSOCIATION.

1 Sec. 21.55.010. CREATION; MEMBERSHIP. There is established a nonprofit
2 incorporated legal entity to be known as the Small Employer Health Reinsurance Association.
3 Membership consists of all licensed hospital or medical service corporations in the state that offer
4 subscriber contracts for health benefits, all welfare arrangements, and all insurers licensed to
5 transact health insurance in the state that offer a health benefit plan. All members shall maintain
6 membership in the association as a condition of doing health insurance business, or being able
7 to offer subscriber contracts, in the state.

8 Sec. 21.55.020. BOARD OF DIRECTORS; ORGANIZATION. (a) The board of
9 directors of the association consists of nine individuals selected by participating members, subject
10 to approval by the director. The director or the director's designee shall serve as a nonvoting
11 ex officio member of the board. In approving members of the board, the director shall consider,
12 among other things, whether all types of participating members are fairly represented.

13 (b) To the extent possible, one board member shall represent a health maintenance
14 organization, one board member shall represent a hospital or medical service corporation, at least
15 six board members' principal health insurance business shall be in the small employer market,
16 and one board member's principal health insurance business shall be in the large employer
17 market. Members of the board other than the director or the director's designee may be reim-
18 bursed from the association for expenses incurred by them as members, but may not otherwise
19 be compensated by the association for their services. The costs of conducting meetings of the
20 association and its board of directors shall be borne by the association.

21 Sec. 21.55.030. GENERAL POWERS. The association may

22 (1) exercise the powers granted to insurers under the laws of the state, except that
23 the association may not issue insurance;

24 (2) sue or be sued;

25 (3) enter into contracts with insurers, similar associations in other states, or with
26 other persons for the performance of administrative functions;

27 (4) establish administrative and accounting procedures for the operation of the
28 association;

29 (5) take legal action as necessary to avoid the payment of improper claims against
30 the association;

31 (6) design the array of health coverage products for which reinsurance will be

1 provided and issue reinsurance policies;

2 (7) establish rules, conditions, and procedures pertaining to the reinsurance of
3 members' risks by the association;

4 (8) establish appropriate rates, rate schedules, rate adjustments, rate classifications,
5 and other actuarial functions appropriate to the operation of the association;

6 (9) assess members under ~~the~~ provisions of this chapter and make advance interim
7 assessments as may be reasonable and necessary for organizational and interim operating
8 expenses; interim assessments shall be credited as offsets against regular assessments due
9 following the close of the fiscal year;

10 (10) appoint from among members appropriate legal, actuarial, and other
11 committees as are necessary to provide technical assistance in the operation of the association.

12 Sec. 21.55.040. PLAN OF OPERATION. (a) The association shall submit to the
13 director a plan of operation and amendments necessary or suitable to assure the fair, reasonable,
14 and equitable administration of the association. The plan of operation and amendments become
15 effective upon approval in writing by the director. If the director has not approved or
16 disapproved a plan of operation submitted by the association within 90 days after receiving the
17 plan of operation, the plan of operation is considered approved by the director. If the association
18 fails to submit a suitable plan of operation by a date that is 180 days after the effective date of
19 this Act, or if at subsequent time the association fails to submit suitable amendments to the plan,
20 the director may, after notice and hearing, adopt reasonable regulations necessary or advisable
21 to effectuate the provisions of this chapter. These regulations shall continue in force until mod-
22 ified by the director or superseded by a plan submitted by the association and approved by the
23 director.

24 (b) All members of the association shall comply with the plan of operation.

25 (c) The plan of operation must

26 (1) establish procedures for the performance of the powers and duties of the
27 association under this chapter;

28 (2) establish procedures for handling assets of the association and for an annual
29 fiscal report to the director;

30 (3) establish the amount and method of reimbursing members of the board under
31 AS 21.55.020;

- 1 (4) establish regular places and times for meetings of the board;
- 2 (5) establish procedures for records to be kept of all financial transactions of the
- 3 association, its agents, and the board;
- 4 (6) provide that a member insurer aggrieved by a final action or decision of the
- 5 association may appeal to the director within 30 days after the action or decision;
- 6 (7) establish procedures for the submission to the director of selections for the
- 7 board;
- 8 (8) provide for reinsuring risks under the provisions of this section;
- 9 (9) provide for collecting assessments from all members to provide for claims
- 10 reinsured by the association and for administrative expenses incurred or estimated to be incurred
- 11 during the period for which the assessment is made;
- 12 (10) provide protection for guaranteed issue insurers from the financial risk
- 13 associated with small employers that present poor credit risks;
- 14 (11) establish standards for the coverage of small employers that have high
- 15 employee turnover;
- 16 (12) establish an appeals process for guaranteed issue insurers to seek relief when
- 17 a guaranteed issue insurer has experienced an unfair share of administrative and credit risks;
- 18 (13) determine the adjusted average market premium prices for small employer
- 19 health plans sold in this state;
- 20 (14) establish participation standards at issue and renewal for reinsured cases;
- 21 (15) establish and maintain a list of guaranteed issue insurers;
- 22 (16) establish standards for those conditions under which a guaranteed issue
- 23 insurer would not be required to write business received from a particular agent or broker; and
- 24 (17) provide for selection of an administering insurer and establish the
- 25 administering insurer's powers and duties;
- 26 (18) contain additional provisions necessary or proper for the execution of the
- 27 powers and duties of the association.

28 Sec. 21.55.050. HEALTH CARE REINSURANCE. (a) A member may only reinsure
29 coverage of an eligible employee of a small employer or a dependent of an eligible employee of
30 a small employer with the association under the following provisions:

- 31 (1) regarding a small employer health benefit plan, the association shall reinsure

1 the level of coverage provided;

2 (2) regarding a plan other than a small employer health benefit plan, the
3 association shall reinsure the level of coverage provided up to, but not exceeding, the level of
4 coverage provided in a small employer health benefit plan;

5 (3) regarding the coverage provided to small employers, the insurer or welfare
6 arrangement, or, to the extent permitted under 29 U.S.C. 1001 - 1459, other benefit arrangement
7 shall be required to use high-cost case management, hospital precertification techniques, and other
8 cost containment techniques as established by the association;

9 (4) regarding eligible employees, and their dependents, who are hired subsequent
10 to the commencement of the employer's coverage by an insurer, welfare arrangement, or other
11 benefit arrangement and who are not late enrollees, coverage may be reinsured by a
12 nonguaranteed issue insurer within 60 days of the commencement of coverage under the plan;

13 (5) regarding eligible employees, and their dependents, who are hired subsequent
14 to the commencement of the employer's coverage by a guaranteed issue insurer and who are not
15 late enrollees, coverage may be reinsured by the guaranteed issue insurer

16 (A) within 60 days of the commencement of coverage under the plan; or

17 (B) commencing on a date established by the board but not later than 18
18 months after the association becomes operational on the first plan anniversary after the
19 small employer coverage has been in effect with the small employer for at least three
20 years and every third year anniversary thereafter;

21 (6) regarding eligible employees, and their dependents, who are employed by a
22 small employer as of the date the employer's coverage by the guaranteed issue insurer
23 commences, coverage may be reinsured

24 (A) within 60 days of the commencement of the employer's coverage with
25 the insurer or welfare arrangement, or other benefit arrangement except in the case of late
26 enrollees; or

27 (B) commencing on a date established by the board but not later than 18
28 months after the association becomes operational on the first plan anniversary after the
29 small employer coverage has been in effect with the small employer for at least three
30 years and every third year anniversary thereafter;

31 (7) regarding eligible employees and their dependents, a guaranteed issue insurer

1 may reinsure the entire employer group

2 (A) within 60 days of the commencement of the group's coverage under
3 the plan;

4 (B) in the case where a new entrant to an employer group is reinsured
5 under the provisions of (4) of this subsection, on the first plan anniversary after the new
6 entrant became a member of the employer's plan; or

7 (C) commencing on a date established by the board but not later than 18
8 months after the association becomes operational on the first plan anniversary after the
9 small employer coverage has been in effect with the small employer for at least three
10 years and every third year anniversary thereafter;

11 (8) regarding employees or dependents reinsured under (4), (5), or (6) of this
12 subsection, reinsurance may not be provided until \$5,000 in benefit payments have been made
13 for services provided during that calendar year for that reinsured employee or dependent; in this
14 paragraph "benefit payments" include those payments that would have been reimbursed through
15 reinsurance in the absence of the annual \$5,000 deductible; the amount of the deductible shall
16 be periodically reviewed by the board and may be adjusted for appropriate factors as determined
17 by the board.

18 (b) If an employer group is covered under a plan other than a small employer health plan
19 and the insurer chooses to reinsure the group subsequent to the initial coverage period, or if a
20 new individual joins the group and the insurer wants to reinsure that individual, the insurer may
21 not require the employer to change to a small employer health plan and the insurer shall allow
22 the employer to maintain the same benefit plan and reinsure only the portion of the plan
23 consistent with a small employer health plan.

24 (c) Except as provided in (d) of this section, premium rates charged for coverage
25 reinsured by the association shall be established as follows:

26 (1) for whole group reinsurance coverage, 1.5 multiplied by the adjusted average
27 market premium price established by the association for that classification or group with similar
28 characteristics and coverage, for eligible employees, and dependents of eligible employees, of a
29 small employer all of whose coverage is reinsured with the association, minus a ceding expense
30 factor determined by the association;

31 (2) for individual reinsurance coverage, 5.0 multiplied by the adjusted average

1 market premium price established by the association for an individual in that classification or
2 group with similar characteristics and coverage, with respect to an eligible employee, or the
3 employee's dependents, minus a ceding expense factor determined by the association.

4 (d) Premium rates charged for reinsurance by the association to a health maintenance
5 organization that is approved by the Secretary of Health and Human Services as a federally
6 qualified health maintenance organization under 42 U.S.C. 300 and, as a health maintenance
7 organization, is subject to requirements that limit the amount of risk that may be ceded to the
8 association, may be modified to reflect the portion of risk that may be ceded to the association.

9 (e) If a health benefit plan coverage for a small employer is entirely or partially reinsured
10 with the association, the premium charged to the small employer for a rating period for the
11 coverage issued under this section may not be more than 1.5 times the adjusted average market
12 premium price established by the association for that classification or group with similar
13 characteristics and coverage.

14 (f) In determining the assessment, if any, that is collected from a member, the following
15 provisions apply:

16 (1) following the close of a fiscal year, the administering insurer shall determine
17 the net premiums, the association expenses for administration and the incurred losses, if any, for
18 the year, taking into account investment income and other appropriate gains and losses; for
19 purposes of this subsection, health benefit plan premiums earned by an insurer, welfare
20 arrangement, or other benefit arrangement shall be established by adding paid claim losses and
21 administrative expenses of the insurer, welfare arrangement, or other benefit arrangement; health
22 benefit plan premiums and benefits paid by a member that are less than an amount determined
23 by the board to justify the cost of collection may not be considered for purposes of determining
24 an assessment; in this paragraph, "net premiums" means health benefit plan premiums less
25 administrative expense allowances;

26 (2) a net loss for the year shall be covered first by assessment against members
27 to the extent provided as follows:

28 (A) assessments shall first be apportioned by the board among all
29 members in proportion to the member's respective share of the total premiums net of
30 reinsurance premiums paid for coverage under this chapter earned in this state from health
31 benefit plans covering small employers and to the extent permitted under 29 U.S.C.

1 1001 - 1459, apportioned among other benefit arrangements covering small employers
2 during the calendar year coinciding with or ending during the fiscal year of the
3 association, or apportioned on another equitable basis reflecting coverage of small
4 employers as may be provided in the plan of operation; an assessment shall be made
5 under this subparagraph against a health maintenance organization that is approved by the
6 secretary of health and human services as a federally qualified health maintenance
7 organization under 42 U.S.C. 300e, subject to an assessment adjustment formula adopted
8 by the board and approved by the director for qualified health maintenance organizations
9 that recognizes the restrictions imposed on qualified health maintenance organizations
10 under federal law; the adjustment formula shall be adopted by the board and approved by
11 the director before the first anniversary of the operation of the association;

12 (B) an assessment under (2)(A) of this subsection shall be capped at four
13 percent of premiums charged for health benefit plans covering a small employer;

14 (3) if assessments exceed actual losses and administrative expenses of the
15 association, the excess shall be held in an interest bearing account and used by the board to offset
16 future losses or to reduce association premiums; in this paragraph, "future losses" include a
17 reserve for incurred but not reported claims;

18 (4) the board shall annually determine a member's proportion of participation in
19 the association based on annual statements and other reports determined necessary by the board
20 and filed by the member with the board; an insurer, welfare arrangement, or other benefit
21 arrangement shall report to the board a claim payment made and administrative expense incurred
22 in this state on an annual basis on a form prescribed by the director;

23 (5) the plan of operation must include a provision for the imposition of an interest
24 penalty for late payment of assessments;

25 (6) a member may request a deferment from the director, in whole or in part,
26 from an assessment issued by the board; the director may defer, in whole or in part, the
27 assessment of a member if, in the opinion of the director payment of the assessment would
28 endanger the ability of the member to fulfill the member's contractual obligations;

29 (7) in the event an assessment against a member is deferred in whole or in part,
30 the amount by which the assessment is deferred may be assessed against the other members in
31 a manner consistent with the basis for assessments set out in this subsection; the member

1 receiving a deferment shall remain liable to the association for the amount deferred; the director
2 may attach conditions to a deferment.

3 Sec. 21.55.060. ADMINISTRATIVE PROCEDURE ACT. The association is exempt
4 from the Administrative Procedure Act (AS 44.62).

5 Sec. 21.55.070. TAX EXEMPTION. The association is exempt from the payment of fees
6 and taxes levied by the state or any of its political subdivisions except taxes levied on real or
7 personal property.

8 Sec. 21.55.080. LIMITATION OF LIABILITY. A member of the association is not
9 liable for civil damages resulting from an act or omission of the member on behalf of the
10 association unless the member acts with gross negligence or intentional misconduct.

11 ARTICLE 2. SMALL EMPLOYER HEALTH INSURANCE PLANS.

12 Sec. 21.55.100. APPLICABILITY. (a) An individual or group health benefit plan is
13 subject to the provisions of this chapter if the plan provides health care benefits covering one or
14 more employees of a small employer and if one of the following conditions are met:

15 (1) all or a portion of the premium or benefits is paid by a small employer or a
16 covered individual is reimbursed, through wage adjustments or otherwise, by a small employer
17 for all or a portion of the premium; or

18 (2) the health benefit plan is treated by the employer or a covered individual as
19 part of a plan or program for the purposes of 26 U.S.C. 106 or 26 U.S.C. 162 (Internal Revenue
20 Code).

21 (b) Except as provided in this chapter, other provisions of law requiring the coverage or
22 the offer of coverage of a health care service or benefit and other provisions of law requiring the
23 reimbursement, utilization, or consideration of a specific category of a licensed or certified health
24 care practitioner do not apply to a health benefit plan offered or delivered to a small employer.

25 (c) Except as provided in this chapter, a health benefit plan offered to a small employer
26 is not subject to a law that would

27 (1) inhibit an insurer, welfare arrangement, or other benefit arrangement from
28 contracting with providers or groups of providers regarding health care services or benefits;

29 (2) impose a restriction on the ability to negotiate with providers regarding the
30 level or method of reimbursing care or services provided under the health benefit plan;

31 (3) require an insurer, welfare arrangement, or other benefit arrangement to either

1 include a specific provider or class of provider when contracting for health care services or
2 benefits, or to exclude a class of provider that is generally authorized by law to provide health
3 care.

4 Sec. 21.55.110. UNDERWRITING AND RATING REQUIREMENTS. Health benefit
5 plans covering small employers and, to the extent permitted under 29 U.S.C. 1001 - 1459, other
6 benefit arrangements covering small employers, are subject to the following provisions:

7 (1) preexisting conditions provisions may not exclude or limit coverage for a
8 period beyond 12 months following the individual's effective date of coverage and may only
9 relate to conditions that had, during the six months immediately preceding the effective date of
10 coverage, occurred in a manner that would cause an ordinarily prudent person to seek medical
11 advice, diagnosis, care, or treatment or for which medical advice, diagnosis, care, or treatment
12 was recommended or received, or that related to a pregnancy existing on the effective date of
13 coverage;

14 (2) in determining whether a preexisting condition limitation provision applies to
15 an eligible employee or dependent, all health benefit plans shall credit the time the person was
16 covered under a previous employer based health benefit plan provided by an insurer or welfare
17 arrangement if the previous coverage was continuous to a date not more than 30 days before the
18 effective date of the new coverage, exclusive of the applicable service waiting period under the
19 health benefit plan;

20 (3) the health benefit plan and, to the extent permitted under 29 U.S.C. 1001 -
21 1459, other benefit arrangements covering small employers must be renewable with respect to
22 all eligible employees or dependents at the option of the policyholder, contract holder, or small
23 employer except for

24 (A) nonpayment of the required premiums by the policyholder, contract
25 holder, or employer;

26 (B) noncompliance with health benefit plan provisions;

27 (C) a health benefit plan of an employer under which the total number of
28 insured individuals covered under all of the health benefit plans of one employer is less
29 than the total number of individuals or percentage of individuals required by participation
30 requirements under a specific health benefit plan of that employer; or

31 (D) a health benefit plan issued by an insurer or welfare arrangement that

1 ceases doing business in the small employer market under AS 21.55.140;

2 (4) notwithstanding (3) of this section, a health benefit plan or coverage provided
3 to an individual covered by a health benefit plan subject to the provisions of this chapter may
4 be rescinded, cancelled, or not renewed for fraud, material misrepresentation, or concealment by
5 an applicant, employee, dependent, or small employer or an agent of an applicant, employee,
6 dependent, or small employer;

7 (5) an insurer or a welfare arrangement, and, to the extent permitted by 29 U.S.C.
8 1001 - 1459, a benefit arrangement may not exclude an eligible employee or dependent who
9 would otherwise be covered under a health benefit plan on the basis of an actual or expected
10 health condition of the person, except that an insurer, welfare arrangement, or other benefit
11 arrangement may exclude a late enrollee for the greater of 18 months or the remainder of the
12 three-year reinsurance period, as provided under AS 21.55.060;

13 (6) an insurer or a welfare arrangement doing business in the small employer
14 market retains the authority to underwrite and rate small employer groups using accepted
15 underwriting and actuarial practices; small employer groups that are declined because they fail
16 to satisfy insurer or welfare arrangement underwriting requirements shall be notified by the
17 insurer or welfare arrangement that the insurer or welfare arrangement will not issue a health
18 benefit plan to the small employer, that the small employer is eligible for a small employer health
19 plan provided by a guaranteed issue insurer, and shall be provided with a list, prepared by the
20 board, containing the address, telephone number, and service area of all guaranteed issue insurers;

21 (7) a health benefit plan issued by a insurer, welfare arrangement, or, to the extent
22 permitted by 29 U.S.C. 1001 - 1459, another benefit arrangement, may not limit or exclude, by
23 use of a rider or amendment applicable to a specific individual, coverage by type of illness,
24 treatment, medical condition, or accident, except for preexisting conditions or diseases as
25 permitted under (1) of this section;

26 (8) a health benefit plan and, to the extent permitted by 29 U.S.C. 1001 - 1459,
27 another benefit arrangement shall make coverage available to eligible employees of a small
28 employer without a service waiting period, except that a small employer may impose a service
29 waiting period for eligible employees of the small employer if the small employer chooses from
30 the service waiting periods offered by the insurer or welfare arrangement; a service waiting
31 period offered by an insurer or welfare arrangement may not exceed 90 days;

1 (9) the benefit structure of a health benefit plan subject to the provisions of this
2 chapter may be changed by the insurer or welfare arrangement to make it consistent with the
3 benefit structure contained in a health benefit plan being marketed to new groups;

4 (10) regarding a health benefit plan of an insurer or welfare arrangement, the
5 premium rates charged or offered for a rating period for the same or similar coverage under a
6 health benefit plan covering a small employer with similar case characteristics as determined by
7 the insurer or welfare arrangement may not vary from the applicable midpoint rate by more than
8 35 percent of the applicable midpoint rate, as to

9 (A) a health benefit plan issued on or after July 1, 1991; and

10 (B) within three years after July 1, 1991, for a health benefit plan issued
11 before July 1, 1991;

12 (11) regarding a health benefit plan issued before July 1, 1991, if an insurer or
13 welfare arrangement charged or offered a premium rate for the same or similar coverage under
14 a health benefit plan covering a small employer with similar case characteristics as determined
15 by the insurer or welfare arrangement, and the premium rate exceeds the applicable midpoint rate
16 by more than 35 points of the applicable midpoint rate, an increase in premium rates for a new
17 rating period may not exceed the sum of

18 (A) a percentage change in the base premium rate measured from the first
19 day of the prior rating period to the first day of the new rating period, plus

20 (B) an adjustment due to a change in case characteristics or plan design
21 of the small employer, as determined by the insurer or welfare arrangement;

22 (12) a premium rate may not vary by more than 15 percent based on industry
23 classification;

24 (13) subject to the provisions of (10), (11), and (12) of this section, an increase
25 in a premium rate for a new rating period may not exceed the sum of

26 (A) a percentage change in the base premium rate measured from the first
27 day of the prior rating period to the first day of the new rating period plus 15 percent,
28 adjusted on a pro rata basis for a rating period greater or lesser than one year, of the base
29 premium rate for the new rating period; and

30 (B) an adjustment due to a change in case characteristics or plan design
31 of the small employer, as determined by the insurer or welfare arrangement;

1 (14) when offering for sale a health benefit plan to a small employer, an insurer
2 or welfare arrangement shall make a reasonable disclosure as part of its solicitation and sales
3 materials of

4 (A) the extent to which premium rates for a specific small employer are
5 established or adjusted in part based on the actual or expected variation in claims costs
6 or actual or expected variation in health condition of the employees and dependents of
7 the small employer;

8 (B) the provisions concerning the insurer's or welfare arrangement's right
9 to change a premium rate; and

10 (C) provisions relating to renewability of a policy or contract;

11 (15) compliance with the underwriting and rating requirements contained in this
12 chapter shall be demonstrated through actuarial certification; insurers or welfare arrangements
13 offering a health benefit plan to a small employer shall file annually with the director an actuarial
14 certification stating that the underwriting and rating methods of the insurer or welfare
15 arrangement

16 (A) comply with accepted actuarial practices;

17 (B) are uniformly applied to health benefit plans covering small
18 employers; and

19 (C) comply with the provisions of this chapter.

20 Sec. 21.55.120. GUARANTEED ISSUE INSURERS. (a) Guaranteed issue insurers shall
21 offer at least one small employer health plan to a small employer requesting a small employer
22 health plan and shall provide at least the coverage of a small employer health plan to a small
23 employer requesting the coverage.

24 (b) Guaranteed issue insurers may

25 (1) reinsure an individual with a group or may reinsure an entire group subject
26 to the provisions of AS 21.55.060;

27 (2) as provided for in the association's plan of operation,

28 (A) require advance premium deposits for poor credit risks; and

29 (B) make special arrangements to cover an employee in a small employer
30 group with exceptionally high employee turnover rates;

31 (3) appeal to the board for a finding that the guaranteed issue carrier is

1 experiencing an unfair share of administrative or credit risk; if the board determines that a
2 guaranteed issue carrier has experienced an unfair burden, the board may grant the guaranteed
3 issue carrier a decreased reinsurance price to offset administrative expenses or temporarily
4 suspend the guaranteed issue insurer's requirement to guarantee issue.

5 Sec. 21.55.130. SMALL EMPLOYER HEALTH BENEFIT PLANS. (a) The board shall
6 design small employer health benefit plans that are eligible for reinsurance by the association.
7 The board shall establish the form and level of coverage to be made available by insurer or
8 welfare arrangements, and to the extent permitted under 29 U.S.C. 1001 - 1459, other benefit
9 arrangements in the small employer health benefit plans. In designing the small employer health
10 benefit plans, the board shall also establish benefit levels, deductibles, coinsurance factors,
11 exclusions, and limitations for the small employer health benefit plans. The form and level of
12 coverage established by the board must specify those components of a health benefit plan offered
13 by an insurer of a small employer that may be reinsured.

14 (b) A small employer health benefit plan may include cost containment features
15 including, but not limited to

16 (1) utilization review of health care services, including review of the medical
17 necessity of hospital and physician services;

18 (2) case management benefit alternatives;

19 (3) selective contracting with hospitals, physicians, and other health care
20 providers;

21 (4) reasonable benefit differentials applicable to participating and nonparticipating
22 providers; and

23 (5) other provisions for the cost effective management of a small employer health
24 benefit plan.

25 (c) The small employer health benefit plan established for use by health maintenance
26 organizations must be consistent with the basic method of operation of health maintenance
27 organizations.

28 (d) A small employer health benefit plan shall be submitted to the director for approval.

29 (e) After the director's approval of the small employer health benefit plans submitted by
30 the board, an insurer or welfare arrangement, or, to the extent permitted by 29 U.S.C. 1001 -
31 1459, other benefit arrangements may certify to the director, in the form and manner prescribed

1 by the director, that the small employer health benefit plans filed by the insurer or welfare
2 arrangement, or other benefit arrangement are in substantial compliance with the provisions in
3 the corresponding approved board plan. Upon receipt by the department of certification described
4 in this subsection, the insurer or welfare arrangement, or other benefit arrangement may use the
5 certified plan until the director, after notice and hearing, disapproves the use of the plan.

6 Sec. 21.55.140. CONDITIONS FOR CEASING TO DO BUSINESS. An insurer or a
7 welfare arrangement may cease doing business in the small employer market if the insurer or
8 welfare arrangement provides notice of the decision to cease doing business in the small
9 employer market to the division, the board, the policyholder or contract holder, and the employer,
10 and coverage under a health benefit plan subject to this chapter is continued for one year after
11 the date of the notice required under this section. An insurer or a welfare arrangement that
12 ceases doing business in the small employer marketplace may not reenter the small employer
13 marketplace for a period of five years from the date of the notice required under this section.

14 Sec. 21.55.250. DEFINITIONS. In this chapter,

15 (1) "adjusted average market premium price" means, as determined by the board,
16 the arithmetic mean of all guaranteed issue insurer's premium rates for a given small employer
17 health benefit plan sold to groups with similar case characteristics by all insurers or welfare
18 arrangements selling small employer health benefit plans in the state;

19 (2) "association" means the Small Employer Health Reinsurance Association
20 created in AS 21.55.010;

21 (3) "base premium rate" means

22 (A) as to a health benefit plan covering one or more employees of a small
23 employer, the lowest new business premium rate prescribed by the insurer or welfare
24 arrangement for the same or similar coverage under a plan or arrangement covering a
25 small employer with similar case characteristics; and

26 (B) as to an insurer or welfare arrangement not issuing a new health
27 benefit plan to a small employer, the lowest rate charged a small employer for the same
28 or similar coverage under a plan covering a small employer with similar case
29 characteristics;

30 (4) "board" means the board of directors of the association;

31 (5) "case characteristics" means with respect to a small employer, the geographic

1 area in which the employees reside, the age and sex of the individual employees and dependents,
2 the appropriate industry classification as determined by the insurer or welfare arrangement, or
3 other benefit arrangement, the number of employees and dependents and other objective criteria
4 as may be established by the insurer or welfare arrangement, or other benefit arrangement;

5 (6) "dependent" means the spouse or child of an eligible employee, subject to
6 applicable terms of the health benefit plan covering the employee;

7 (7) "eligible employee" means an employee who works on a full-time basis, with
8 a normal work week of 30 or more hours, and includes a sole proprietor, a partner of a
9 partnership or an independent contractor, provided the sole proprietor, partner, or contractor is
10 included as an employee under a health benefit plan of a small employer, but does not include
11 an employee who works on a part-time, temporary, or substitute basis;

12 (8) "financially impaired" means a member that is not insolvent but is

13 (A) determined by the director to be potentially unable to fulfill the
14 member's contractual obligations; or

15 (B) placed under an order of rehabilitation or conservation by a court of
16 competent jurisdiction;

17 (9) "guaranteed issue insurer" means an insurer that

18 (A) is one of the top 10 insurers based on total premium volume in the
19 small employer market as determined by the board; and

20 (B) an insurer that informs the board that the insurer wishes to become
21 a guaranteed issue insurer, except that an insurer wishing to become a guaranteed issue
22 insurer shall notify the board of the insurer's intention to become a guaranteed issue
23 insurer one year in advance of the insurer becoming a guaranteed issue insurer;

24 (10) "health benefit plan" means a hospital or medical expense policy, health,
25 hospital, or medical service corporation contract, a plan provided by an insurer or welfare
26 arrangement, and a health maintenance organization contract offered by an employer, but does
27 not include a policy covering only accident, credit, dental, disability income, long-term care,
28 hospital indemnity, Medicare supplement, specified disease, vision care, coverage issued as a
29 supplement to liability insurance, worker's compensation insurance, automobile medical payment
30 insurance, or insurance under which benefits are payable with or without regard to fault and that
31 is statutorily required to be contained in a liability insurance policy or equivalent self-insurance;

1 (11) "initial enrollment period" means the period of time specified in the health
2 benefit plan during which an individual is first eligible to enroll in a small employer health
3 benefit plan; the period of time may not be less than 30 days nor more than 60 days commencing
4 on the day following the end of a service waiting period required by the small employer of all
5 employees before the employees are eligible to participate in a small employer health benefit
6 plan;

7 (12) "insurer" has the meaning given in AS 21.90.900 and includes a health
8 maintenance organization, a hospital service corporation, and a medical service corporation;

9 (13) "late enrollee" means an eligible employee or dependent who requests
10 enrollment in a small employer's health benefit plan following the initial enrollment period
11 provided under the terms of the first plan for which the employee or dependent was eligible
12 through the small employer, except that an eligible employee or dependent may not be considered
13 a late enrollee if

14 (A) the individual

15 (i) was covered under another employer provided health benefit
16 plan at the time the individual was eligible to enroll;

17 (ii) states, at the time of the initial eligibility, that coverage under
18 another employer health benefit plan was the reason for declining enrollment;

19 (iii) has lost coverage under another employer health benefit plan
20 as a result of the termination of employment, the termination of the other plan's
21 coverage, death of a spouse, or divorce or dissolution of marriage; and

22 (iv) requests enrollment within 31 days after the termination of
23 coverage under another employer health benefit plan; or

24 (B) the individual is employed by an employer who offers multiple health
25 benefit plans and the individual elects a different health benefit plan during an open
26 enrollment period; or

27 (C) a court has ordered coverage to be provided for a spouse or minor
28 child under a covered employee's plan and request for enrollment is made within 31 days
29 after issuance of the court order;

30 (14) "member" means all insurers issuing health benefit plans, welfare
31 arrangements and, to the extent permitted under 29 U.S.C. 1001 - 1459 (Employee Retirement

1 Income Security Act), other benefit arrangements providing health benefit plans in this state;

2 (15) "midpoint rate" means for a small employer with similar case characteristics
3 and plan designs, as determined by the applicable insurer or welfare arrangement for a rating
4 period, the arithmetic average of the applicable base premium rate and the corresponding highest
5 premium rate;

6 (16) "other benefit arrangement" means a health benefit plan offered by a small
7 employer who is in whole, or in part, self-insured;

8 (17) "plan of operation" means the articles, bylaws, and operating rules of the
9 association adopted by the board;

10 (18) "preexisting conditions provision" means a policy provision that excludes or
11 limits coverage for charges or expenses incurred during a specified period following the insured's
12 effective date of coverage as to a condition that, during a specified period immediately preceding
13 the effective date of coverage, had manifested itself in a manner that would cause an ordinarily
14 prudent person to seek medical advice, diagnosis, care, or treatment, or for which medical advice,
15 diagnosis, care, or treatment was recommended or received and includes a pregnancy existing on
16 the effective date of coverage;

17 (19) "service waiting period" means a period of time after full-time employment
18 begins before an employee is first eligible to enroll in an applicable health benefit plan offered
19 by the small employer;

20 (20) "small employer" means a person, firm, corporation, partnership, or
21 association actively engaged in business whose total employed work force consisted of, on at
22 least 50 percent of its working days during the preceding year, more than two but not more than
23 25 eligible employees, the majority of whom are employed within the state; in determining the
24 number of eligible employees, companies that are affiliated companies or that are eligible to file
25 a combined tax return for purposes of federal taxation, are considered one employer; except as
26 otherwise specifically provided, provisions of this chapter that apply to a small employer that has
27 a health benefit plan continue to apply until the plan anniversary following the date the employer
28 no longer meets the requirements of this definition;

29 (21) "welfare arrangement" means a multiple employer welfare arrangement as
30 defined in 29 U.S.C. 1003, but does not include a multiple employer welfare arrangement that
31 is fully insured as provided in 26 U.S.C. 1060.

1 * Sec. 3. AS 21.86.260(a) is amended to read:

2 (a) Except as provided in AS 21.55 and in this chapter, this title does not apply to a
3 health maintenance organization that obtains a certificate of authority under this chapter. This
4 subsection does not apply to an insurer licensed under AS 21.09 or a hospital or medical service
5 corporation licensed under AS 21.87 except with respect to its health maintenance organization
6 activities authorized by and regulated under this chapter.

7 * Sec. 4. AS 21.87.340 is amended to read:

8 Sec. 21.87.340. OTHER PROVISIONS APPLICABLE. In addition to the provisions
9 contained or referred to previously in this chapter, the following chapters and provisions of this
10 title also apply with respect to service corporations to the extent applicable and not in conflict
11 with the express provisions of this chapter and the reasonable implications of the express
12 provisions, and for the purposes of the application the corporations shall be considered to be
13 mutual "insurers":

- 14 (1) AS 21.03
15 (2) AS 21.06
16 (3) AS 21.09, except AS 21.09.090
17 (4) AS 21.18.010
18 (5) AS 21.18.030
19 (6) AS 21.18.040
20 (7) AS 21.18.120
21 (8) AS 21.21.321
22 (9) AS 21.36
23 (10) AS 21.42.345 - 21.42.365
24 (11) AS 21.51.120
25 (12) AS 21.53
26 (13) AS 21.54.020
27 (14) AS 21.55
28 ~~(15)~~ AS 21.69.400
29 ~~(16)~~ [(15)] AS 21.69.520
30 ~~(17)~~ [(16)] AS 21.69.600, 21.69.620, and 21.69.630
31 ~~(18)~~ [(17)] AS 21.78

1 (19) [(18)] AS 21.89.040

2 (20) [(19)] AS 21.89.060

3 (21) [(20)] AS 21.90.

4 * Sec. 5. TRANSITION. Within 180 days after the board is organized under AS 21.55.020, enacted
5 in sec. 2 of this Act, the board of directors of the Small Employer Health Reinsurance Association shall
6 submit a small employer health benefit plan to the director of the division of insurance for approval.
7 Notwithstanding AS 21.55.120(a), enacted in sec. 2 of this Act, a guaranteed issue insurer is not required
8 to offer a small employer a health benefit plan until 60 days after the director of the division of
9 insurance has approved a small employer health benefit plan.

10 * Sec. 6. This Act takes effect July 1, 1991.

FISCAL NOTE

02/10-192 (S.S.) (M)

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. SB 242

Revision Date: 12/27/91

Department Affected: Commerce & Econ. Dev.

Title: An Act relating to health insurance for
small employers

BRU: Insurance

Component: Operations

Sponsor: Senator Collins

Requestor: Senator Collins

COMPONENT SERIAL NO.

0	3	5	4
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0					
TRAVEL	6.0	1.5	1.5	1.5	1.5	1.5
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	6.0	1.5	1.5	1.5	1.5	1.5

CAPITAL	0	0	0	0	0	0
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REVENUE FUND RESOURCE:	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	0	0	0	0	0	0

SR 242

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS (Attach a separate page if necessary.)

In the first year, a substantial number of meetings with industry will be required to assure that the operations of the association are satisfactorily established. Eight meetings are anticipated in the first year and two per year thereafter.

Prepared By: Donald P. Koch, Chief of Market Surveillance Phone: 465-2577

Division: Insurance Date: 1/2/92

Approved by Commissioner: Glenn A. Olds for the Governor's Office

Agency: Department of Commerce & Economic Development Date: 1-10-92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., and Impacted Agency(ies).

4-24-92

Updated
1992 version of
1991 note
Superseded by
~~the~~ note
accompanying
HES bill.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB 242

Revision Date: 4/5/91 Department Affected: Commerce & Economic Dev.
 Title: An Act relating to health insurance for small employers BRU: Insurance
 Component: Operations
 Sponsor: Senator Collins
 Requestor: Senator Collins COMPONENT SERIAL NO.

0	3	5	4
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0					
TRAVEL	6.0	1.5	1.5	1.5	1.5	1.5
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	6.0	1.5	1.5	1.5	1.5	1.5

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact:

ANALYSIS: (Attach a separate page if necessary.)

In the first year, a substantial number of meetings with industry will be required to assure that the operations of the association are satisfactorily established. Eight meetings are anticipated in the first year and two per year thereafter.

Prepared By: Donald P. Koch, Chief of Market Surveillance Phone: 465-2577
 Division: Insurance Date: 4/18/91
 Approved by Commissioner: Glenn A. Olds *[Signature]* Comt. Comm.
 Agency: Department of Commerce & Economic Development Date: 4-18-91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

SB 242

SENATE COMMITTEE REPORT

PH

DATE: 4/19/91

FURTHER: Finance

DATE TURNED INTO OFFICE: 15 APR 92

HESS Committee considered SENATE BILL NO. 242

"An Act relating to health insurance for small employers; and providing for an effective date."

and recommends it be replaced with

and recommended:

- replace with _____ CS SB 242 (HESS)
- or adopt _____ CS _____
- attached amendment(s) ~~and do pass~~
- _____ letter of intent adopted

- same title
- new title
- technical title change (HB only)

- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to _____

PH

ATTACHES NEW FISCAL NOTE(S): Dept/Date:

fiscal note(s) _____

APPROVES PREVIOUS: Dept/Date:

fiscal note(s) _____

zero fiscal note(s) DCED 4-7-92 / CS

appropriation-no fiscal note

zero fiscal note(s) _____

Governor's bill w/fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

Do not pass

Chair: Signature and Recommendation

Chair: Signature and Recommendation

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

DATE: 4/5/91

FURTHER: HESS
Finance

Date of 5-Day Notice: 4-11-91
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 4-19-91

L&C Committee considered SB 242

Health insurance for small employers; efd.

and recommended: and a majority of the committee recommends do pass

- replace with _____ CS _____ same title
- attached amendment(s) new title
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

Ø Fiscal Note

ATTACHES NEW FISCAL NOTE(S):

Department(s)/Date:

Department(s)/Date:

fiscal note(s) COMMERCE/4-18-91 zero fiscal note(s) _____

appropriation-no fiscal note

Governor's bill w/fiscal note

SIGNING DO PASS:

[Handwritten signatures]

OTHER RECOMMENDATIONS:

True Notice - do pass
Chair: Signature and Recommendation

SENATE FINANCE COMMITTEE REPORT

DATE: 5/1/92

FURTHER:

DATE TURNED
INTO OFFICE:

5/11/92

The Finance Committee considered SENATE BILL NO. 243

"An Act relating to election campaign financing, to restrictions on election campaign material, and to the Alaska Public Offices Commission."

and recommends:

replace with CS SB 243 (FINANCE)
or adopt previous CS _____
 attaches amendment(s)

same title
 new title
 technical
title change
(HB only)

adopts _____ Letter of Intent

further referral to the _____

CS (Fix)
Coming

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES: Dept/Date

zero fiscal notes _____

fiscal notes _____

appropriation--no fiscal note

PREVIOUS FISCAL NOTES: Dept/Date

zero fiscal notes _____

fiscal notes DOA 177.5 5-1-92

DO PASS:

OTHER RECOMMENDATIONS:

Alaska
John H. Nales
John H. Nales
John H. Nales
John H. Nales

1. *[Signature]*
Co-Chair: Signature/Recommendation

2. *[Signature]*
Co-Chair: Signature/Recommendation

FISCAL NOTE

5-12-92

BL No. 2

STATE OF ALASKA
1992 LEGISLATIVE SESSION

SFC
REPORTED OUT OF

Bill Version: CSSB243(JUD)

(S) Publish Date: 5-1-92

Revision Date: _____

Department Affected: Administration

Title: "An Act related to campaign financing and campaign material, etc."

BRU: Alaska Public Offices Commission

Sponsor: Special Committee on Ethics Reform

Component: Alaska Public Offices Commission

Requestor: _____

COMPONENT SERIAL NO.

		7	0
--	--	---	---

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	164.6	169.5	174.6	179.8 ^o	185.2	190.8
TRAVEL	5.0	2.0	2.0	2.0	2.0	2.0
CONTRACTUAL	6.2	22.5	22.5	22.5	22.5	22.5
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	1.7	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	177.5	194.0	199.1	204.3	209.7	215.3

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	177.5	194.0	199.1	204.3	209.7	215.3
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE:	0	0	0	0	0	0
TOTAL	177.5	194.0	199.1	204.3	209.7	215.3

POSITIONS:

FULL-TIME	4	4	4	4	4	4
PART-TIME	(1)	(1)	(1)	(1)	(1)	(1)
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: 0

ANALYSIS: (Attach a separate page if necessary. This bill modifies Alaska Statute 15.13, the Campaign Disclosure Law, and includes provisions which prohibit some campaign finance activity in public facilities and limit State and local government officials from using public funds or facilities to influence an election. It prohibits lobbyists from being campaign treasurers or deputy treasurers; prohibits cash contributions over \$100 and
(continued)

Prepared by: Karen Boorman, Executive Director
Division: Alaska Public Offices Commission

Phone: 276-4176
Date: May 1, 1992

Approved by Commissioner: Nancy Bear Usura
Agency: Administration

Date: 5/1/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. CS SB 243 (JUD)

ANALYSIS: (continued)

contributions from one candidate to another; limits fun raising by legislators and candidates for the legislature; prohibits use of campaign funds or goods for personal use; limits use of surplus funds and requires closure of campaign accounts after an election. The bill shortens the Alaska Public Offices Commission (APOC) response time on advisory opinions to 30 days and complaints to 45 days.

The commission anticipates it will incur start up costs as it prepares to assume its duties of administering and enforcing these new provisions. Staff must revise forms, manuals, and training materials, as well as prepare new regulations for commission adoption. Existing staff cannot undertake these start up activities, so new positions would be required.

The commission will receive many ongoing requests for advice about interpretation of the law. In particular, the provisions dealing with the limits of the use of public funds or facilities will generate many compliance questions. Questions such as whether a planned campaign expenditure is permissible because it may be for personal use, or whether a local government or school district is improperly using public funds or facilities to influence the outcome of a local election are likely. Staff will need extra funds to prepare for the first election in which candidates must comply with the provisions regarding disbursement of campaign surplus and prohibited uses of campaign funds, and to give training sessions to help candidates comply. Information will have to be given to State and local government officials on the prohibitions regarding use of public funds and facilities.

It is expected that several complaints will be filed each year alleging that a candidate, lobbyist, public entity, or official has violated one of these provisions. Potential complaints include allegations that a candidate used campaign funds for personal use, closed down a campaign account improperly, or conducted fund raising too soon or too late. Since the only penalties available for these violations are criminal, it is reasonable to expect that one complaint each year will proceed to public hearing. This expense cannot be absorbed from funds currently budgeted.

The commission will need to hold a hearing in FY 93 to adopt regulatory changes. The expenses of such a hearing are not funded within the FY 93 budget.

In order to meet the mandates of the new law, the commission will need to add one professional staff member (Associate Coordinator, range 18) to investigate complaints, draft regulations, and provide compliance advice and draft advisory opinions. A paraprofessional staff member (Regulations Specialist II, range 16) will be necessary to help draft regulations, develop manuals, revise forms, conduct training, and provide compliance advice. A Clerk IV (range 9) will be needed to handle the additional paperwork and extra typing that cannot be absorbed by the one secretary in the Anchorage office.

The commission's current office space in Anchorage is too small to house these new positions. Modest sized space is available in the building and could be made functional with minor remodeling. Two desks, chairs, and telephones will be required as well.

The Juneau office will require additional staff to provide compliance advice and assist in investigations. In order to meet this need and provide assistance to the Juneau office administrator, the commission requests extending the current part-time Clerk III position to a full-time clerk position.

A detailed breakdown of the costs associated with administration and enforcement of this bill is attached.

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. CS SB 243 (JUD)

ANALYSIS: (continued)

CS SB 243
APOC Estimated Costs
FY 93

Personnel:

Associats Coordinator, Range 18A	\$ 59,705
Regulations Specialist II, Range 16A	52,422
Clerk IV, Range 9A (Anchorage)	35,261
Clerk III, Range 8B (upgrade to full-time, Juneau)	<u>17,169</u>
	\$164,557

Travel:

* Regulations hearing	\$3,000
Training	<u>2,000</u>
	\$5,000

Contractual Services:

Instruction/education materials (design, print, postage for amended forms and manuals)	\$1,500
Teleconferencing Cost	\$ 500
Office space: 350 sq.ft. @ \$1.00 sq.ft./month	<u>4,200</u>
	\$6,200

** Legal Fees

Hearings	\$12,000
Witness Fees	250
Subpoenas	3,000
Transcripts	<u>1,000</u>
	\$16,250

Equipment:

* Desk and Chairs (2)	\$1,200
* Phone Installations/Equipment (2)	<u>500</u>
	\$1,700

* Travel for regulations hearing and office equipment required for FY 93 only. (\$4,700 total)

** Complaint investigation funds (legal fees) will be necessary after FY 93.

Personal Services cost projected to increase at three percent per year for merit increase.

CS FOR SENATE BILL NO. 243 (FINANCE)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 5/12/97

Referred: Rules

Sponsor(s): SENATE SPECIAL COMMITTEE ON ETHICS REFORM

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to election campaign financing, to election campaign material, to
2 responsibility and penalties for violations of election campaign laws, to conflict of interest
3 laws, and to documents filed with and the duties and operations of the Alaska Public
4 Offices Commission; and providing for an effective date."

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

6 * Section 1. AS 15.13.030 is amended by adding a new paragraph to read:

7 (11) issue an advisory opinion to a person affected by this chapter regarding the
8 interpretation of this chapter within 30 days of the request for the opinion or within an additional
9 period of time that the person requesting the opinion may agree to; the advisory opinion issued
10 is binding on the commission in a subsequent proceeding concerning the facts and circumstances
11 set out in the request for an advisory opinion, unless material facts were omitted or misstated in
12 the request.

13 * Sec. 2. AS 15.13.040(a) is amended to read:

14 (a) Each candidate shall make a full report, upon a form prescribed by the commission,

1 listing the date and amount of all expenditures made by the candidate, the total amount of all
2 contributions, including all funds contributed by the candidate, and for all contributions in excess
3 of \$100 in the aggregate a year, the name, address, principal occupation, and employer of the
4 contributor and the date and amount contributed by each contributor. The report shall be filed
5 in accordance with AS 15.13.110 and shall be certified correct by the candidate or campaign
6 treasurer. A candidate who does not receive more than \$1,000 in contributions and does not
7 spend more than \$1,000 on behalf of a campaign is not subject to the reporting
8 requirements of this subsection, but the candidate shall indicate, on a form prescribed by
9 the commission, an intent not to raise or spend more than \$1,000.

10 * Sec. 3. AS 15.13.040 is amended by adding a new subsection to read:

11 (g) Accrued expenditures that in the aggregate total \$1,000 or less a year per payee or
12 account need not be included in the report of expenditures required under (a) and (b)(3) of this
13 section. However, if an unreported accrued expenditure is not paid within 90 days after it is
14 incurred, it becomes a contribution and shall be reported as required by this section and
15 AS 15.13.110. For purposes of this subsection, "accrued expenditures" means expenses incurred
16 but not yet paid.

17 * Sec. 4. AS 15.13 is amended by adding new sections to read:

18 Sec. 15.13.041. PROHIBITED SOLICITATION OF CONTRIBUTIONS. (a) A public
19 officer or employee of the state or of a municipality may not, while on the premises of a state
20 or municipal building, solicit or request a contribution to a candidate, group, or political party.

21 (b) A person may not solicit or request a public officer to contribute to a candidate,
22 group, or political party while the public officer or employee is on the premises of a state or
23 municipal building.

24 (c) A candidate, a candidate's campaign treasurer or deputy campaign treasurer, a group,
25 or an officer of a group may not accept a contribution that the candidate, campaign treasurer,
26 deputy campaign treasurer, group, or officer of a group knows was obtained in violation of this
27 section.

28 Sec. 15.13.043. USE OF PUBLIC OFFICE OR AGENCY FACILITIES IN A
29 CAMPAIGN. (a) A person may not use or authorize the use of public funds or property, or the
30 time of a public officer or employee, to influence the outcome of an election.

31 (b) A person may not distribute or post, or cause to be distributed or posted, a

1 communication designed to influence the outcome of an election in a public building.

2 (c) Nothing in this section prohibits

3 (1) the division of elections from preparing and distributing the voter election
4 pamphlet under AS 15.58;

5 (2) nonpartisan voter registration activities;

6 (3) action taken at a public meeting by members of the legislature, of a committee
7 of the legislature, or of a state or municipal board or commission, expressing a collective decision
8 or voting on a motion, proposal, bill, resolution, ordinance, or order;

9 (4) action by an elected public official of the state or of a municipality in support
10 of or in opposition to a ballot proposition or question at an open press conference or in response
11 to a specific inquiry;

12 (5) the Alaska Judicial Council from evaluating judges.

13 * Sec. 5. AS 15.13.050 is amended by adding a new subsection to read:

14 (b) Two or more groups, other than political parties and subdivisions of political parties,
15 in which two or more persons hold office in each group are considered to be a single group for
16 purposes of the contribution limitations of this chapter.

17 * Sec. 6. AS 15.13.060 is amended by adding a new subsection to read:

18 (g) A person may not serve as a campaign treasurer or deputy campaign treasurer during
19 a calendar year in which the person was required to register as a lobbyist under AS 24.45, unless
20 the person acted only as a representational lobbyist as defined in the regulations of the
21 commission.

22 * Sec. 7. AS 15.13.070(a) is amended to read:

23 (a) A person or group, including but not limited to all political committees, businesses,
24 corporations, and labor unions, may not contribute to or expend more than \$1,000 in a calendar
25 year, whether in money, goods, or services, or a combination of money, goods, and services,
26 on behalf of or in opposition to the competing candidates for each elective office. Political
27 parties and their subdivisions are not subject to the limitation prescribed in this subsection, but
28 they are subject to the reporting requirements prescribed by AS 15.13.040(b) and 15.13.110. This
29 chapter does not prohibit

30 (1) a candidate from contributing more than \$1,000 of the candidate's own money
31 to the candidate's own campaign; or

1 (2) individuals or groups, including but not limited to all political committees,
2 businesses, corporations, and labor unions, from contributing to or expending on behalf of a
3 ballot proposition or question more than \$1,000 a year; however, these contributions and
4 expenditures shall be reported in accordance with AS 15.13.040 and 15.13.110.

5 * Sec. 8. AS 15.13.070(c) is amended to read:

6 (c) An expenditure over \$100 may not be made in cash [OR BY CASH PAYMENT
7 UNLESS A WRITTEN RECEIPT IS OBTAINED AND FILED WITH THE COMMISSION].

8 * Sec. 9. AS 15.13.070(d) is amended to read:

9 (d) A contribution may not be made, and an expenditure may not be made or incurred,
10 directly or indirectly, anonymously, in a fictitious name, or by one person or group in the name
11 of another, to influence the election of a candidate in an election. A contribution made by a
12 person wishing to remain anonymous, and received by a candidate, campaign treasurer or deputy
13 campaign treasurer, may not be used or expended, but shall be returned within 10 days of
14 receipt to the donor, if the donor's identity is known, and if no donor is found, the contribution
15 escheats to the state if not donated by the candidate to the charity of the candidate's choice. A
16 contribution from a minor under the age of 18, other than a minor who has been
17 emancipated or who is married, is considered to have been made by a parent or guardian
18 of the individual under the age of 18, and shall be counted toward the contribution limit
19 of the parent or guardian established by this section.

20 * Sec. 10. AS 15.13.070 is amended by adding new subsections to read:

21 (i) A candidate or a group controlled by a candidate may not make a contribution to
22 another candidate, except that a candidate may make a contribution to another candidate from
23 the candidate's own personal funds.

24 (j) An individual or a group may not make a loan to a candidate or to a group, or
25 guarantee a loan made by another to a candidate or to a group. This subsection does not prohibit

26 (1) a contribution in the form of a loan by a candidate or by the spouse, parent,
27 or child of a candidate to the candidate's campaign;

28 (2) an extension of credit by a person made in the person's regular course of
29 business to a candidate or a group; or

30 (3) a loan by a regulated financial institution to a candidate or group on the same
31 terms as would apply to a loan by the financial institution to a similarly situated member of the

1 public.

2 (k) A person may not act as an intermediary to transmit contributions to a candidate or
3 group from a person or group. In this section, "intermediary" does not include a candidate, a
4 treasurer, deputy treasurer, or other campaign officer, a financial institution, or a person
5 voluntarily hosting a fund-raising event at the person's home.

6 * Sec. 11. AS 15.13 is amended by adding new sections to read:

7 Sec. 15.13.072. PERSONAL USE PROHIBITED. A candidate for public office may not
8 use campaign funds for personal purposes, convert campaign funds into personal income, or
9 convert goods purchased with campaign funds for personal use.

10 Sec. 15.13.074. DISBURSEMENT OF CAMPAIGN ACCOUNTS. (a) If a candidate
11 for public office or a group has unexpended and unobligated funds after the date of the election,
12 the candidate or group shall, no later than January 15 of the year following the election,

13 (1) elect to carry forward the funds for a future election campaign;

14 (2) donate the funds to an organization that qualifies as a charitable organization
15 under 26 U.S.C. 501(c), to a political party as defined in AS 15.60.010, or to the state or a
16 municipality;

17 (3) return the funds on a pro rata basis to the contributors to the candidate or
18 group;

19 (4) transfer the funds to a legislative office account for expenditures qualifying
20 as business expenses under 26 U.S.C. 162; or

21 (5) use unexpended and unobligated funds remaining after the election to repay
22 the candidate's contributions to the candidate's campaign.

23 (b) Equipment owned by a candidate or group shall, no later than January 15 of the year
24 following the election, be carried forward or donated as provided in (a)(1) and (2) of this section.
25 If the equipment was purchased solely with funds provided by a candidate personally, the
26 candidate may convert the equipment to the candidate's personal use.

27 (c) A candidate or group that elects to carry forward campaign funds for a future election
28 under (a)(1) of this section shall file an annual report with the commission under
29 AS 15.13.110(a)(4) in the year following the election, even if the candidate or group makes no
30 expenditures or receives no contributions during that year.

31 (d) This section does not apply to a group that is organized to influence elections on an

1 ongoing basis.

2 Sec. 15.13.076. RESPONSIBILITY FOR VIOLATIONS. A candidate is responsible for
3 violations of this chapter by officers of the candidate's campaign committee, and the chair of a
4 group is responsible for violations of this chapter by other officers of a group. Penalties assessed
5 against a candidate's campaign committee or against a group may be assessed directly against
6 the candidate or the chair of the group.

7 Sec. 15.13.077. USE OF PUBLIC FUNDS PROHIBITED. A municipality, the state,
8 agencies of the state, public corporations of the state, the University of Alaska, and other political
9 subdivisions of the state, including school districts and regional educational attendance areas, may
10 not use public funds to support or oppose a ballot proposition or the election of a candidate. This
11 section does not prohibit the expenditure of public funds to provide to the public factual
12 information regarding a ballot proposition.

13 * Sec. 12. AS 15.13.120(d) is amended to read:

14 (d) A person who believes a violation of this chapter has occurred may file a complaint
15 with the commission. The complaint must include a statement, made under oath, that the
16 factual statements in the complaint are true, to the best of the complainant's knowledge.

17 If the commission determines there is substantial reason to believe that a violation has occurred,
18 it shall expeditiously make an investigation, which may also include an investigation of reports
19 and statements filed by the complainant if the complainant is a candidate, of the matter
20 complained of. When, in the judgment of the commission, after affording due notice and an
21 opportunity for a hearing, a person has engaged or is about to engage in any acts or practices
22 which constitute or will constitute a violation of a provision of this chapter, or a regulation or
23 order issued under it, it shall promptly report the information to the attorney general for
24 appropriate action. The commission shall report its determination and recommendation to the
25 person who filed the complaint with the commission within 60 days of receiving the complaint
26 unless circumstances require additional time to make an adequate investigation. The finding of
27 the commission may be appealed to the superior court.

28 * Sec. 13. AS 15.13.120 is amended by adding new subsections to read:

29 (i) Proceedings of the commission relating to complaints before it under this section are
30 confidential until the commission determines that there is probable cause to believe that a
31 violation of this chapter has occurred. The confidentiality provisions of this subsection may be

1 waived by the subject of the complaint.

2 (j) Except as provided in (i) of this section, meetings of the commission relating to a
3 complaint are governed by AS 44.62.310 - 44.62.312 (Open Meetings Act), and records in the
4 possession of the commission relating to the complaint are subject to AS 09.25.110 - 09.25.125.

5 * Sec. 14. AS 15.13.125 is amended to read:

6 Sec. 15.13.125. CIVIL PENALTY: LATE FILING OF REQUIRED REPORTS. A
7 person who fails to file a properly completed and certified report within the time required by
8 AS 15.13.110(a)(1) or [(3),] (4) or 15.13.110(d) is subject to a civil penalty of not more than
9 \$10 a day for each day the delinquency continues as determined by the commission subject to
10 right of appeal to the superior court. A person who fails to file a properly completed and certified
11 report within the time required by AS 15.13.110(a)(2) or 15.13.110(b) is subject to a civil penalty
12 of not more than \$50 a day for each day the delinquency continues as determined by the
13 commission subject to right of appeal to the superior court. An affidavit stating facts in
14 mitigation may be submitted to the commission by a person against whom a civil penalty is
15 assessed. However, the imposition of the penalties prescribed in this section or in AS 15.13.120
16 does not excuse that person from filing reports required by this chapter.

17 * Sec. 15. AS 15.13.125 is amended by adding new subsections to read:

18 (b) A person who violates a provision of this chapter other than a provision for which
19 a penalty is prescribed by (a) of this section is subject to a civil penalty of not more than \$20,000
20 for each offense or twice the amount gained by the misconduct that resulted in a violation,
21 whichever is greater, as determined by the commission. The commission may also assess a
22 person subject to a penalty under this subsection with the costs of investigating and adjudicating
23 the violation on which the penalty is based. The costs of investigation and adjudication shall be
24 determined by the commission.

25 (c) An affidavit stating facts in mitigation may be submitted to the commission by a
26 person against whom a civil penalty is assessed.

27 (d) A determination of the commission under this section is subject to right of appeal to
28 the superior court.

29 (e) The imposition of the penalties prescribed in this section or in AS 15.13.120 does not
30 excuse the person from filing reports required by this chapter.

31 * Sec. 16. AS 15.13.130 is amended by adding new paragraphs to read:

1 (8) "commission" means the Alaska Public Offices Commission created in
2 AS 15.13.020;

3 (9) "school district" means a municipal school district or a regional educational
4 attendance area established under AS 14.08;

5 (10) "state agency" means a department, agency, instrumentality, or corporate
6 authority of the state, whether in the executive, legislative, or judicial branch, and includes the
7 University of Alaska.

8 * Sec. 17. AS 15.58.030 is amended by adding a new subsection to read:

9 (h) A candidate, or a person on behalf of a candidate, submitting material under this
10 section shall swear that factual statements contained in the material are true to the best of the
11 candidate's or person's knowledge. A candidate or person who knowingly swears falsely is
12 guilty of perjury under AS 11.56.200.

13 * Sec. 18. AS 24.45.031(b) is amended to read:

14 (b) The commission may

15 (1) hold hearings and conduct investigations into compliance with the provisions
16 of this chapter;

17 (2) in conjunction with (1) of this subsection, issue subpoenas, compel the
18 attendance and testimony of witnesses, administer oaths and affirmations, and require the
19 production of books, papers, records, documents or other items material to the commission's
20 duties or powers under this chapter;

21 (3) prepare, publish, and make available to the public, semi-annual [PERIODIC,
22 BUT AT LEAST QUARTERLY AND ANNUALLY,] summaries of the statements and reports
23 received; these summaries shall list separately individual lobbyists and employers of lobbyists.

24 * Sec. 19. AS 24.45.041(e) is amended to read:

25 (e) Within 45 days after the convening of each regular session of the legislature, the
26 commission shall publish a directory of registered lobbyists, containing the information prescribed
27 in (b) of this section for each lobbyist [AND THE PHOTOGRAPH, IF ANY, FURNISHED BY
28 A LOBBYIST UNDER (C) OF THIS SECTION]. From time to time thereafter the commission
29 shall publish those supplements to the directory that in the commission's judgment may be
30 necessary. The directory shall be made available to public officials and to the public at the
31 following locations: a public place adjacent to the legislative chambers in the state capitol

1 building, [THE OFFICE OF THE LIEUTENANT GOVERNOR, THE LEGISLATIVE
2 REFERENCE LIBRARY OF] the Legislative Affairs Agency, and the commission's central
3 office.

4 * Sec. 20. AS 24.45.061(a) is repealed and reenacted to read:

5 (a) A person who employs, retains, or contracts for the services of a lobbyist shall sign
6 the lobbyist's registration statement verifying that employment, retention, or contract for lobbying
7 services.

8 * Sec. 21. AS 24.45.061(b) is amended to read:

9 (b) A person who employs, retains, or [WHO] contracts for the services of one or more
10 lobbyists, whether independently or jointly with other persons, and who directly or indirectly
11 makes payments to influence legislative or administrative action shall file an annual [A
12 QUARTERLY] report containing

13 (1) the full name, complete business address, and telephone number of the person
14 making the report;

15 (2) information sufficient to identify the nature and interests of the person making
16 the report;

17 (3) the total amount of payments made to influence legislative or administrative
18 action during the period, and the name and address of each person to whom these payments have
19 been made during the period by the maker of the report, together with the date and amount;

20 (4) the date and nature of any gift exceeding \$100 in value made to any public
21 official and the full name and official position of the recipient of each gift;

22 (5) a general description of the legislative or administrative action that [WHICH]
23 the person making the report has attempted to influence;

24 (6) the name of each lobbyist employed or retained by the person making the
25 report, together with the total amount paid to each lobbyist and the portion of that amount, if any,
26 that [WHICH] was paid for specific purposes, including salary, fees, and reimbursement for
27 expenses; and

28 (7) a notice of termination if the person filing a report has ceased employing or
29 retaining a lobbyist registered under this chapter and if this report constitutes the final report of
30 the lobbyist's activities on behalf of the maker of the report.

31 * Sec. 22. AS 24.45.081 is amended to read:

1 Sec. 24.45.081. REPORTING PERIODS. Lobbyist reports [REPORTS] required under
2 this chapter shall be filed during the calendar month following each calendar month during any
3 part of which the legislature was in session and during the month following each calendar quarter
4 when the legislature was not in session. However, if a lobbyist registered under this chapter has
5 declared that the lobbyist seeks only to influence administrative action and not legislative action,
6 the lobbyist need only file a report required under this chapter for each calendar quarter. The
7 period covered shall be the calendar month or the calendar quarter, as applicable, and shall in any
8 event cover the period from the date of the last report filed under this chapter to the date of the
9 end of the calendar month or quarter, as applicable, for which the report is being filed. The
10 period covered shall not include any months covered in previous reports filed by the same person.
11 When total amounts are required to be reported, totals shall be stated both for the period covered
12 by the statement and for the entire calendar year to date. Annual employer reports required
13 under this chapter shall be filed either 30 days after all lobbying activities are terminated
14 or during the month following the fourth calendar quarter, whichever occurs first.

15 * Sec. 23. AS 39.50.030(a) is amended to read:

16 (a) Each statement shall be an accurate representation of the financial affairs of the public
17 official or candidate and shall contain the same information for each member of the person's
18 family, as specified in (b) of this section, to the extent that it is ascertainable by the public
19 official or candidate. [AN ASSET OR LIABILITY UNDER \$500, HOUSEHOLD GOODS,
20 AND PERSONAL EFFECTS NEED NOT BE IDENTIFIED.]

21 * Sec. 24. AS 39.50.030(b) is amended to read:

22 (b) Each statement filed by a public official or candidate under this chapter shall include
23 the following:

24 (1) the source of all income over \$1,000 [\$100] during the preceding calendar
25 year, including taxable and nontaxable capital gains, received by the person, the person's spouse
26 or dependent child, or a nondependent child of the person who is living with that person, except
27 that a source of income that is a gift from other than a family member must be included
28 if the value of the gift exceeds \$100;

29 (2) the identity, by name and address, of each business in which the person, the
30 person's spouse or dependent child, or a nondependent child of the person who is living with that
31 person was a stockholder, owner, officer, director, partner, proprietor, or employee during the

1 preceding calendar year;

2 (3) the identity and nature of each interest owned in any business during the
3 preceding calendar year by the person, the person's spouse or dependent child, or a nondependent
4 child of the person who is living with that person;

5 (4) the identity and nature of each interest in real property, including an option
6 to buy, owned at any time during the preceding calendar year by the person, the person's spouse
7 or dependent child, or a nondependent child of the person who is living with that person;

8 (5) the identity of each trust or other fiduciary relation in which the person, the
9 person's spouse or dependent child, or a nondependent child of the person who is living with that
10 person held a beneficial interest exceeding \$1,000 during the preceding calendar year, a
11 description and identification of the property contained in each trust or relation, and the nature
12 and extent of the beneficial interest in it;

13 (6) any loan or loan guarantee made to the person, the person's spouse or
14 dependent child, or a nondependent child of the person who is living with that person, and the
15 identity of the maker of the loan or loan guarantor and the identity of each creditor to whom the
16 person, the person's spouse or dependent child, or a nondependent child of the person who lives
17 with that person owed more than \$1,000 [\$500 OR MORE];

18 (7) a list of all contracts and offers to contract with the state or an instrumentality
19 of the state during the preceding calendar year held, bid, or offered by the person, the person's
20 spouse or dependent child, a nondependent child of the person who is living with that person,
21 a partnership or professional corporation of which the person is a member [THE PERSON'S
22 MOTHER OR FATHER], or a corporation in which the person or the person's spouse or
23 children, or a combination of them, hold a controlling interest; and

24 (8) a list of all mineral, timber, oil, or any other natural resource lease held, or
25 lease offer made, during the preceding calendar year by the person, the person's spouse or
26 dependent child, a nondependent child of the person who is living with that person, [THE
27 PERSON'S MOTHER OR FATHER] a partnership or professional corporation of which the
28 person is a member, or a corporation in which the person or the person's spouse or children, or
29 a combination of them, holds a controlling interest.

30 * Sec. 25. AS 39.50.050(d) is amended to read:

31 (d) To facilitate the filing of reports under AS 24.45 (Regulation of Lobbying) and the

1 information required to be provided under AS 24.45.051(4) [AND (5),] the commission shall
2 publish copies of the reports required under this chapter not later than the convening of each
3 regular session of the legislature. Copies of this publication shall be provided on request;
4 however, the commission may make a charge for the publication that may not exceed the actual
5 cost of printing, postage, and handling.

6 * Sec. 26. AS 39.50 is amended by adding a new section to read:

7 Sec. 39.50.147. EXEMPTION FOR MUNICIPALITIES. The provisions of this chapter
8 do not apply to a municipal officer of a municipality with a population of 1,000 or less according
9 to the latest United States census figures or estimates of population certified correct for
10 administrative purposes by the Department of Community and Regional Affairs.

11 * Sec. 27. AS 15.13.110(a)(3); AS 24.45.041(c), 24.45.051(5), 24.45.116; AS 24.60.030(f),
12 24.60.030(g); and AS 39.50.025 are repealed.

13 * Sec. 28. This Act takes effect January 16, 1993.

"A" Draft

SB 299 - APGC
HB ~~195~~ 195 - Finkelstein Ethics bill

7-LS1064S
Casey
5/10/92

Adopted
5-11-92
ordered
10:20pm

CS FOR SENATE BILL NO. 243 (FINANCE)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE SPECIAL COMMITTEE ON ETHICS REFORM

A BILL

Title Change

FOR AN ACT ENTITLED

1 "An Act relating to election campaign financing, to election campaign material, to
2 responsibility and penalties for violations of election campaign laws, to conflict of interest
3 laws, and to documents filed with and the duties and operations of the Alaska Public
4 Offices Commission; and providing for an effective date."

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

no change
From SB 243(j)

6 * Section 1. AS 15.13.030 is amended by adding a new paragraph to read:

7 (11) issue an advisory opinion to a person affected by this chapter regarding the
8 interpretation of this chapter within 30 days of the request for the opinion or within an additional
9 period of time that the person requesting the opinion may agree to; the advisory opinion issued
10 is binding on the commission in a subsequent proceeding concerning the facts and circumstances
11 set out in the request for an advisory opinion, unless material facts were omitted or misstated in
12 the request.

13 * Sec. 2. AS 15.13.040(a) is amended to read:

14 (a) Each candidate shall make a full report, upon a form prescribed by the commission,

1
No change
2
SB 299
(J) 3

listing the date and amount of all expenditures made by the candidate, the total amount of all contributions, including all funds contributed by the candidate, and for all contributions in excess of \$100 in the aggregate a year, the name, address, principal occupation, and employer of the contributor and the date and amount contributed by each contributor. The report shall be filed in accordance with AS 15.13.110 and shall be certified correct by the candidate or campaign treasurer. A candidate who does not receive more than \$1,000 in contributions and does not spend more than \$1,000 on behalf of a campaign is not subject to the reporting requirements of this subsection, but the candidate shall indicate, on a form prescribed by the commission, an intent not to raise or spend more than \$1,000.

10 * Sec. 3. AS 15.13.040 is amended by adding a new subsection to read:

11
No change
12
SB 299
(J) 13

(g) Accrued expenditures that in the aggregate total \$1,000 or less a year per payee or account need not be included in the report of expenditures required under (a) and (b)(3) of this section. However, if an unreported accrued expenditure is not paid within 90 days after it is incurred, it becomes a contribution and shall be reported as required by this section and AS 15.13.110. For purposes of this subsection, "accrued expenditures" means expenses incurred but not yet paid.

17 * Sec. 4. AS 15.13 is amended by adding new sections to read:

18
deletes
19
2 imine
20
penalties

18 Sec. 15.13.041. PROHIBITED SOLICITATION OF CONTRIBUTIONS. (a) A public officer or employee of the state or of a municipality may not, while on the premises of a state or municipal building, solicit or request a contribution to a candidate, group, or political party.

21 (b) A person may not solicit or request a public officer to contribute to a candidate, group, or political party while the public officer or employee is on the premises of a state or municipal building.

24 (c) A candidate, a candidate's campaign treasurer or deputy campaign treasurer, a group, or an officer of a group may not accept a contribution that the candidate, campaign treasurer, deputy campaign treasurer, group, or officer of a group knows was obtained in violation of this section.

28 Sec. 15.13.043. USE OF PUBLIC OFFICE OR AGENCY FACILITIES IN A CAMPAIGN. (a) A person may not use or authorize the use of public funds or property, or the time of a public officer or employee, to influence the outcome of an election.

31 (b) A person may not distribute or post, or cause to be distributed or posted, a

1 communication designed to influence the outcome of an election in a public building.

2 (c) Nothing in this section prohibits

3 (1) the division of elections from preparing and distributing the voter election
4 pamphlet under AS 15.58;

5 (2) nonpartisan voter registration activities;

6 (3) action taken at a public meeting by members of the legislature, of a committee
7 of the legislature, or of a state or municipal board or commission, expressing a collective decision
8 or voting on a motion, proposal, bill, resolution, ordinance, or order;

9 (4) action by an elected public official of the state or of a municipality in support
10 of or in opposition to a ballot proposition or question at an open press conference or in response
11 to a specific inquiry;

12 (5) the Alaska Judicial Council from evaluating judges.

13 * Sec. 5. AS 15.13.050 is amended by adding a new subsection to read:

No Change
SB 243
(J)

(b) Two or more groups, other than political parties and subdivisions of political parties,
15 in which two or more persons hold office in each group are considered to be a single group for
16 purposes of the contribution limitations of this chapter.

17 * Sec. 6. AS 15.13.060 is amended by adding a new subsection to read:

No Change
SB 243
(J)

(g) A person may not serve as a campaign treasurer or deputy campaign treasurer during
18 a calendar year in which the person was required to register as a lobbyist under AS 24.45, unless
19 the person acted only as a representational lobbyist as defined in the regulations of the
20 commission.
21

22 * Sec. 7. AS 15.13.070(a) is amended to read:

No Change
SB 243
(J)

(a) A person or group, including but not limited to all political committees, businesses,
23 corporations, and labor unions, may not contribute to or expend more than \$1,000 in a calendar
24 year, whether in money, goods, or services, or a combination of money, goods, and services,
25 on behalf of or in opposition to the competing candidates for each elective office. Political
26 parties and their subdivisions are not subject to the limitation prescribed in this subsection, but
27 they are subject to the reporting requirements prescribed by AS 15.13.040(b) and 15.13.110. This
28 chapter does not prohibit
29

30 (1) a candidate from contributing more than \$1,000 of the candidate's own money
31 to the candidate's own campaign; or

1 (2) individuals or groups, including but not limited to all political committees,
 2 businesses, corporations, and labor unions, from contributing to or expending on behalf of a
 3 ballot proposition or question more than \$1,000 a year; however, these contributions and
 4 expenditures shall be reported in accordance with AS 15.13.040 and 15.13.110.

5 * Sec. 8. AS 15.13.070(c) is amended to read:

*No change
SB 243 (1)*

6 (c) An expenditure over \$100 may not be made in cash [OR BY CASH PAYMENT
 7 UNLESS A WRITTEN RECEIPT IS OBTAINED AND FILED WITH THE COMMISSION].

8 * Sec. 9. AS 15.13.070(d) is amended to read:

*No
Substantive
change
SB 243 (1)*

9 (d) A contribution may not be made, and an expenditure may not be made or incurred,
 10 directly or indirectly, anonymously, in a fictitious name, or by one person or group in the name
 11 of another, to influence the election of a candidate in an election. A contribution made by a
 12 person wishing to remain anonymous, and received by a candidate, campaign treasurer or deputy
 13 campaign treasurer, may not be used or expended, but shall be returned within 10 days of
 14 receipt to the donor, if the donor's identity is known, and if no donor is found, the contribution
 15 escheats to the state if not donated by the candidate to the charity of the candidate's choice. A
 16 contribution from a minor under the age of 18, other than a minor who has been
 17 emancipated or who is married, is considered to have been made by a parent or guardian
 18 of the individual under the age of 18, and shall be counted toward the contribution limit
 19 of the parent or guardian established by this section.

20 * Sec. 10. AS 15.13.070 is amended by adding new subsections to read:

*deletes ben
in sub 22
raising for
all candidates
during session*

21 (i) A candidate or a group controlled by a candidate may not make a contribution to
 22 another candidate, except that a candidate may make a contribution to another candidate from
 23 the candidate's own personal funds.

24 (j) An individual or a group may not make a loan to a candidate or to a group, or
 25 guarantee a loan made by another to a candidate or to a group. This subsection does not prohibit

26 (1) a contribution in the form of a loan by a candidate or by the spouse, parent,
 27 or child of a candidate to the candidate's campaign;

28 (2) an extension of credit by a person made in the person's regular course of
 29 business to a candidate or a group; or

30 (3) a loan by a regulated financial institution to a candidate or group on the same
 31 terms as would apply to a loan by the financial institution to a similarly situated member of the

** Incumbents & non incumbents
CSSB 243(FIN)*

1 public.

2 (k) A person may not act as an intermediary to transmit contributions to a candidate or
3 group from a person or group. In this section, "intermediary" does not include a candidate, a
4 treasurer, deputy treasurer, or other campaign officer, a financial institution, or a person
5 voluntarily hosting a fund-raising event at the person's home.

technical
change
SB 243(1)

6 * Sec. 11. AS 15.13 is amended by adding new sections to read:

7 Sec. 15.13.072. PERSONAL USE PROHIBITED. A candidate for public office may not
8 use campaign funds for personal purposes, convert campaign funds into personal income, or
9 convert goods purchased with campaign funds for personal use.

10 Sec. 15.13.074. DISBURSEMENT OF CAMPAIGN ACCOUNTS. (a) If a candidate
11 for public office or a group has unexpended and unobligated funds after the date of the election,
12 the candidate or group shall, no later than January 15 of the year following the election,

13 (1) elect to carry forward the funds for a future election campaign;

14 (2) donate the funds to an organization that qualifies as a charitable organization
15 under 26 U.S.C. 501(c), to a political party as defined in AS 15.60.010, or to the state or a
16 municipality;

17 (3) return the funds on a pro rata basis to the contributors to the candidate or
18 group;

19 (4) transfer the funds to a legislative office account for expenditures qualifying
20 as business expenses under 26 U.S.C. 162; or

21 (5) use unexpended and unobligated funds remaining after the election to repay
22 the candidate's contributions to the candidate's campaign.

23 (b) Equipment owned by a candidate or group shall, no later than January 15 of the year
24 following the election, be carried forward or donated as provided in (a)(1) and (2) of this section.
25 If the equipment was purchased solely with funds provided by a candidate personally, the
26 candidate may convert the equipment to the candidate's personal use.

27 (c) A candidate or group that elects to carry forward campaign funds for a future election
28 under (a)(1) of this section shall file an annual report with the commission under
29 AS 15.13.110(a)(4) in the year following the election, even if the candidate or group makes no
30 expenditures or receives no contributions during that year.

31 (d) This section does not apply to a group that is organized to influence elections on an

1 ongoing basis.

2 Sec. 15.13.076. RESPONSIBILITY FOR VIOLATIONS. A candidate is responsible for
3 violations of this chapter by officers of the candidate's campaign committee, and the chair of a
4 group is responsible for violations of this chapter by other officers of a group. Penalties assessed
5 against a candidate's campaign committee or against a group may be assessed directly against
6 the candidate or the chair of the group.

7 Sec. 15.13.077. USE OF PUBLIC FUNDS PROHIBITED. A municipality, the state,
8 agencies of the state, public corporations of the state, the University of Alaska, and other political
9 subdivisions of the state, including school districts and regional educational attendance areas, may
10 not use public funds to support or oppose a ballot proposition or the election of a candidate. This
11 section does not prohibit the expenditure of public funds to provide to the public factual
12 information regarding a ballot proposition.

13 * Sec. 12. AS 15.13.120(d) is amended to read:

14 (d) A person who believes a violation of this chapter has occurred may file a complaint
15 with the commission. The complaint must include a statement, made under oath, that the
16 factual statements in the complaint are true, to the best of the complainant's knowledge.

17 If the commission determines there is substantial reason to believe that a violation has occurred,
18 it shall expeditiously make an investigation, which may also include an investigation of reports
19 and statements filed by the complainant if the complainant is a candidate, of the matter
20 complained of. When, in the judgment of the commission, after affording due notice and an
21 opportunity for a hearing, a person has engaged or is about to engage in any acts or practices
22 which constitute or will constitute a violation of a provision of this chapter, or a regulation or
23 order issued under it, it shall promptly report the information to the attorney general for
24 appropriate action. The commission shall report its determination and recommendation to the
25 person who filed the complaint with the commission within 60 days of receiving the complaint
26 unless circumstances require additional time to make an adequate investigation. The finding of
27 the commission may be appealed to the superior court.

28 * Sec. 13. AS 15.13.120 is amended by adding new subsections to read:

29 (i) Proceedings of the commission relating to complaints before it under this section are
30 confidential until the commission determines that there is probable cause to believe that a
31 violation of this chapter has occurred. The confidentiality provisions of this subsection may be

No change
SB 243(5)

1 waived by the subject of the complaint.

2 (j) Except as provided in (i) of this section, meetings of the commission relating to a
3 complaint are governed by AS 44.62.310 - 44.62.312 (Open Meetings Act), and records in the
4 possession of the commission relating to the complaint are subject to AS 09.25.110 - 09.25.125.

5 * Sec. 14. AS 15.13.125 is amended to read:

*added
civil
penalties
for late
reporting*

6 Sec. 15.13.125. CIVIL PENALTY: LATE FILING OF REQUIRED REPORTS. A
7 person who fails to file a properly completed and certified report within the time required by
8 AS 15.13.110(a)(1) or [, (3),] (4) or 15.13.110(d) is subject to a civil penalty of not more than
9 \$10 a day for each day the delinquency continues as determined by the commission subject to
10 right of appeal to the superior court. A person who fails to file a properly completed and certified
11 report within the time required by AS 15.13.110(a)(2) or 15.13.110(b) is subject to a civil penalty
12 of not more than \$50 a day for each day the delinquency continues as determined by the
13 commission subject to right of appeal to the superior court. An affidavit stating facts in
14 mitigation may be submitted to the commission by a person against whom a civil penalty is
15 assessed. However, the imposition of the penalties prescribed in this section or in AS 15.13.120
16 does not excuse that person from filing reports required by this chapter.

17 * Sec. 15. AS 15.13.125 is amended by adding new subsections to read:

*expand
civil
penalties
for other
violations*

18 (b) A person who violates a provision of this chapter other than a provision for which
19 a penalty is prescribed by (a) of this section is subject to a civil penalty of not more than \$20,000
20 for each offense or twice the amount gained by the misconduct that resulted in a violation,
21 whichever is greater, as determined by the commission. The commission may also assess a
22 person subject to a penalty under this subsection with the costs of investigating and adjudicating
23 the violation on which the penalty is based. The costs of investigation and adjudication shall be
24 determined by the commission.

*HD
95*

25 (c) An affidavit stating facts in mitigation may be submitted to the commission by a
26 person against whom a civil penalty is assessed.

27 (d) A determination of the commission under this section is subject to right of appeal to
28 the superior court.

29 (e) The imposition of the penalties prescribed in this section or in AS 15.13.120 does not
30 excuse the person from filing reports required by this chapter.

31 * Sec. 16. AS 15.13.130 is amended by adding new paragraphs to read:

1 (8) "commission" means the Alaska Public Offices Commission created in
2 AS 15.13.020;

3 (9) "school district" means a municipal school district or a regional educational
4 attendance area established under AS 14.08;

No Change
From
SB 249
243(r)

5 (10) "state agency" means a department, agency, instrumentality, or corporate
6 authority of the state, whether in the executive, legislative, or judicial branch, and includes the
7 University of Alaska.

8 * Sec. 17. AS 15.58.030 is amended by adding a new subsection to read:

9 (h) A candidate, or a person on behalf of a candidate, submitting material under this
10 section shall swear that factual statements contained in the material are true to the best of the
11 candidate's or person's knowledge. A candidate or person who knowingly swears falsely is
12 guilty of perjury under AS 11.56.200.

No Change
From
SB 249

13 * Sec. 18. AS 24.45.031(b) is amended to read:

14 (b) The commission may

15 (1) hold hearings and conduct investigations into compliance with the provisions
16 of this chapter;

17 (2) in conjunction with (1) of this subsection, issue subpoenas, compel the
18 attendance and testimony of witnesses, administer oaths and affirmations, and require the
19 production of books, papers, records, documents or other items material to the commission's
20 duties or powers under this chapter;

21 (3) prepare, publish, and make available to the public, semi-annual [PERIODIC,
22 BUT AT LEAST QUARTERLY AND ANNUALLY,] summaries of the statements and reports
23 received; these summaries shall list separately individual lobbyists and employers of lobbyists.

24 * Sec. 19. AS 24.45.041(e) is amended to read:

25 (e) Within 45 days after the convening of each regular session of the legislature, the
26 commission shall publish a directory of registered lobbyists, containing the information prescribed
27 in (b) of this section for each lobbyist [AND THE PHOTOGRAPH, IF ANY, FURNISHED BY
28 A LOBBYIST UNDER (C) OF THIS SECTION]. From time to time thereafter the commission
29 shall publish those supplements to the directory that in the commission's judgment may be
30 necessary. The directory shall be made available to public officials and to the public at the
31 following locations: a public place adjacent to the legislative chambers in the state capitol

SB 290
no change

1 building, [THE OFFICE OF THE LEUTENANT GOVERNOR, THE LEGISLATIVE
2 REFERENCE LIBRARY OF] the Legislative Affairs Agency, and the commission's central
3 office.

4 * Sec. 20. AS 24.45.061(a) is repealed and reenacted to read:

5 (a) A person who employs, retains, or contracts for the services of a lobbyist shall sign
6 the lobbyist's registration statement verifying that employment, retention, or contract for lobbying
7 services.

8 * Sec. 21. AS 24.45.061(b) is amended to read:

9 (b) A person who employs, retains, or [WHO] contracts for the services of one or more
10 lobbyists, whether independently or jointly with other persons, and who directly or indirectly
11 makes payments to influence legislative or administrative action shall file an annual [A
12 QUARTERLY] report containing

13 (1) the full name, complete business address, and telephone number of the person
14 making the report;

15 (2) information sufficient to identify the nature and interests of the person making
16 the report;

17 (3) the total amount of payments made to influence legislative or administrative
18 action during the period, and the name and address of each person to whom these payments have
19 been made during the period by the maker of the report, together with the date and amount;

20 (4) the date and nature of any gift exceeding \$100 in value made to any public
21 official and the full name and official position of the recipient of each gift;

22 (5) a general description of the legislative or administrative action that [WHICH]
23 the person making the report has attempted to influence;

24 (6) the name of each lobbyist employed or retained by the person making the
25 report, together with the total amount paid to each lobbyist and the portion of that amount, if any,
26 that [WHICH] was paid for specific purposes, including salary, fees, and reimbursement for
27 expenses; and

28 (7) a notice of termination if the person filing a report has ceased employing or
29 retaining a lobbyist registered under this chapter and if this report constitutes the final report of
30 the lobbyist's activities on behalf of the maker of the report.

31 * Sec. 22. AS 24.45.081 is amended to read:

1 Sec. 24.45.081. REPORTING PERIODS. Lobbyist reports [REPORTS] required under
 2 this chapter shall be filed during the calendar month following each calendar month during any
 3 part of which the legislature was in session and during the month following each calendar quarter
 4 when the legislature was not in session. However, if a lobbyist registered under this chapter has
 5 declared that the lobbyist seeks only to influence administrative action and not legislative action,
 6 the lobbyist need only file a report required under this chapter for each calendar quarter. The
 7 period covered shall be the calendar month or the calendar quarter, as applicable, and shall in any
 8 event cover the period from the date of the last report filed under this chapter to the date of the
 9 end of the calendar month or quarter, as applicable, for which the report is being filed. The
 10 period covered shall not include any months covered in previous reports filed by the same person.
 11 When total amounts are required to be reported, totals shall be stated both for the period covered
 12 by the statement and for the entire calendar year to date. Annual employer reports required
 13 under this chapter shall be filed either 30 days after all lobbying activities are terminated
 14 or during the month following the fourth calendar quarter, whichever occurs first.

15 * Sec. 23. AS 39.50.030(a) is amended to read:

16 (a) Each statement shall be an accurate representation of the financial affairs of the public
 17 official or candidate and shall contain the same information for each member of the person's
 18 family, as specified in (b) of this section, to the extent that it is ascertainable by the public
 19 official or candidate. [AN ASSET OR LIABILITY UNDER \$500, HOUSEHOLD GOODS,
 20 AND PERSONAL EFFECTS NEED NOT BE IDENTIFIED.]

21 * Sec. 24. AS 39.50.030(b) is amended to read:

22 (b) Each statement filed by a public official or candidate under this chapter shall include
 23 the following:

24 (1) the source of all income over \$1,000 [\$100] during the preceding calendar
 25 year, including taxable and nontaxable capital gains, received by the person, the person's spouse
 26 or dependent child, or a nondependent child of the person who is living with that person, except
 27 that a source of income that is a gift from other than a family member must be included
 28 if the value of the gift exceeds \$100;

29 (2) the identity, by name and address, of each business in which the person, the
 30 person's spouse or dependent child, or a nondependent child of the person who is living with that
 31 person was a stockholder, owner, officer, director, partner, proprietor, or employee during the

*added
 clarify
 language
 3/5/2009*