

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672  
6866 HOUSE HEALTH EDUCATION & SOCIAL SERVICES

281 First Avenue  
Fairbanks, Alaska 99701

# Doyon Foundation

(907) 452-4735  
FAX (907) 456-6785

## SCHOLARSHIPS AVAILABLE THROUGH THE DOYON FOUNDATION

### KPMG Peat Marwick Scholarship

**Award:** \$3,000 per year

**Eligibility:** available to full-time students who have completed their sophomore year and are majoring in accounting.

The KPMG Peat Marwick Scholarship was made possible by a contribution from the accounting firm.

### National Bank of Alaska Scholarship

**Award:** \$5,000 per year (2 scholarships available)

**Eligibility:** available to full-time students who have completed their sophomore year. Not restricted to any particular field of study.

The NBA Scholarship was made possible by a contribution from the bank.

### Doyon Competitive Scholarships

**Award:** Six \$5,000 scholarships

**Eligibility:**

- 1 Education student (math, science, or communications minor, jr. or sr. level)
- 2 Graduate students
- 1 Engineering/Science student (jr. or sr. level)
- 1 Business student (jr. or sr. level)
- 1 Vocational student

**Award:** Twelve \$3,000 scholarships

**Eligibility:**

- 1 Elementary Education student (math, science, or communications minor, jr. or sr. level)
- 1 Secondary Education student (math, science, or communications minor, jr. or sr. level)
- 2 Graduate students
- 2 Engineering/Science students (jr. or sr. level)
- 1 Business student
- 3 "Other" students
- 2 Vocational students

### Doyon Natural Resources Scholarship

**Award:** \$2,000-\$6,000 per year

**Eligibility:** available to full-time students enrolled at the University of Alaska Fairbanks who have completed their sophomore year, and are studying areas related to resource management.

Fields of study could include forestry, mining, geology, resource economics, applied land management, petroleum engineering and natural resources management.

The Doyon Natural Resources Scholarship was made possible by exploration companies contracting with Doyon Limited.

Summer internships may also be available in conjunction with this scholarship.

Students wishing to apply for a competitive scholarship must submit two letters of recommendation, be available for an in-person or telephone interview with our scholarship committee, and maintain a grade point average of 2.0 or higher.

*The Doyon House . . . p. 14*

APPENDIX C:

Doyon Foundation Board Resolution 91-01

DOYON FOUNDATION

Board Resolution No. 91-01

WHEREAS, Doyon Limited and the Doyon Foundation are committed to enhancing the quality of life for Doyon members and their descendants; and

WHEREAS, Success in academic pursuits will enhance the quality of life for our members by allowing them to reach their highest potential; and

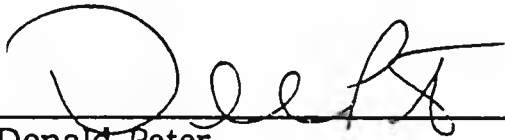
WHEREAS, Education is a priority of the Doyon Foundation; and

WHEREAS, The Doyon Foundation Board of Directors has determined the need for enhancing the support network for rural students from the Doyon region to increase their rate of success at UAF; and

WHEREAS, The objectives and plan of action for the creation of the Doyon House have been stated;

NOW, THEREFORE BE IT RESOLVED that Kathy Mayo, Executive Director, on behalf of the Doyon Foundation Board of Directors, will fulfill the need of the shareholders, working in partnership with UAF, by obtaining funds to ensure the establishment of this facility.

ADOPTED and DATED this 9th day of December, 1991, at Fairbanks, Alaska.

  
\_\_\_\_\_  
Donald Peter,  
President  
Doyon Foundation

APPENDIX D:

Letters of Support



Joan K. Wadlow, Chancellor  
907-474-7112  
FAX 907-474-5213

**UNIVERSITY OF ALASKA FAIRBANKS**

**Office of the Chancellor**  
320 Signers' Hall  
Fairbanks, Alaska 99775-0500

September 19, 1991

Kathy Mayo, Executive Director  
Doyon Foundation  
201 First Avenue  
Fairbanks, Alaska 99701

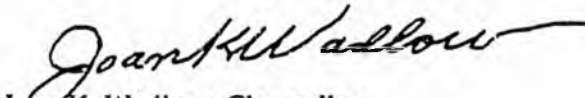
Dear Kathy,

I share your enthusiasm in providing a bridge house for Native students from the Doyon region who are making the transition from rural to University life. This house will strengthen the University's existing programs aimed at Native student matriculation and retention and will help take us to the next level of successful educational support.

This residential support system will not only provide the Native students with a nurturing environment, but will allow non-Natives exposure to the rich and unique cultures of Alaska's rural residents. By enabling more Native students to realize their educational goals, we will help provide a diversified workforce, increased visibility of the cultures of the people in Alaska's rural areas, and sensitivity toward cultural diversity.

I also share the opinion that cooperation between the University and the Doyon Foundation is critical to the establishment of the proposed house, and I look forward to working closely with you to realize our goals. I wish you every success in your fund-raising effort for this worthy and timely project.

Sincerely,

  
Joan K. Wadlow, Chancellor  
University of Alaska Fairbanks

JKW/lks



## TANANA CHIEFS CONFERENCE, INC.

122 FIRST AVENUE  
FAIRBANKS, ALASKA 99701-4897  
PHONE (907) 452-8251 FAX (907) 451-8936

March 17, 1992

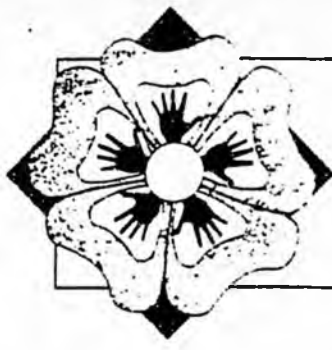
Kathy Mayo  
Executive Director  
Doyon Foundation  
201 First Avenue  
Fairbanks, AK 99701

Dear Kathy:

I am pleased to be able to offer support for your efforts to construct the Doyon House for students from rural areas who are attending UAF. The proposed Doyon House **is a priority at TCC** since our mission closely parallels those of the other Native organizations in Alaska; to enhance the quality of life for our people. Your goal to help our students find a balance between cultural identity and education will allow them to pursue their educational objectives in a culturally sensitive atmosphere. This residential support system will not only provide our students with opportunities to share their traditional values, which will increase their self esteem and foster greater harmony between cultures, but will also increase the social and academic success of these students. The resultant pride, along with a solid educational background, will allow our students to realize their full potential, which will ultimately lead to healthier individuals, families and communities. I look forward to hearing of your progress on this important project.

Sincerely,

Will Mayo, President  
Tanana Chiefs Conference



# F♦N♦A

## Fairbanks Native Association

March 17, 1992

Kathy Mayo  
Executive Director  
Doyon Foundation  
201 First Avenue  
Fairbanks, AK 99701

Dear Kathy:

Thank you for keeping me informed of your progress toward the construction of the proposed Doyon House. This timely project will help our students find a balance between their cultural values and education, thereby increasing their potential for success. The residential support system, along with the other support offered at the University of Alaska Fairbanks, will ensure that these scholars will be given every opportunity to meet their educational objectives. It will also provide many occasions for our students to share their values and traditions with the others on campus, promoting to celebrate their heritage in a culturally appropriate setting will enhance their self esteem, opening doors for greater numbers of Native Alaskan graduates, who we are relying on as our future leaders. I look forward to hearing more about your work as this project progresses.

Sincerely,

Samuel S. Demientieff  
Executive Director

SSD/bjb



UNIVERSITY OF ALASKA FAIRBANKS

Office of Student Affairs  
Fairbanks, Alaska 99775-1520

April 22, 1991

Kathy Mayo, Director  
Doyon Foundation  
Doyon, Limited  
201 1st Avenue  
Fairbanks, AK 99701

Dear Ms. Mayo:

This is a letter of recommendation for the Doyon House proposal. As a department that services rural students both academically and through personal support, we recognize the immense benefit that this type of residence life program would bring to the students. We currently service over 400 rural students, 25% of which are Doyon shareholders.

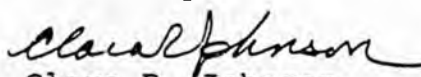
For our students who are typically non-traditional college and come from small rural communities, the transition to the University can be difficult and stressful. A transitional residence prototype has been operational at UAF with the NANA region for 7 years. This program is successful and the possibility of offering this type of program to Doyon students is exciting and will be immensely helpful in reducing student stress and ultimately encouraging retention.

Academically and supportively, UAF has excellent programs that have made a difference in Alaska Native success in higher education. 60% of our continuing students have maintained an overall GPA over 2.0 and 43% maintain a GPA over 3.0.

However, for the first-time student attending college there continues to be problems academically and with retention. To help address this problem our academic and personal support programs have to broaden and extend into the residence life programs. The creation of the Doyon House will be an excellent bridging program because it offers a small living residence experience for our first year students making the transition during an already challenging freshman year.

The Rural Student Services program looks forward to working with the Doyon Foundation on this residence life program. The additional formal and informal support this facility will bring to rural students will bring long range benefits to the Doyon region and enrich this campus.

Sincerely,

  
Clara R. Johnson  
Director



UNIVERSITY OF ALASKA FAIRBANKS

**Biology and Wildlife**

202 Bunnell Building, Fairbanks, Alaska 99775, (907) 474-7542

29 April 1991

TO: Whom it may concern

FROM: Douglas Schamel, Instructor of Biology

*Douglas Schamel*

SUBJECT: The proposed Doyon House at UAF

I have read the brochure on the proposed Doyon House and have discussed the concept with Ms. Kathy Mayo and Ms. Dorothy Dahl of the Doyon Foundation. This is an exciting project that deserves careful consideration and widespread support.

I have been involved with the instruction of Native Alaskan students at UAF since 1974. My first teaching position at UAF was that of a part-time tutor for the old Student Orientation Services (SOS). My main assignment was tutoring biology, geology, and mathematics. I quickly learned that one-on-one tutoring was not very effective. Nor was tutoring in the science classrooms. Group discussions held in the familiar setting of the SOS lounge tended to elicit more conversation and cover more ground. When I became a faculty member in 1977, I continued this practice whenever my teaching schedule permitted.

The support system in place at UAF from 8 am to 5 pm is commendable. SOS (now Rural Student Services) is a wonderful collection of dedicated professionals. The counselors have developed excellent rapport with the students. Their lounge has become "home away from home" for many students from the villages. They gather there to talk about news from home, grab a cup of coffee between classes, get assistance with coursework, and share a joke – or a cry. But after 5 pm the students must return to the dormitories, which are filled with students who do not understand village traditions. The dormitory atmosphere is definitely not conducive for the survival of these rural students.

The Doyon House would provide that comfortable, family atmosphere 24 hours per day. Live-in counselors would be there to provide guidance on social and academic matters at all hours of the day and night. Such guidance would augment, not replace, RSS operations. House residents

could invite university faculty to visit for academic and career counseling. Students would listen and participate in familiar surroundings. They would also invite Native elders to visit and share their knowledge.

When I mentally weigh the costs and benefits of this undertaking, I continually drift towards the following thought: "If the State of Alaska is serious about in-state higher education of Native Alaskans, then it is time to try ideas like this one. We've had lip service long enough. We cannot afford to wait much longer to enfranchise our Native peoples. The long-range costs of a lost generation of potential scholars are immeasurably high. In fact, how can one measure them?"

With the guidance of dedicated faculty, staff and students from UAF, the Doyon Foundation, Alaskan businesses, and the Native community of Fairbanks, the Doyon House will succeed in helping students survive the transition to university life. It will also help their transition to leadership roles within the Native community and the State of Alaska.

Please join this exciting enterprise!

# UNIVERSITY OF ALASKA FAIRBANKS



## Department of Chemistry

Fairbanks, Alaska 99775-0520 (907) 474-7525

May 2, 1991

To Whom It May Concern:

I am pleased to have the chance to support Kathy Mayo's efforts to establish a "Doyon House" to help Alaska Native students succeed at the University of Alaska. Kathy, through the Doyon Foundation, has been active in effecting a better learning environment to increase the students' chances for success. She has helped me with my efforts to improve the quality of science education for rural and native students here at UAF. We have established a separate Basic General Chemistry course section (Chemistry 103-099), for rural students, which has exactly the same standards and requirements as the larger class, but addresses the special needs of these students. Specifically, smaller, more personal classes with advising done through Rural Student Services, and even a linked "study skills" course provided by the Cross Cultural Communications department. These courses do not in any way "water down" the requirements for the native student, but serve to help him or her make the transition from village life to the expectations of a more impersonal university. The Chemistry 103-099 course was established with the support of a three-year grant from the National Science Foundation to make up a similar chemistry course (103-DD1), and an analogous physics course, to be "Distance Delivered" to "field based" UAF students who were completing their baccalaureate degree requirements from distant villages without being able to come to the Fairbanks campus. Both of these courses have been developed and taught with excellent sources, but now are being picked up by UAF. Some of the support that made them so successful is going to vanish with the completion of the NSF grant.

The support of organizations such as the Doyon Foundation is essential to keep effective programs going and to establish more support programs for this "at risk" portion of society. Kathy Mayo and the Doyon Foundation have already been most helpful to the project. They awarded me a small amount, to supplement the NSF grant, for purchase of additional items that we've needed. Kathy has provided me with contacts in other universities who had knowledge of issues, and solutions to problems, in Native American education. She has convened local meetings of educators and concerned individuals in other fields and proposed a "Council for Native Education" to consider a diversified approach toward education in all subjects at all levels.

I have described just a few of the benefits that I see from the work of Kathy Mayo and the Doyon Foundation in order to show why I applaud what is already being done and strongly support additional efforts to establish a "Doyon House" on the UAF campus. Such a place would continue and enhance the positive aspects of the chemistry and physics programs that were begun with NSF monies. In addition it would apply the principles that have been shown to have a positive effect on "at risk" students, especially Native Americans. First, a sense of community and belonging rather than alienation, followed by more concrete support services such as peer advising, mentoring, tutoring, etc. Please call me at (907) 479-5419, or write to me if I can be of further assistance.

Sincerely,

*Donald A. Lokken*

Donald A. Lokken  
Associate Professor  
Chemistry Department  
University of Alaska Fairbanks  
Fairbanks, AK 99775-0520

APPENDIX E:

Draft Memorandum of Understanding

DRAFT



DRAFT

UNIVERSITY OF ALASKA FAIRBANKS

Office of Student Affairs  
Fairbanks, Alaska 99775-1520

OVERVIEW OF  
MEMORANDUM OF AGREEMENT

The University of Alaska Fairbanks and the Doyon Foundation have agreed to the construction of a student residence to be located on the UAF campus. The residence will provide accommodations for up to twenty students who are shareholders or descendants of shareholders of Doyon Limited.

Doyon House will be designed and operated so as to provide a culturally sensitive environment for students from rural areas in the Doyon region as they begin the transition to college life. One important feature of Doyon House will be an "extended family" atmosphere reminiscent of village life. The programs for residents will include expanded orientation, academic advising and personal counseling, and extensive tutoring opportunities.

Specific requirements for operation of the facility include the following:

1. Residents must be enrolled full time at UAF and will be subject to all pertinent policies and regulations pertaining to the assignment of students to residential facilities.
2. Residents will be required to abide by all University policies, regulations, codes of conduct, and procedures as printed in The "A" Book, University Catalog, and other publications and notices to students as they occur.
3. Resident supervision will be the responsibility of the UAF Office of Residence Life, and will include the assignment of a Hall Director and one Resident Assistant to the facility. These personnel will be Residence Life staff members.
4. Doyon Foundation will assist in the training of Residence staff, and will provide funding for specific programs and activities for residents which is supplemental to the University's support of all residential programs.
5. During the summer period following commencement, Doyon Foundation may utilize the facility for other programs or activities in accord with University policy and guidelines for facility rental and use.
6. In the event that there is no food service in the facility, students will be subject to the board requirement which exists for all University halls.

UNIVERSITY OF ALASKA FAIRBANKS

7. Facility maintenance including repairs, painting, and snow removal will be performed by University personnel, according to arrangements resulting from future agreements.
8. Such operations as landscaping, custodial, garbage removal, and postal service may be performed by University staff according to future agreements.
9. Costs of resident supervision, utilities, program support, and facilities maintenances negotiated will be paid by the University.
10. The University shall retain title to all grounds, roads, and facilities constructed thereon.
11. All construction activity shall be in accord and compliance with federal, state, borough, and University codes and requirements, including contracting, procurement, affirmative action and equal opportunity, access for disabled, and issues of fire safety.
12. Site selection shall be in accord with the Master Plan of the University, and shall occur with the mutual concurrence of the Chancellor of the University and the Doyon Foundation.
13. The issuance of requests for proposals, contracts, construction schedules, and acceptance of the completed facility, as well as plans, schematics, and all documents related to construction shall be approved by the University through the Office of Statewide Facilities Planning and Construction.
14. The University reserves the same rights of inspection as exist for all residences.
15. All Doyon House student residents shall pay the same housing deposit as other residents. Similarly, each must sign a housing contract agreeing to abide by all University and housing regulations.
16. Doyon staff and staff of the Office of Residence Life shall prepare an annual evaluation on program effectiveness.
17. There must exist (be negotiated) a termination date to this agreement, after which an extension may be granted or possession of the facility reverts to the University.

*The Doyon House. . . p. 17*

APPENDIX F:  
Doyon Limited Board Resolution 92-23

DOYON, LIMITED

BOARD RESOLUTION NO. 92-23

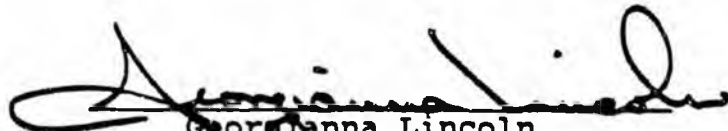
WHEREAS, the Doyon Foundation has kicked off a fundraising campaign to construct a residential facility for Doyon shareholders attending the University of Alaska - Fairbanks to be known as the "Doyon House"; and

WHEREAS, the Doyon House, when constructed, will provide support and cultural enrichment for Doyon shareholders attending UAF, easing their transition into college life and improving their chances for success in school; and

WHEREAS, the Doyon Foundation seeks a challenge grant of \$300,000 from Doyon, Limited toward construction of the Doyon House to be paid contingent upon raising the remaining \$1,100,000 from other sources;

NOW, THEREFORE BE IT RESOLVED that the Board of Directors of Doyon, Limited commits to contribute \$300,000 to the Doyon Foundation, which shall be used for the construction of the Doyon House at the University of Alaska - Fairbanks contingent upon the Doyon Foundation obtaining legally binding funding commitments in the amount of \$1,100,000 or more from other sources, negotiating satisfactory agreements for the construction and operation of the Doyon House from UAF, and reasonable assurances that the contribution will be treated as a charitable contribution for tax purposes.

ADOPTED and DATED this 18th day of January, 1992, at Fairbanks, Alaska.



Georgianna Lincoln  
Corporate Secretary  
Doyon, Limited

THE PRECEDING PAGES WERE TREATED AS  
A UNIT IN THE ORIGINAL FILE.

# HOUSE COMMITTEE REPORT

(7)

Date Referred: February 18, 1992

FURTHER REFERRALS:

Finance

Date of Committee Action: 3/20/92

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 533

HOUSE BILL NO. 533

APPROP: UAF DOYON STUDENT HOUSING

"An Act making a special appropriation to the University of Alaska for the Doyon student housing project at the University of Alaska Fairbanks; and providing for an effective date."

RECOMMENDATIONS: [ ] the same title  
 be replaced with \_\_\_\_\_ [ ] a new title

[ ] have attached amendments(s)

[ ] do pass

[ ] do not pass

[x] no recommendations

[ ] individual recommendations

[ ] additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

[ ] fiscal impact \_\_\_\_\_

[ ] fiscal note(s) \_\_\_\_\_

[ ] zero fiscal note \_\_\_\_\_

[ ] zero fiscal note(s) \_\_\_\_\_

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
		Cheri Davis		✓	
<i>J. C. Douglas</i>	✓	Betty Dawn		✓	
		<i>[Signature]</i>		✓	
		Mary Miller		✓	
		<i>Mark [Signature]</i>		X	
		Cost Concerns for 20 students			

*[Signature]*  
 CHAIRMAN'S SIGNATURE

44B

535

# ALASKA STATE LEGISLATURE

*Representative Georgianna Lincoln*

HESS Committee, Co-Chair  
Resources Committee, Vice-Chair

Budget Subcommittees  
Health and Social Services  
Revenue



P.O. Box V  
Juneau, Alaska 99811

Phone: (907) 465-3732  
FAX: (907) 465-2652

Alatna  
Allakaket  
Aniak  
Anvik  
Arctic Village  
Beaver  
Bettles  
Birch Creek  
Chalkyitsik  
Chuathbaluk  
Crooked Creek  
Evansville  
Fort Yukon  
Galena  
Grayling  
Holy Cross  
Hughes  
Huslia  
Kalskag  
Kaltag  
Koyukuk  
Lake Minchumina  
Lime Village  
Lower Kalskag  
Manley Hot Springs  
Marshall  
McGrath  
Minto  
Mountain Village  
Nikolai  
Nulato  
Pilot Station  
Pitkas Point  
Rampart  
Red Devil  
Ruby  
Russian Mission  
Shageluk  
Sleetmute  
St. Mary's  
Stevens Village  
Stony River  
Takatna  
Tanana  
Telida  
Tuluksak  
Tyonek  
Venetie  
Wiseman

## SPONSOR STATEMENT HOUSE BILL 535

Representative Georgianna Lincoln

Safe drinking water is something that should, by right, be available to every Alaskan, both urban and rural. Villages in rural Alaska have encountered situations where their water sources have been contaminated by hazardous substances, most often fuel. Restoration of drinking water then becomes a priority and funding must be obtained in short order.

HB 535 proposes to expand the use of the oil and hazardous substance release response fund (470 fund) to include capital construction associated with restoration of the community's drinking water. This would allow the use of the same equipment brought in by DEC to establish the extent of the contamination to be used to drill for a new water source. In the end, this makes good economic sense for the State of Alaska and for the impacted community.

The 470 fund may now be used to identify the source and extent of the contamination caused by the release of a hazardous substance, and to contain and clean up this substance when it poses an imminent and substantial threat to the public health or welfare. DEC may undertake these activities and seek to recover the funds expended from the responsible party at a later date. The 470 fund cannot be used for any capital construction related to restoration of the community's drinking water.

When a drinking water supply is contaminated and is no longer usable, residents of the affected village must obtain their water from another source, often a river or creek. This water must be boiled before drinking. However, with children dipping from a bucket this more oftentimes doesn't occur, especially with the high cost of propane for boiling the water. DEC takes in their equipment to determine the source and extent of the contamination by drilling at various locations. When their job is done, the equipment is removed from the village.

The village, in the meantime, must work through the state system to obtain funding to replace their drinking water source. Given the nature of the state capital budget, it may take one to several years to obtain enough funding to complete the construction, and equipment must again be mobilized for the short construction season.

Under provisions of HB 535, DEC may not seek recovery of costs incurred in the containment and clean up of a hazardous substance or to restore the impaired public drinking water supplies or provide for alternative drinking water supplies from a municipality or village. The financial stability of rural governments is at best shaky, and these entities often cannot afford to pay for the cleanup activities much less the restoration of drinking water supplies. They may continue to do so if a private party has been identified as the responsible party.

Over the past two years, fuel spills have contaminated drinking water supplies in the communities of Marshall, Minto and Toksook Bay. Each time, DEC sent in a spill response team to identify the source of the contamination and to initiate the clean-up. These activities were done utilizing the 470 fund.

We propose to expand the use of the 470 fund to restore drinking water supplies that have been contaminated. Given the number of times the 470 fund would have been used over the past two years, we believe there will be minimal impact on the 470 fund.

# HOUSE COMMITTEE REPORT

(7) Date Referred: February 18, 1992      FURTHER REFERRALS:      Resources Finance

Date of Committee Action: 4/8/92

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:      HB 535

HOUSE BILL NO. 535      PUBLIC DRINKING WATER CLEANUP

"An Act relating to the restoration of impaired public drinking water supplies or the provision of alternative public drinking water supplies in connection with oil or hazardous substance containment and cleanup activities; and providing for an effective date."

RECOMMENDATIONS:       the same title  
 be replaced with CS HB 535 (HES)       a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S):      (Dept)      APPROVES PREVIOUS:      (Dept/Date)  
 fiscal impact \_\_\_\_\_       fiscal note(s) \_\_\_\_\_

zero fiscal note DEC       zero fiscal note(s) \_\_\_\_\_

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>Beth Davis</i>	✓				
<i>J. C. [Signature]</i>	✓				
<i>Cheri Davis</i>	✓				

*[Signature]*  
 Co-CHAIRMAN'S SIGNATURE

7-LS2025D  
Lauterbach  
4/2/92

CS FOR HOUSE BILL NO. 535 ( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES LINCOLN, Ivan

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the restoration of impaired public drinking water supplies or the  
2 provision of alternative public drinking water supplies in connection with oil or hazardous  
3 substance containment and cleanup activities; and providing for an effective date."

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

5 \* Section 1. AS 46.08.010(c) is amended to read:

6 (c) The fund shall be used for actual expenses incurred under AS 46.08.040. Except for  
7 containment or cleanup activities related to restoration of impaired public drinking water  
8 supplies or the provision of alternative public drinking water supplies, or as provided in  
9 AS 46.08.040(d)(2), the fund may not be used for capital improvements.

10 \* Sec. 2. AS 46.08.070(a) is amended to read:

11 (a) Except as provided in (d) of this section, the [THE] commissioner shall seek  
12 reimbursement promptly under this section, AS 46.03.760(e), or federal law for the cost incurred  
13 in the cleanup or containment of oil or a hazardous substance that has been released.

14 \* Sec. 3. AS 46.08.070(b) is amended to read:

1           (b) Except as provided in (d) of this section, the [THE] attorney general, at the request  
 2 of the commissioner, shall immediately seek to recover money expended by the department under  
 3 AS 46.08.005 - 46.08.080 or other law to contain and clean up oil or a hazardous substance that  
 4 has been released or to control the threatened release of oil or a hazardous substance.

5 \* Sec. 4. AS 46.08.070 is amended by adding a new subsection to read:

6           (d) Notwithstanding (a) and (b) of this section, the state may not seek reimbursement or  
 7 recovery of containment and cleanup costs incurred to restore impaired public drinking water  
 8 supplies or to provide alternative public drinking water supplies if a village, as defined in  
 9 AS 46.07.080, is a party responsible for the impairment.

10 \* Sec. 5. AS 46.08.900(3) is amended to read:

11           (3) "containment and cleanup" includes the direct and indirect efforts associated  
 12 with the prevention, abatement, containment, or removal of oil or a hazardous substance, and the  
 13 restoration of the environment including the restoration of impaired public drinking water  
 14 supplies or the provision of alternative public drinking water supplies; when applied to  
 15 expenses, the term includes the additional costs of providing a reasonable and appropriate  
 16 function or service incurred in response to the release of the oil or hazardous substance, including  
 17 administrative expenses for the incremental costs of providing the function or service;

18 \* Sec. 6. This Act takes effect immediately under AS 01.10.070(c).

# FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO. HB 535

Revision Date: \_\_\_\_\_  
 Title: Restoring impaired public  
drinking water supplies  
 Sponsor: Rep. Lincoln  
 Requestor: (H) HESS

Department Affected: Environmental  
Conservation  
 BRU: Spill Prevention and Response  
 Component: Contaminated Sites

COMPONENT SERIAL NO. 1 | 4 | 3 | 1

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL	*	*	*	*	*	*
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REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
FUND SOURCE:	*	*	*	*	*	*
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

Estimate of current year impact none

ANALYSIS: (Attach a separate page if necessary.)	* See Attached
--	----------------

Prepared by: Janice Adair  
 Division: Commissioner's Office

Phone: 465-5010  
 Date: 4/1/92

Approved by Commissioner: *Janice Adair*  
 Agency: Environmental Conservation

Date: 4/2/92

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

HB 535  
Attachment to Fiscal Note

Section 4 of the proposed legislation precludes the State from recovering costs incurred to restore a public drinking water supply if the community was responsible for the contamination.

There have been two cases in recent years where a community's drinking water supply has been contaminated, and where the community may have been a responsible party. The capital costs in each case were as follows:

Community #1	Water Restoration	210,000
	Mob/demob	<u>(90,000)</u>
	Total unrecoverable costs	\$120,000
Community #2	Water Restoration	630,000
	Mob/demob	<u>(60,000)</u>
	Total unrecoverable costs	\$570,000

## New uses for 470 spill fund

There will be a push for more authorized uses of the "470" oil spill fund, which is financed by a special nickel-a-barrel tax on oil production enacted in 1989. The administration will push legislation allowing use of the 470 fund to include restoration of public drinking water facilities during contaminated site cleanups. Under current law, money is available from the fund to do cleanup of contaminated sites. But in a rural community, the same crew and equipment could dig a new water well if funds were available. Now funding must come from a different source, which often means delays and mobilization of a different crew, with a substantial added cost. Also pending is Rep. Kay Brown's HB-264, which would tap the 470 fund to finance grants and loans for leaking underground fuel storage tank cleanup. Department of Environmental Conservation says it still supports HB-264, but with amendments that would narrow the uses of 470 funds in the LUST program.

The 470 fund is not a dedicated fund, but rather a reserve account in the general budget. It was actually created in 1986 to finance emergency containment of cleanup of oil or other hazardous substances, but didn't have any significant funding until the Exxon Valdez spill in 1989, which motivated legislators to enact the nickel-a-barrel tax as a funding source, also expanding the fund to \$50 million and adding other authorized uses of the money, such as environmental restoration, litigation, and contingency plan review. In FY 1991 and FY 92 (the current budget year) about \$30-\$33 million yearly has been spent, much of it on Exxon Valdez spill related expenses. Oil producers, who pay the tax, complain that with the authorized uses of the fund being expanded every year, the \$50 million fund will be continually drawn down, making the nickel-a-barrel surtax, in effect, a permanent tax. Others counter that aside from direct spill-related cleanup and contingency plan review, some of the money is being spent on contaminated site cleanup near Kenai and North Slope producing fields.

## "Sleeper" issue: Coastal management review of spill contingency plans

Another "sleeper" issue for the '92 session may be powers of the Alaska coastal policy council and the state coastal management act itself. What is likely to bring this to a head is the current muddle over review of oil spill contingency plans for "consistency" with the state's coastal management program. In development of its HB-567 oil spill regulations (HB-567, enacted in 1990, sets out new spill contingency and planning standards) Dept. of Environmental Conservation first said its review of spill contingency plans would also meet requirements of the coastal policy act. Not so, said coastal resource districts, with Aleutians east and west coastal districts taking the lead. The state Coastal Policy Council, made up of state and local officials, in October ordered a 60-day public review and since then has held workshops on the issue. What may emerge is a compromise: Coastal districts agreeing to adhere to DEC's timetable for review of contingency plans but DEC agreeing to pass contingency plans through coastal districts, giving them "due deference" in their comments (a legal term that gives locals more clout) and agreeing to adhere to the "elevation" process established in the coastal management program for resolving disputes. If that deal emerges, it still raises questions as to whether DEC review of spill contingency plans can be stopped by appeals through coastal management. This issue affects more than major oil companies. Next July, new contingency plan requirements will apply to fuel shippers and tank farm operators.

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## Tapping constitutional budget reserve?

Word on the street in Juneau is that the Hickel administration would support, under "certain circumstances," tapping the constitutional budget reserve. This has over \$400 million after the recent BP settlement, but it takes a 3/4 legislative vote to tap the fund. Another budget reserve, also with several hundred million dollars, can be tapped by a simple majority vote in the legislature and will likely be used to fund the FY 1992 capital budget, administration sources say. The administration's thinking is that the constitutional reserve would be used for some single purpose. A funding source for school construction is one idea reportedly kicked around.

BACK UP



# Senator Lyman F. Hoffman

Alaska State Senate

P.O. Box V • Juneau, Alaska 99811 • (907) 465-4453

SB 391

## RESTORING IMPAIRED PUBLIC DRINKING WATER SUPPLIES

Senator Lyman F. Hoffman, Sponsor

A growing problem in rural areas is the increase of undetected spills of hazardous materials, especially fuel oil, which have contaminated public water supplies. In the past two years, fuel spills have contaminated the water supplies of the communities of Toksook Bay, Minto and Marshall. In each case, the Department of Environmental Conservation (DEC) reacted with a spill response team to identify the source of the pollution and initiate the cleanup. The cleanup was paid for with funds from the state's oil spill cleanup fund, referred to as the "470 fund".

However, although DEC could clean up the contamination, there has been no legal mechanism to allow DEC to use the 470 fund to replace the contaminated water source. Instead, communities have had to go through the normal capital appropriation process in order to provide funding for new water sources in these communities. This process can take months, and even years. During that time, residents have had to pack water, usually from unreliable and marginal sources. This has created a very difficult situation for the communities and their schools and other facilities.

SB 391 would allow the 470 Fund to be tapped for the expense of replacing the contaminated water system with a new one. This could be done during the cleanup process, which would reduce the state's costs substantially.

The 470 fund was created to help people who have suffered from a hazardous material spill. SB 391 would help the fund live up to its purpose. This legislation is supported by DEC.

- District 1
- Adak
- Aniak
- Arctic Village
- Barrow
- Beaver
- Bethel
- Bethel
- Bird Creek
- Chalkyitsik
- Chitina
- Chuathocuk
- Chukchee Creek
- Chukchi
- Evansville
- Fort Yukon
- Galena
- Goodnews Bay
- Grayling
- Holy Cross
- Hughes
- Huslia
- Kaiskaq
- Kaktovik
- Kasigluk
- Kipnuk
- Kongiganak
- Koyukuk
- Kwethluk
- Kwigillingok
- Lake Minchumina
- Lime Village
- Lower Kaiskaq
- Manley Hot Springs
- Marshall
- McGrath
- Mekoryuk
- Minto
- Mountain Village
- Nanaktiak
- Napaskiak
- Newtok
- Nightmute
- Nikolai
- Nulato
- Nunapitchuk
- Oscarville
- Pilot Station
- Pitkas Point
- Platinum
- Quinnagak
- Rampart
- Red Devil
- Ruby
- Russian Mission
- Shaqoluk
- Seeimui
- St. Mary's
- Stevens Village
- Stony River
- Takotna
- Tanana
- Telida
- Toksook Bay
- Tuluksak
- Tuntutuliak
- Tununak
- Tvonek
- Venetie
- Wisean

# STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

## DEPARTMENT OF MILITARY AND VETERANS AFFAIRS ALASKA DIVISION OF EMERGENCY SERVICES

PO BOX 5750  
FT. RICHARDSON, AK 99505-5750  
PHONE: (907) 428-7000

January 2, 1992

### NOTE:

This letter is an example of the problems experienced by rural residents faced with an unreliable water supply. Even obtaining water from traditional sources can now have environmental and health problems.

Mr. John Amik  
Village Administrator  
Kipnuk Village Council  
General Delivery  
Kipnuk, Alaska 99614

Dear Mr. Amik:

The Division of Emergency Services has reviewed your request for assistance in meeting the village's need for a more readily available source of water by filling the storage tank with water drawn from a nearby lake. While recognizing the difficulty that villagers encounter in supplying themselves with water in the traditional ways, hauling ice from nearby lakes, we have concluded that your proposal does not offer a feasible alternative.

This conclusion is based in part on engineering advice we have obtained from the Alaska Department of Environmental Conservation and the U.S. Public Health Service. There are two problems with your proposal: (1) the water in the lake from which you propose to draw, and other area lakes, is extremely turbid with suspended material at this time of year. Moreover, because of the shallowness of the lakes (two feet or less), it would be impossible to avoid pumping an excessive amount of material from the bottom along with the water. The quality of the water would thus be too poor for use in daily laundry purposes, let alone drinking. (2) the logistics of drawing water from lakes and pumping it a minimum of 2000 feet to the storage tank at this time of year would be extremely difficult to accomplish without a prolonged period of temperatures that are higher than normal for this time of year.

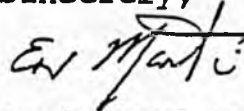
While this does not alleviate immediately the hardships that villagers must undergo to obtain water, there is some gratification in knowing that this will probably be the last year that residents of Kipnuk experience a water shortage of this magnitude. As you know, the State Department of Environmental Conservation and the U.S. Public Health Service have been working for some time on proposals to provide a long term solution to the village's water problems,

January 2, 1992  
Page 2

including the construction of larger capacity storage facilities and a washeteria. At present, over \$1.2 million in federal and State funds are committed to this project, with construction of the first phase scheduled for next summer. It is expected that completion of this phase will assure a storage capacity adequate to meet all of the community's needs throughout the winter.

In the meantime, we can offer a recommendation. We suggest that the Village approach the school and request that the school make available, at least for elderly residents who have difficulty in obtaining water in the traditional way, a place for distributing limited supplies of drinking water from the school's storage tanks. With careful monitoring, this should be possible without depleting the water supply needed by the school to meet its own needs.

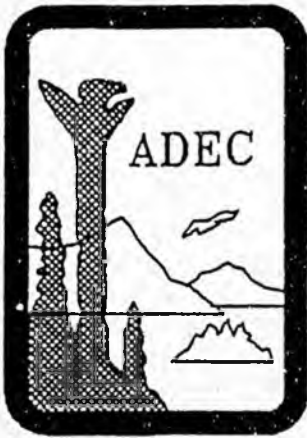
Sincerely,



Ervin Paul Martin  
Director

EPM:JB:th

cc: Office of the Governor, ATTN: Nancy Barnes  
Village Safe Water, ATTN: Greg Capito  
US Public Health Service, ATTN: Tom Coolidge  
Senator Lyman Hoffman  
Representative Ivan Ivan



Department of Environmental Conservation

## POSITION PAPER

RECEIVED: 13 1992

BILL NO: SB 391

APPROVED:

*Joel D. Taylor*

TITLE: Restoration of Impaired Water

DATE:

3-18-92

The Department supports this legislation. There have been several occasions in the last few years when undetected spills of hazardous substances, including petroleum products, have contaminated public drinking water supplies in remote communities. In many cases, the Department of Environmental Conservation (ADEC) undertook containment and cleanup activities using the Oil and Hazardous Substance Release Response (470) Fund.

Generally, cleanup activities of contaminated soil involve drilling "monitoring" wells to determine the extent of the contamination. The same equipment used for these monitoring wells can be used to drill a new drinking water well. ADEC has no mechanism to provide an alternative drinking water source to a community absent a specific capital project appropriation. The legal restrictions on the 470 Fund prevent ADEC from using this fund source to reestablish the drinking water source as a part of ADEC's cleanup activities. The community is thus forced to wait through at least one capital budget cycle for the necessary funds. By this time, another construction season is gone, as is the equipment used to drill any monitoring wells. The need to return this equipment to the community in order to drill a new drinking water well can significantly add to the cost of the capital project.

A.S. 46.08.040 outlines the purposes for which the 470 Fund may be used. It includes the containment and cleanup of a release of a hazardous substance. Any funds so expended are to be recovered from the party responsible for the release pursuant to AS 46.08.070. SB 391 amends the definition of "containment and cleanup" to include the restoration of a contaminated public drinking water supply. Any funds used for this purpose would be added to those the responsible party must repay to the State.

H B

5 3 7

COMMENTS BY GORDON E. EVANS  
ON BEHALF OF HEALTH INSURANCE ASSOCIATION OF AMERICA  
at  
"ALASKA FORUM ON NATIONAL HEALTH CARE REFORM"  
February 10, 1992

My name is Gordon Evans and I represent the Health Insurance Association of America ("HIAA"), which is a national, voluntary trade association of 300 private health insurance companies which provide health insurance for over 95 million Americans. Blue Cross and Blue Shield are not HIAA members.

The escalating spiral of health care costs continues to plague our society. The cost of health care has risen at a rate that is matched by no other item represented in our economy. All aspects of medical care, including the private health insurance market as well as the Medicaid and Medicare programs, have been affected by this phenomena.

The small employer market provides one of the most vivid examples of how health care cost inflation continues to afflict our financing system. Faced with unrelenting demands to hold health care costs down, insurers and employers have intensified the search for ways to moderate premium increases. Leaving high risk individuals out of group coverage has been one such response. We constantly hear the charge by small employers that the presence of a high-risk individual in their group has made it impossible to obtain coverage at any price.

*HIAA Position*

This dynamic is complicated further by the tumultuous labor market of the small employer. Small employers -- those with 3 to 25 employees -- are far more likely than larger organizations to go in and out of business. Also, employees of small firms are more likely to change jobs. Employee turnover among small, insured firms is about 23 percent annually, and is twice that level for small employers without coverage. These factors contribute to the reluctance of such employers to offer coverage as well as the difficulties of serving the market.

As the complexities of the small employer market have grown and the likelihood of individuals being separated from the financing system has increased, there is a growing perception that even if they have coverage, they stand a reasonable chance of losing it if they change employers or if they have a poor claims experience.

*The NAIC and*  
HIAA has developed a comprehensive proposal to facilitate universal access to health care financing -- one that focuses on expanding health care coverage through the workplace and through public health care services. The essence of HIAA's proposal is to make certain changes in the market so that it provides substantially more predictability and protection to the purchaser of coverage.

The key word to HIAA's proposal is "accessability".

HIAA's proposal -- which has been introduced in the Alaska Legislature by Sen. Virginia Collins as Senate Bill 242 -- would enable all employers with 25 or fewer employees to obtain relatively affordable private health coverage. I'll talk a little more about the "affordability" aspect in a few moments. First, SB 242 features five important precepts:

-- **Guaranteed Availability.** All small employer groups would be able to obtain private health insurance regardless of the health risk they present.

-- **Whole Coverage.** Coverage would be made available to entire employer groups. Neither employers nor insurers could exclude individuals from a group's coverage because they present a high medical risk.

-- **Renewability of Coverage.** At renewal time, employer groups and/or individuals within these groups would be assured that their coverage would not be cancelled because their health had deteriorated.

-- **Continuity of Coverage (or Portability).** Once an individual is covered in the small employer market and has met a plan's initial preexisting condition restrictions, he or she would not be faced with meeting those restrictions again in the event that they change jobs or their employer changes carriers.

--Premium Pricing Limits. There would be specific limits on how much an insurance carrier's rates could vary for employer groups of similar composition -- similar demography, geography, and benefit plan design. Further, there would be limits on rate variations by industry. The proposal would involve limits on how much a carrier could raise rates for a specific group above and beyond general increases in trend factors. Insurance carriers would retain the right to medically underwrite for purposes of assessing risk and setting rates but not to exclude individuals from coverage in a group plan.

Specifically, and this may be getting a bit technical, a carrier's premiums for similar groups could not vary by more than 35 percent from the carrier's mid-point rate (with the mid-point rate defined as being halfway between the lowest and highest rate). There would also be a 15 percent limitation on how much a carrier could vary rates by industry. Finally, carriers would have to limit a group's year-to-year premium increase to no more than 15 percent above the carrier's trend -- which is the year-to-year increase in the lowest new business rate.

How do we make it work? To make these small employer reforms possible, SB 242 would authorize creation of a Small Employer Health Reinsurance Association. Reinsurance means to insure again.

Under reinsurance, the primary insurance company (the one which writes the policy) purchases insurance from a reinsurer to cover all or part of the loss which the group policyholder is protected against. The reinsurer is, in a sense, a silent partner of the original insurer. Reinsurance enables an insurer to accept a greater variety of risks. The reinsurer stands behind the insurer and simply reimburses for claims associated with reinsured individuals. This allows the insurer to spread high risks broadly through the private market rather than concentrated in one small employer group.

However, HIAA wants to emphasize that, to work, these new rules as embodied in SB 242 will have to apply to all players in the small employer market. All competing entities in the small employer market, insurers as well as non-insured benefit plans, will have to be bound by the same rules in order to prevent any company or segment of the market from being placed at a disadvantage.

The implementation of the small employer market reforms mentioned, in conjunction with the establishment of a reinsurance mechanism as outlined, may cause a slight increase in premiums initially for the healthiest employer groups as premiums for the least healthy groups decline and risks for all groups are more

broadly spread. Actuaries tell us that this increase may be about 2 to 6 percent. In the end, however, HIAA believes that an equitable balance can and should be attained between premiums paid by the least healthy and most healthy employer groups in order to make coverage obtainable and affordable by all.

It is definitely not business as usual in the health insurance industry. HIAA's proposed legislation will assure that no small employer, and no employee of a small employer, will be turned down for health insurance because of poor health. SB 242 will restore the concept of pooling risk across large groups, greatly limiting how much of the cost of poor health must be borne by the individual employer. Further, it will moderate significantly the sometimes dramatic premium increases now experienced by small employers at renewal time and reduce the incentive for employers to change carriers frequently.

Thank you for the opportunity to present HIAA's views.



# Alaska State Legislature

Official Business

State Capitol  
Juneau, AK 99801-1182

## M E M O R A N D U M

May 7, 1992

**SUBJECT:** Sectional Analysis of CSHB 537 ( )  
**TO:** Members, House HESS Committee  
**FROM:** Representative Bettye Davis

What follows is a sectional analysis of the above described bill. As a preliminary matter, please note that a sectional analysis of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

### Section 1 - Purpose.

Section 2 - Adds a new section to AS 21.36 (Trade Practices and Frauds) that prohibits violations of the fair marketing standards established under Sec. 21.55.180.

Section 3 - Excludes AS 21.55 (Small Employer Health Insurance chapter) from the unfair discrimination provision of the Trade Practices and Fraud law (AS 21.36.090).

Section 4 - Reflects the 4-year sunset provision contained in Section 13. Deletes reference in AS 21.36.090(d) to AS 21.55.

### Section 5 -

Sec. 21.55.010 - Creates the Small Employer Health Reinsurance Association as a nonprofit incorporated legal entity and requires membership of all insurers offering health benefit plans in the state.

Sec. 21.55.020 - Establishes the board of directors of the association and provides for specific board representation and organization.

Sec. 21.55.030 - General powers of the association.

Sec. 21.55.040 - Requires the association to submit a plan of operation to the director of the division of insurance. Requires members to comply with the plan and requires the plan to establish certain procedures.

*Sectional Analysis*

Sec. 21.55.050 - Establishes specific provisions that apply to reinsurance provided by a member to employees or dependents of employees of a small employer. Establishes a methodology for determining premium rates to be charged for reinsuring small employers and individuals covered under this section. Requires the association to report to the director of the division of insurance the association's net loss for the previous calendar year. Requires association to establish a formula by which to make assessments against reinsuring insurers. Sets provisions for determining assessments.

Sec. 21.55.060 - Establishes, in the association, the Health Benefit Plan Committee composed of members representing specific groups. Specifies what the committee must do and allows the committee to recommend certain cost containment features.

Sec. 21.55.070 - Requires the board to issue a report every two years on the effectiveness of the association.

Sec. 21.55.080 - Exempts the association from the Administrative Procedure Act (AS 44.62).

Sec. 21.55.090 - Exempts the association from payment of taxes, except for real or personal property taxes.

Sec. 21.55.100 - Provides immunity from civil actions filed against a member of the association for a negligent act on behalf of the association.

Sec. 21.55.110 - Establishes when an individual or health group benefit plan is subject to AS 21.55 and provides that other laws requiring coverage, reimbursement, utilization, or consideration of a specific health care practitioner do not apply to a health benefit plan provided to a small employer. Treats certain insurers as one insurer for purposes of applying the restrictions on health benefit plans issued under AS 21.55.

Sec. 21.55.120 - Establishes provisions restricting the premium rate for a health benefit plan. Requires small employer insurers to disclose certain information relating to premium rates and health benefit plans. Requires small employer insurers to describe in detail their rating practices and renewal underwriting practices, file an actuarial certification with the director of the division of insurance, and make certain information available to the director upon request. Allows the director to adopt regulations relating to rating practices.

Sec. 21.55.130 - Requires renewability of health benefit plans and provides under what conditions a plan would not be renewable. Prohibits certain small employer insurers who do not

renew a health benefit plan from writing a new business in the state for five years. Specifies when provisions apply to an insurer operating in an established geographic service area.

Sec. 21.55.140 - Except as provided under Sec. 21.55.160, requires small employer insurers to offer a basic health benefit plan and a standard health benefit plan. Requires insurers to file health benefit plans with the director of the division of insurance. Allows the director to disapprove those plans that do not comply with AS 21.55.

Sec. 21.55.150 - Requires health benefit plans for a small employer to contain certain provisions.

Sec. 21.55.160 - Exempts a small employer insurer from providing coverage under certain conditions.

Sec. 21.55.170 - Provides when a small employer insurer may cease to do business in the small employer market.

Sec. 21.55.180 - Establishes fair marketing standards for small employer insurers.

Sec. 21.55.250 - Definitions.

Section 6 - Provides that a health maintenance organization is subject to the small employer health insurance provisions in AS 21.55.

Section 7 - Reflects the 4-year sunset provision contained in Section 13. Deletes reference in AS 21.86.260(a) to AS 21.55.

Section 8 - Provides that a hospital or medical service corporation is subject to the small employer health insurance provisions contained in AS 21.55.

Section 9 - Reflects the 4-year sunset provision contained in Section 13 by deleting reference in AS 21.87.340 to AS 21.55.

Section 10 - Transition section in regards to premium rate restriction.

Section 11 - Transition section in regards to association's plan of operation, a small employer insurer's basic and standard health benefit plans, an insurer's filing net insurance premium earned from certain health insurance plans, and when the Health Benefit Plan Committee shall submit health benefit plans.

Section 12 - Sunset provision.

Section 13 - Sunset provision (takes effect July 1, 1996).

Section 14 - Effective date.

# ALASKA STATE LEGISLATURE

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STATE CAPITOL  
JUNEAU AK 99801-1182  
(907) 465-3875/4894



VICE CHAIR  
HEALTH, EDUCATION  
& SOCIAL SERVICES

COMMUNITY AND  
REGIONAL AFFAIRS

INTERNATIONAL TRADE  
AND TOURISM

CHAIR  
CHILDREN'S CAUCUS

## REPRESENTATIVE BETTYE DAVIS DISTRICT 14 SEAT B • EAST ANCHORAGE • MULDOON

### SPONSOR STATEMENT FOR CSHB 537 Small Employer Health Insurance Reform

CSHB 537 promotes the availability of health insurance coverage for small employers and reforms the small employer health insurance market. Without requiring additional state expenditures, it provides:

- \* Guaranteed availability - All small employer groups would be able to obtain private health insurance regardless of the health risk they represent (see Sec. 21.55.140(a)).
- \* Coverage of whole groups - Coverage must be available to entire groups. Neither an employer nor an insurer could exclude individuals having high medical risks from the group's coverage (see Sec. 21.55.150(6)).
- \* Renewability of coverage - Individuals in employer groups and employer groups themselves would be assured at the time of renewal that their coverage would not be canceled because of deteriorating health (see Sec. 21.55.130).
- \* Continuity of coverage - Once a person is covered and has satisfied a plan's preexisting condition requirements, he or she would not have to meet those requirements again when changing jobs or when the employer changes carriers (see Sec. 21.55.150(2)).
- \* Premium pricing limits - The bill limits how much insurance companies could vary their rates for groups similar in geography, demography, and plan design. It also limits increases in rates (see Sec. 21.55.120).

Based on model legislation drafted by the National Association of Insurance Commissioners, CSHB 537 would improve the overall fairness and efficiency of the small employer health insurance market. It enjoys support from the National Federation of Independent Business, the Alaska State Chamber of Commerce, the Alaska State Hospital and Nursing Home Association, and other organizations.

*Sponsor statement*

CSHB 537

Small Employer Health Insurance Reform

Highlights

	<u>CSHB 537</u>
<u>Availability</u>	Guaranteed issue Sec. 21.55.140(a)
<u>Group Size</u>	3-25 Sec. 21.55.250(25)
<u>Case Characteristics</u>	Geography, age, sex, and other objective criteria but does not include claim experience, health status, or duration of coverage Sec. 21.55.250(9)
<u>Rating Restrictions</u>	An insurer's rates for similar groups may not vary from applicable index rate by more than 35% Sec. 21.55.120(a)(1)
<u>Transitional Period</u>	3 years Sec. 7. PREMIUM RATE RESTRICTION (page 23, lines 1-15); Sec. 21.55.120(a)(2)

" highlights "

CSHB 537

Renewal  
Rating

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)

CSHB 537

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)

CSHB 537

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

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

Sec. 21.55.160 (a) (4)

SMALL EMPLOYER MARKET REFORMS

	<u>NAIC</u>	<u>CSHB 537 ( )</u>
21.55.140(a) 14 <u>Availability</u>	Guaranteed issue	Guaranteed issue
21.55.250(25) 21 <u>Group Size</u>	1-25	2-25
21.55.250(9) 19 <u>Case Characteristics</u>	Geography, age, sex, size of employer, and other objective criteria but does not include claim experience, health status or duration of coverage	Geography, age, sex, size of employer, and other objective criteria but does not include claim experience, health status or duration of coverage
21.55.120(a)(1) 10 <u>Rating Restrictions</u>	Within a class of business, the rates for similar groups may not vary from the index rate by more than 25%. The index rate for any insurer's class of business may not exceed another class of business by more than 20%.	An insurer's rates for similar groups may not vary from applicable index rate by more than 35%.
21.55.120(a)(2) 10 <u>Transitional Period</u>	3 years	3 years
21.55.120(a)(3) 10, 11 <u>Renewal Rating</u>	Trend plus 15% plus changes in case characteristics	Trend plus 15% plus changes in case characteristics
21.55.130 13 <u>Renewability</u>	Guaranteed renewable except "for cause"	Guaranteed renewable except "for cause"
21.55.150(6) 15 <u>Whole Groups</u>	Must take whole group	Must take whole group
21.55.150(2) 15 <u>Continuity of Coverage</u>	Plans must credit the time a person was covered under a previous employer-based plan if the coverage was continuous	Plans must credit the time a person was covered under a previous employer-based plan if the coverage was continuous

NAIC

CSHB 537 ( )

Reinsurance

Prospective with opt out. Insurers elect whether to participate in the reinsurance mechanism.

Mandatory prospective. Insurers must participate in the reinsurance mechanism.

Reinsurance

150% for whole groups  
500% for individuals

150% for whole groups  
500% for individuals

Cost Sharing

First \$5000 of claims and 10% of next \$50,000 in claims

First \$5000 of claims

Assessments

5% of the premium of small employer market

5% of the premium of small employer market

Minimum Participation Requirements

Consideration of dual participation required

Not included

Class of Business Rating

Included

Not included

Industry Rating

Maximum 15% above lowest rate factor associated with any industry classifications.

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

Reinsurance Board

Eight members, with Insurance Director as ex-officio member. Director appoints. Members to include representatives of small employers and insurers, with at least 5 representatives of reinsuring carriers.

Nine members, selected by participating members, approved by Director. At least two-thirds of 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 HSO, HSC, or MSO; one to represent HMO; one to represent other benefit arrangement.

NAIC

CSHB 537 ( )

Health Benefit  
Plan Committee

21.55.060(a)  
8

Appointed either by Governor or Director. Includes representatives of insurers, small employers and employees, and health care providers.

Appointed by Director. Same representatives as NAIC model, but also includes representative of agents and brokers.

Cost Shifting

21.55.040(a)  
4

No reference

Shifting program costs to other insureds, or to state not allowed.

Reporting

21.55.070  
9  
and  
Sec. 11 (e)  
25

No reference

Annual report to Director, Legislature required first 5 years; thereafter every 2 years

Insurers With  
Restricted  
Charters, i.e.,  
Fraternal  
Benefits  
Organizations

21.55.160(a)(4)  
16

Not Included

Guarantees issue only to those permitted by charter.

Provision for  
Sunset

Sec. 13  
25

Not Included

Four years (July 1, 1996)

# NFIB Alaska

National Federation of  
Independent Business

POSITION PAPER

OF

NATIONAL FEDERATION OF INDEPENDENT BUSINESS  
NFIB/ALASKA

TO

HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MAY 8, 1992

IN  
SUPPORT  
OF

HB 537 - HEALTH INSURANCE FOR SMALL EMPLOYERS

State Office  
9159 Skywood Lane  
Juneau, AK 99801  
(907) 789-4278



The Guardian of  
Small Business

*NFIB Position*

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

# NFIB Alaska

National Federation of  
Independent Business

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The Guardian of  
Small Business

*NFIB Position*

Chairman, members of the Committee, my name is Resa Jerrel, and I am the State Director for the National Federation of Independent Business - NFIB/Alaska. I am happy to be here today in support of HB 537.

#### BACKGROUND

NFIB/Alaska is comprised of 4,730 small and independent business owners. The legislative agenda of NFIB/Alaska is determined by our ballot. The ballot is our annual poll of our members on a series of issues deemed critical to small business. A majority vote, of the members in response to the poll, sets our policy and position on legislative issues.

For the record the following are the results of the 1991 NFIB/Alaska ballot questions regarding health insurance:

Should legislation be passed in order to create a voluntary health insurance plan which would be administered by private insurance companies and which would pool small businesses together so they could purchase employee health insurance at group rates?

Yes 72.2%      No 17%      Undecided 10.8%

If this pooling of employers in order to purchase health insurance was available, would you participate

Yes 50.2%      No 19.3%      Undecided 30.5%

Should employers be allowed the option of having their employees pay part of the premium cost of health insurance purchased through the above pooling plan?

Yes 90%      No 5.2%      Undecided 4.8%

The NFIB Foundation Survey nationwide first found health insurance listed as a key concern for small business in 1986 when it was cited as the number one problem for small business owners out of 75 potential problems. Again in 1990, 92% of small business owners characterized health insurance as a "serious problem". The NFIB Foundation recently released Survey, Problems and Priorities, it listed the cost of health insurance as still the number one problem. No other difficulty was close. Sixty-one (61) percent ranked the problem "critical," the most extreme assessment it could be given.

Further surveys have found that small business owners want to offer health insurance as a fringe benefit out of both a sense of family obligation and competitive necessity.

The ability of the small business owner to provide insurance is greatly influenced by the high costs of premiums and profitability of the business. For many small business the skyrocketing annual premium increases, small profit margins, struggling regional economies, and restricted cash flow all contribute to the increasing difficulty small business owners have in purchasing health insurance. If the cost of purchasing or continuing to provide health insurance continues increasing, small business owners will be forced to increase employee contributions, cut benefits, or in some cases drop coverage altogether.

Small business are most severely impacted by adverse selection, the demographics of the work force of small business (such as, age and gender of employees and the hours they work), higher employee turnover resulting in unpredictable participation rates, and a lack of expertise and clout in purchasing plans. By virtue of their size, small businesses have very little access to cost containment mechanisms available to large firms such as self-insurance. Being unable to obtain the benefits of self-insurance they must comply with expensive state mandates, pay state premium taxes and shoulder a larger portion of the carrier's administrative expenses.

#### SMALL BUSINESS MARKET REFORM

Small business owners desire to build on the existing health care system. SB 242 is a voluntary health insurance program to provide more accessibility, renewability, predictability and stability for small businesses. It is a viable means of providing health insurance to the uninsured population in Alaska.

State mandates cumulatively can raise the cost of health insurance for small businesses. SB 242 has a provision that state mandates do not apply to health benefit plans provided to small employers. This will allow the insurance industry to design and market hopefully affordable health insurance policies. A lower cost plan would have great appeal to firms that currently do not offer health insurance coverage. Small businesses are willing to provide health insurance to employees, as long as the cost is not prohibitive.

It also, requires the small employer insurers to disclose information relating to premium rates and health benefit plans.

It requires insurers to describe in detail their rating practices and renewal underwriting practices. Providing this information will help small business owners to be better informed. The Congressional Budget Office believes that "giving consumers the information they need to make more informed decisions might enhance both the quality and cost-effectiveness of care."

#### SUGGESTIONS

NFIB/Alaska appreciates the Sponsor's effort to encompass firms with 3 - 25 employees. Unfortunately, this still leaves the one person firm or the "mom and pop" firms out in the cold. NFIB/Alaska realizes that there are problems in covering these smaller firms, but we urge the committee to explore ways to include this group of business owners.

Thank you for the opportunity to comment on this legislation. NFIB/Alaska has and will continue to support this and other legislation that will help make privately administered health insurance more available and affordable for small businesses.

# HOUSE COMMITTEE REPORT

5/8

(7)  
Date Referred: February 18, 1992

FURTHER REFERRALS:

Labor & Commerce  
Finance

Date of Committee Action: 5-8-92

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 537

HOUSE BILL NO. 537

GROUP HEALTH INS. FOR SMALL EMPLOYERS

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

RECOMMENDATIONS:

be replaced with CS HB 537 (AES)  the same title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note Admin, Commerce

zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
Betty Davis	✓				
<i>[Signature]</i>	✓				
Chris Davis	✓				

*[Signature]*  
CO-CHAIRMAN'S SIGNATURE

**STATE OF ALASKA  
1992 LEGISLATIVE SESSION**

**BILL NO.** HB 537

Revision Date: 2/18/92  
 Title: An Act relating to health insurance for small employers  
 Sponsor: Rep. B. Davis  
 Requestor: \_\_\_\_\_

Department Affected: Commerce & Economic Dev.  
 BRU: Insurance  
 Component: Operations

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						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0
<b>CAPITAL</b>	0	0	0	0	0	0
<b>REVENUE FUND SOURCE:</b>	0	0	0	0	0	0

**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE:						
<b>TOTAL</b>	0	0	0	0	0	0

**POSITIONS:**

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

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Joan Brown *abrown* Administrative Officer Phone: 465-2597  
 Division: Insurance Date: 5/8/92  
 Approved by Commissioner: Glenn A. Olds *Glenn Olds* Asst Comm  
 Agency: Commerce & Economic Development Date: 5.8.92

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

FISCAL NOTE

BILL NO. CSHB 537 (HES)

DRAFT

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
Title: An Act relating to health insurance for small employers; and providing for an effective date.

Department Affected: Administration  
BRU: Retirement and Benefits

Sponsor: B. Davis  
Requestor: House HESS Committee

Component: Retirement and Benefits  
COMPONENT SERIAL NO. 64

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	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	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE FUND SOURCE:	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

FUNDING: (Thousands of dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUNDSOURCE	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS

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

Estimate of current year impact: none

ANALYSIS: (attach a separate page if necessary.) This bill would have no impact on the operating expenses of the Division of Retirement and Benefits.

Prepared By: Gary Bader *Gary M. Bader*  
Division: Retirement and Benefits

Phone: 465-4470  
Date: May 6, 1992

Approved by Commissioner: Nancy Bear Usura *NBE*  
Agency: Department of Administration

Date: 5/6/92

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB & Impacted Agency(ies).  
Rev 10/90 Page 1 of 1

7-LS2074G✓  
Ford  
5/7/92

CS FOR HOUSE BILL NO. 537 ( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES B.DAVIS, Baker, Parnell

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) It 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 21.36.090(d) is repealed and reenacted to read:

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

23 \* Sec. 5. AS 21 is amended by adding a new chapter to read:

24 CHAPTER 55. SMALL EMPLOYER HEALTH INSURANCE.

25 ARTICLE 1. SMALL EMPLOYER HEALTH REINSURANCE ASSOCIATION.

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

31 Sec. 21.55.020. BOARD OF DIRECTORS; ORGANIZATION. (a) The board of

1 directors of the association consists of nine individuals selected by participating members, subject  
 2 to approval by the director. The director shall endeavor to appoint at least six board members  
 3 who are also small employer insurers. If the director is unable to appoint six board members  
 4 who are also small employer insurers, the director may fill the remaining seats with any insurer.  
 5 In selecting members of the board, the director shall consider, among other things, whether all  
 6 types of participating members are fairly represented.

7 (b) To the extent possible, one board member shall represent a health maintenance  
 8 organization, one board member shall represent a hospital or medical service corporation, one  
 9 board members' principal health insurance business shall be in the small employer market, and  
 10 one board member's principal health insurance business shall be in the large employer market.  
 11 Members of the board may be reimbursed from the association for expenses incurred by them  
 12 as members, but may not otherwise be compensated by the association for their services. The  
 13 costs of conducting meetings of the association and its board of directors shall be borne by the  
 14 association.

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

19 Sec. 21.55.030. GENERAL POWERS. The association may

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

22 (2) sue or be sued;

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

25 (4) establish administrative and accounting procedures for the operation of the  
 26 association;

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

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

31 (7) establish rules, conditions, and procedures pertaining to the reinsurance of

- 1 members' risks by the association;
- 2 (8) establish actuarial functions appropriate to the operation of the association;
- 3 (9) assess members under the provisions of this chapter and make advance interim
- 4 assessments as may be reasonable and necessary for organizational and interim operating
- 5 expenses; interim assessments shall be credited as offsets against regular assessments due
- 6 following the close of the calendar year;
- 7 (10) appoint appropriate legal, actuarial, and other committees as are necessary
- 8 to provide technical assistance in the operation of the association, design of a policy or contract,
- 9 or to assist in other functions of the association;
- 10 (11) borrow money to accomplish the purposes of the association; notes or other
- 11 evidence of indebtedness of the association that are not in default are investments for insurers
- 12 and may be carried as admitted assets.
- 13 Sec. 21.55.040. PLAN OF OPERATION. (a) The association shall submit to the
- 14 director a plan of operation and amendments necessary or suitable to assure the fair, reasonable,
- 15 and equitable administration of the association. The director may, after notice and hearing,
- 16 approve the plan of operation if the director determines it to be suitable to assure the fair,
- 17 reasonable and equitable administration of the program on a proportionate basis under the
- 18 provisions of this section and it does not shift program costs to other insured persons or the state.
- 19 The plan of operation and amendments become effective upon approval in writing by the director.
- 20 (b) All members of the association shall comply with the plan of operation.
- 21 (c) The plan of operation must establish procedures for
- 22 (1) handling and accounting of program assets and money of the association and
- 23 for an annual fiscal report to the director;
- 24 (2) reinsuring risks under the provisions of this section;
- 25 (3) collecting assessments from all members to provide for claims reinsured by
- 26 the association and for administrative expenses incurred or estimated to be incurred by the
- 27 association;
- 28 (4) selection of an administering insurer and establish the administering insurer's
- 29 powers and duties; and
- 30 (5) provisions necessary or proper for the execution of the powers and duties of
- 31 the association.

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

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

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

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

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

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

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

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

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

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

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

31           (d) On or before March 1 of each year, the board shall determine and report to the

1 director the association's net loss for the previous calendar year, including administrative  
2 expenses and incurred losses for the year, taking into account investment income and other  
3 appropriate gains and losses. A net loss for the year shall be recovered by assessments collected  
4 from reinsuring insurers. The board shall establish, as part of the plan of operation, a formula  
5 by which to make assessments against reinsuring insurers. The assessment formula must be  
6 based on each reinsuring insurer's share of the total premiums earned in the preceding calendar  
7 year from health benefit plans delivered or issued for delivery to small employers in this state  
8 by reinsuring carriers and each reinsuring insurer's share of the premiums earned in the preceding  
9 calendar year from newly issued health benefit plans delivered or issued for delivery during the  
10 calendar year to small employers in this state by reinsuring insurers. In determining an  
11 assessment, if any, that is collected from a member, the following provisions apply:

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

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

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

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

30 (5) annually before March 1, the board shall determine and file with the director  
31 an estimate of the assessments needed to fund losses incurred by the association in the previous

1 calendar year;

2 (6) if the board determines that the assessments needed to fund the losses incurred  
3 by the association in the previous calendar year will exceed five percent of total premiums earned  
4 in the previous year from health benefit plans delivered or issued for delivery to small employers  
5 in this state by reinsuring insurers, the board shall evaluate the operation of the program and  
6 report its findings, including any recommendations for changes to the plan of operation, to the  
7 director within 90 days following the end of the calendar year in which the losses were incurred;  
8 the evaluation must include an estimate of future assessments, the administrative costs of the  
9 program, the appropriateness of the premiums charged, and the level of insurer retention under  
10 the program and the costs of coverage for small employers; if the board fails to file a report with  
11 the director within 90 days following the end of the applicable calendar year, the director may  
12 evaluate the operations of the program and implement amendments to the plan of operation the  
13 director determines necessary to reduce future losses and assessments;

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

18 (8) 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 shall report to the board a claim payment  
21 made and administrative expense incurred in this state on a semi-annual basis on a form  
22 prescribed by the director;

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

25 (10) 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 (11) 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; a member receiving a deferment may not reinsure an  
3 individual or group as provided under this section until the assessment is paid.

4 (e) The board, as part of the plan of operation, shall establish a methodology for  
5 determining premium rates to be charged by the program for reinsuring small employers and  
6 individuals under this section. The methodology must include a system for classification of small  
7 employers that reflects the types of case characteristics commonly used by small employer  
8 insurers in the state. The methodology must provide for the development of base reinsurance  
9 premium rates that shall be multiplied by the factors set out in (b) of this section to determine  
10 the premium rates for the association. The base reinsurance premium rates shall be established  
11 by the board, subject to the approval of the director, and shall be set at levels that reasonably  
12 approximate gross premiums charged to small employers by small employer insurers for health  
13 benefit plans with benefits similar to the standard health benefit plan. The board shall review  
14 the methodology established under this subsection to ensure that the methodology reasonably  
15 reflects the claims experience of the program. Changes to the methodology may be proposed by  
16 the board, and are subject to approval by the director.

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

- 20 (1) three members who are representatives of participating insurers;
- 21 (2) one member who represents small employers;
- 22 (3) one member who represents employees of small employers; and
- 23 (4) one member who represents health care providers; and
- 24 (5) one member who represents agents or brokers.

25 (b) The committee shall recommend benefit levels, cost sharing levels, exclusions and  
26 limitations for the basic and standard health benefit plan offered under AS 21.55.140. The  
27 committee shall also design a basic health benefit plan and a standard health benefit plan that  
28 contain benefit and cost sharing levels that are consistent with the basic method of operation and  
29 the benefit plans of health maintenance organizations, including restrictions imposed by federal  
30 law. The plans recommended by the committee may include the following cost containment  
31 features:

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

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

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

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

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

## 26 ARTICLE 2. SMALL EMPLOYER HEALTH INSURANCE PLANS.

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

- 30 (1) any portion of the premium or benefits is paid by a small employer;
- 31 (2) a covered individual or dependent is reimbursed, through wage adjustments

1 or otherwise, by or on behalf of a small employer for all or a portion of the premium; or

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

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

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

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

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

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

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

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

31 (3) the percentage increase in the premium rate charged to a small employer for

1 a new rating period may not exceed the sum of the following:

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

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

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

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

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

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

27 (7) a small employer insurer shall

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

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

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

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

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

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

15 (2) the provisions of the health benefit plan

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

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

19 (C) relating to any preexisting condition provision.

20 (c) A small employer insurer shall

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

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

30 (3) make the information and documentation described in (1) of this subsection  
31 available to the director upon request; the information is confidential and not subject to

1 disclosure, except

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

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

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

6 (d) The director may adopt regulations to implement the provisions of this section and  
7 to ensure that rating practices used by small employer insurers are consistent with the purposes  
8 of this act, including ensuring that differences in rates charged for health benefit plans by small  
9 employer insurers are reasonable and reflect objective differences in plan design, not including  
10 differences due to the nature of the groups assumed to select particular health benefit plans.

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

14 (1) nonpayment of the required premiums;

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

17 (3) noncompliance with the minimum participation or employer contribution  
18 requirements;

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

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

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

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

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

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

2 or

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

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

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

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

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

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

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

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

30 (A) a condition that would have caused an ordinarily prudent person to  
31 seek medical advice, diagnosis, care, or treatment during the six months immediately

1 preceding the effective date of coverage;

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

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

6 (2) a health benefit plan must waive any time period applicable to a preexisting  
7 condition exclusion or limitation period with respect to particular services for the period of time  
8 an individual was previously covered by qualifying previous coverage that provided benefits with  
9 respect to the services, provided that the qualifying previous coverage was continuous to a date  
10 not more than 30 days before the effective date of the new coverage; this paragraph does not  
11 preclude application of a waiting period applicable to all new enrollees under the health benefit  
12 plan;

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

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

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

28 (6) if a small employer insurer offers coverage to a small employer, the small  
29 employer insurer shall offer coverage to all of the eligible employees of a small employer and  
30 their dependents; a small employer insurer may not offer coverage to only certain individuals in  
31 a small employer group or to only part of the group, except in the case of late enrollees as

1 provided in (3) of this section;

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

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

8 (1) if the small employer is not physically located in the insurer's established  
9 geographic service area;

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

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

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

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

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

29 Sec. 21.55.170. CONDITIONS FOR CEASING TO DO BUSINESS. A small employer  
30 insurer or a welfare arrangement may cease doing business in the small employer market if the  
31 insurer or welfare arrangement provides notice of the decision to cease doing business in the

1 small employer market to the division, the board, the policyholder or contract holder, and the  
2 employer, and coverage under a health benefit plan subject to this chapter is continued for one  
3 year after the date of the notice required under this section. A small employer insurer or a  
4 welfare arrangement that ceases doing business in the small employer marketplace may not  
5 reenter the small employer marketplace for a period of five years from the date of the notice  
6 required under this section.

7 Sec. 21.55.180. FAIR MARKETING STANDARDS. (a) A small employer insurer shall  
8 actively market health benefit plan coverage, including the basic and standard health benefit  
9 plans, to eligible small employers in the state. If a small employer insurer denies coverage to  
10 a small employer on the basis of the health status or claims experience of the small employer or  
11 its employees or dependents, the small employer insurer shall offer the small employer the  
12 opportunity to purchase a basic health benefit plan and a standard health benefit plan.

13 (b) Except as provided in this subsection, a small employer insurer may not, directly or  
14 indirectly, encourage or direct small employers to refrain from filing an application for coverage  
15 with the small employer insurer because of the health status, claims experience, industry,  
16 occupation, or geographic location of the small employer, or encourage or direct small employers  
17 to seek coverage from another insurer because of the health status, claims experience, industry,  
18 occupation, or geographic location of the small employer. This subsection does not apply to  
19 information provided by a small employer insurer to a small employer regarding the established  
20 geographic service area or a restricted network provision of a small employer insurer.

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

30 (d) A small employer insurer

31 (1) shall provide reasonable compensation, as provided under the plan of operation