

HOUSE BILL NO. 152

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL

Introduced: 2/25/09

Referred: Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act making corrective amendments to the Alaska Statutes as recommended by the**
2 **revisor of statutes; providing for an effective date by repealing the effective date of sec.**
3 **33, ch. 122, SLA 1977; and providing for an effective date."**

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

5 * **Section 1.** AS 03.09.020(a) is amended to read:

6 (a) The director of the division of the department with responsibility for
7 agriculture [OF THE DEPARTMENT] shall serve as the director of the Board of
8 Agriculture and Conservation. The director may employ staff and, as directed by the
9 board, is responsible for the daily operations of the agricultural revolving loan fund
10 (AS 03.10.040).

11 * **Sec. 2.** AS 03.22.010 is amended to read:

12 **Sec. 03.22.010. Establishment of plant materials center.** The Department of
13 Natural Resources, in cooperation with the college or department of the University
14 of Alaska responsible for the Agricultural and Forestry Experiment Station

1 [INSTITUTE OF AGRICULTURAL SCIENCES], shall establish and maintain a
2 plant materials center.

3 * **Sec. 3.** AS 03.22.020 is amended to read:

4 **Sec. 03.22.020. Purpose of center.** The objectives of the plant materials
5 center, in cooperation with the college or department of the University of Alaska
6 responsible for the Agricultural and Forestry Experiment Station [INSTITUTE
7 OF AGRICULTURAL SCIENCES], are to

8 (1) assemble, evaluate, select, and increase plant materials needed in
9 soil and water conservation, agriculture, and industry, and maintain genetic purity of
10 these materials;

11 (2) increase promising plant materials for field scale testing;

12 (3) test the promising materials in field plantings on sites that represent
13 soil and climatic conditions not found at the center;

14 (4) maintain and provide for increase of basic seed stocks of plant
15 materials for agricultural and conservation interests;

16 (5) make seed and plant materials available, for a fee if necessary, in
17 such a manner as to avoid monopolistic control of basic stocks of these materials and
18 encourage the development of a seed industry;

19 (6) support but not duplicate activities carried on by state or federally
20 funded research programs in the state;

21 (7) prepare, publish, and disseminate a summary report on all studies
22 as they are completed.

23 * **Sec. 4.** AS 03.22.040 is amended to read:

24 **Sec. 03.22.040. Personnel.** The department shall ensure that competent
25 professional, secretarial, and subprofessional personnel necessary to carry on the work
26 of the center are employed. The administrator of the plant materials center is a joint
27 appointment between the Department of Natural Resources and the college or
28 department of the University of Alaska responsible for the Agricultural and
29 Forestry Experiment Station.

30 * **Sec. 5.** AS 03.22.050 is amended to read:

31 **Sec. 03.22.050. Department to cooperate.** The department shall cooperate

with the college or department of the University of Alaska responsible for the Agricultural and Forestry Experiment Station [INSTITUTE OF AGRICULTURAL SCIENCES] and the United States Soil Conservation Service by a formal memorandum of understanding and may cooperate with any department or agency of federal, state, or local government, research organization, or other organization concerned with conservation or agriculture.

* **Sec. 6.** AS 03.47.040(2) is amended to read:

(2) "division" means the division of the department with responsibility for agriculture [, DEPARTMENT OF NATURAL RESOURCES];

* **Sec. 7.** AS 03.58.010 is amended to read:

Sec. 03.58.010. Prohibition. A person may not sell, offer for sale, represent, or label a raw or processed agricultural product, including ingredients, as "organic" unless the product has been produced, handled, and certified under 7 U.S.C. 6501 - 6523 [7 U.S.C. 6501 - 6522], as amended, or under the state organic certification program established under AS 03.58.015.

* **Sec. 8.** AS 08.36.246(a) is amended to read:

(a) An applicant for a specialty license shall

(1) meet all of the requirements under AS 08.36.110(1) and (3);

(2) have completed as many academic years of advanced education in the specialty as are required by the appropriate specialty board in a program accredited by the Commission on Accreditation of the American Dental Association or its successor agency;

(3) be a diplomate or the equivalent of the appropriate specialty board, or be eligible to be examined for diplomate status as documented by an organization recognized by the American Dental Association; and

(4) satisfy one of the following:

(A) pass an examination approved by the board; or

(B) [PASS A SPECIALTY EXAMINATION GIVEN BY THE CENTRAL REGIONAL EXAMINING BOARD; OR

(C)] be board certified by a specialty certification board recognized by the American Dental Association.

1 * **Sec. 9.** AS 11.56.762(a) is amended to read:

2 (a) A person commits the crime of unlawful use of DNA samples if the person
3 knowingly, without authorization under AS 44.41.035, possesses or allows another
4 person access to

5 (1) a blood, oral, or tissue sample collected for inclusion in the
6 deoxyribonucleic acid identification registration system under AS 44.41.035; [,] or

7 (2) identification data or records derived from those samples.

8 * **Sec. 10.** AS 12.55.125(b) is amended to read:

9 (b) A defendant convicted of attempted murder in the first degree, solicitation
10 to commit murder in the first degree, conspiracy to commit murder in the first degree,
11 kidnapping, or misconduct involving a controlled substance in the first degree shall be
12 sentenced to a definite term of imprisonment of at least five years but not more than
13 99 years. A defendant convicted of murder in the second degree or murder of an
14 unborn child under AS 11.41.150(a)(2) - (4) shall be sentenced to a definite term of
15 imprisonment of at least 10 years but not more than 99 years. A defendant convicted
16 of murder in the second degree shall be sentenced to a definite term of imprisonment
17 of at least 20 years but not more than 99 years when the defendant is convicted of the
18 murder of a child under 16 years of age and the court finds by clear and convincing
19 evidence that the defendant (1) was a natural parent, a stepparent, an adoptive
20 [ADOPTED] parent, a legal guardian, or a person occupying a position of authority in
21 relation to the child; or (2) caused the death of the child by committing a crime against
22 a person under AS 11.41.200 - 11.41.530. In this subsection, "legal guardian" and
23 "position of authority" have the meanings given in AS 11.41.470.

24 * **Sec. 11.** AS 12.61.020(a) is amended to read:

25 (a) Every person contracting with an offender with respect to the reenactment
26 of the offender's crime by way of a movie, book, magazine article, radio or television
27 presentation, or live entertainment of any kind, or to [FROM] the expression of the
28 offender's thoughts, feelings, opinions, or emotions regarding the crime, shall pay to
29 the state any money that would otherwise be owing to the offender.

30 * **Sec. 12.** AS 12.61.020(c) is amended to read:

31 (c) Notwithstanding other statutory limitations, a civil action by a victim

1 against an offender for damages resulting from the commission of the crime [,] must
 2 be commenced within 10 years of the date of the crime [,] or the date of the discovery
 3 of the perpetrator of the crime if the perpetrator is unknown on the date of the
 4 commission of the crime.

5 * **Sec. 13.** AS 12.62.160(a) is amended to read:

6 (a) Criminal justice information and the identity of recipients of criminal
 7 justice information **are** [IS] confidential and exempt from disclosure under AS 40.25.
 8 The existence or nonexistence of criminal justice information may not be released to
 9 or confirmed to any person except as provided in this section and AS 12.62.180(d).

10 * **Sec. 14.** AS 13.06.050(21) is amended to read:

11 (21) **"heir,"** ["HEIRS,"] except as controlled by AS 13.12.711, means
 12 a person, including the surviving spouse and the state, who is entitled under the
 13 statutes of intestate succession to the property of a decedent;

14 * **Sec. 15.** AS 14.03.075(g)(2) is amended to read:

15 (2) "individualized education program team" **means a group of**
 16 **people that translates child assessment information regarding a child into a**
 17 **practical plan for specially designed instruction and delivery of services for the**
 18 **child, consisting of the persons necessary to qualify the team under appropriate**
 19 **federal regulations applicable to a child with a disability who is eligible for**
 20 **special education services under AS 14.30** [HAS THE MEANING GIVEN IN
 21 AS 14.30.350].

22 * **Sec. 16.** AS 14.17.600 is amended to read:

23 **Sec. 14.17.600. Student count [COUNTING] periods.** (a) Within two weeks
 24 after the end of the 20-school-day period ending the fourth Friday in October, each
 25 district shall transmit a report to the department that, under regulations adopted by the
 26 department, reports its ADM for that **count** [COUNTING] period and other student
 27 count information that will aid the department in making a determination of its state
 28 aid under the public school funding program. For centralized correspondence study,
 29 the October report shall be based on the period from July 1 through the fourth Friday
 30 in October. The department may make necessary corrections in the report submitted
 31 and shall notify the district of changes made. The commissioner shall notify the

governor of additional appropriations the commissioner estimates to be necessary to fully finance the public school funding program for the current fiscal year.

(b) Upon written request and for good cause shown, the commissioner may permit a district to use a 20-school-day count [COUNTING] period other than the period set out in (a) of this section. However, a count [COUNTING] period approved under this subsection must be 20 consecutive school days unless one or more alternate count [COUNTING] periods are necessary to permit a district to implement flexible scheduling that meets the district's needs and goals without jeopardizing the state aid for which the district would ordinarily be eligible under this chapter.

* **Sec. 17.** AS 14.17.920 is amended by adding a new subsection to read:

(b) The department shall, by regulation, define the term "school" for purposes of this chapter.

* **Sec. 18.** AS 14.17.990(5) is amended to read:

(5) "eligible federal impact aid" means the amount of federal impact aid received by a district as of March 1 of the fiscal year as a result of an application submitted in the preceding fiscal year, including advance payments and adjustments received since March 1 of the preceding fiscal year from prior year applications, under 20 U.S.C. 7701 - 7714, except payments received under former 20 U.S.C. 7703(f)(2)(B), to the extent the state may consider that aid as local resources under federal law;

* **Sec. 19.** AS 14.20.149(a) is amended to read:

(a) A school board shall adopt [BY JULY 1, 1997,] a certificated employee evaluation system for evaluation and improvement of the performance of the district's teachers and administrators. The evaluation system applies to all the district's certificated employees except the district's superintendent. A school board shall consider information from students, parents, community members, classroom teachers, affected collective bargaining units, and administrators in the design and periodic review of the district's certificated employee evaluation system. An evaluation of a certificated employee under this section must be based on observation of the employee in the employee's workplace.

* **Sec. 20.** AS 14.30.174(b)(2) is amended to read:

(2) "federal education law" means 20 U.S.C. 1400 - 1482 (Individuals with Disabilities Education Act), 20 U.S.C. 7101 et seq. [20 U.S.C. 7101 - 7143] (Safe and Drug-Free Schools and Communities Act of 1994), 29 U.S.C. 794 (nondiscrimination under federal grants and programs), and 42 U.S.C. 12101 - 12213 (equal opportunity for individuals with disabilities);

* **Sec. 21.** AS 14.35.025 is amended to read:

Sec. 14.35.025. Duties of the Department of Education and Early Development. When required by any of the Acts described in AS 14.35.010, the department shall

(1) cooperate with the appropriate federal agency [UNITED STATES DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE] in the administration of the Act;

(2) do everything necessary to entitle the state to receive money available according to the Act;

(3) represent the state in all matters related to the administration of the Act;

(4) expend and disburse money received according to the Act;

(5) designate the districts, schools, departments, or classes to participate in the benefits of money received according to the Act.

* **Sec. 22.** AS 14.40.826(a) is amended to read:

(a) The powers and responsibilities of the corporation are vested in the board of directors. The board of directors of the corporation consists of nine members appointed by the governor as follows:

(1) three state residents who have a significant high level of experience in the private business sector, specializing in financing or economic development or marketing; two of the state residents appointed under this paragraph shall be residents of the borough where the launch activities of the corporation occur if qualified candidates residing in the borough are available;

(2) the president or the designee of the president of the University of Alaska;

(3) the director or designee of the Geophysical Institute of the

University of Alaska;

(4) the commissioner of commerce, community, and economic development or the commissioner's designee;

(5) two members who have held or currently hold positions in the aerospace or commercial space industry, have [OR] special experience regarding federal regulatory procedures and policies involving space, or have operational experience; members with aerospace experience may not exceed one; and

(6) a public school educator or a public member.

* **Sec. 23.** AS 14.50.010 is amended to read:

Sec. 14.50.010. Acceptance of federal funds. The legislature assents to federal aid under former 20 U.S.C. 401 - 602 [PUBLIC LAW 85-864, 72 STAT. 1580, 85TH CONGRESS (20 U.S.C. 401-602)] on behalf of the state. The commissioner of education and early development may do all things necessary to cooperate with the United States government to participate under former 20 U.S.C. 401 - 602 [THE ACT] and under any Act [AMENDING OR] supplementing the provisions of former 20 U.S.C. 401 - 602 [IT], subject to prior concurrence of the governor.

* **Sec. 24.** AS 14.57.199(1) is amended to read:

(1) "director" means the director of the division of the department that has responsibility for [OF] state libraries, archives, and museums;

* **Sec. 25.** AS 15.45.160 is amended to read:

Sec. 15.45.160. Bases for determining the petition was improperly filed. The lieutenant governor shall notify the committee that the petition was improperly filed upon determining that

(1) there is an insufficient number of qualified subscribers; [OR]

(2) the subscribers were not resident in at least three-fourths [TWO-THIRDS] of the house districts of the state; or

(3) there is an insufficient number of qualified subscribers from each of the house districts described in (2) of this section.

* **Sec. 26.** AS 15.45.390 is amended to read:

Sec. 15.45.390. Bases for determining the petition was improperly filed.

1 The lieutenant governor shall notify the committee that the petition was improperly
2 filed upon determining that

3 (1) there is an insufficient number of qualified subscribers;

4 (2) the subscribers were not resident in at least **three-fourths** [TWO-
5 THIRDS] of the house districts of the state; [OR]

6 (3) **there is an insufficient number of qualified subscribers from**
7 **each of the house districts described in (2) of this section; or**

8 **(4)** the petition was not filed within 90 days after the adjournment of
9 the legislative session at which the act was passed.

10 * **Sec. 27.** AS 17.37.070(6) is amended to read:

11 (6) "facility monitored by the department or the Department of
12 Administration" means an institution, building, office, or home operated by the
13 department or the Department of Administration, funded by the department or the
14 Department of Administration, under contract with the department or the Department
15 of Administration, inspected by the department or the Department of Administration,
16 designated by the department or the Department of Administration, or licensed by the
17 department or the Department of Administration, for the care of

18 (A) juveniles; for the purposes of this subparagraph,
19 "institution" includes a foster home and a group home, and a juvenile detention
20 facility, a juvenile detention home, a juvenile work camp, and a treatment
21 facility, as those terms are defined in **AS 47.12.990** [AS 47.14.990];

22 (B) the elderly; for the purposes of this subparagraph,
23 "institution" includes

24 (i) an assisted living home as defined in AS 47.33.990;

25 and

26 (ii) the Alaska Pioneers' Home or the Alaska Veterans'
27 Home, operated under AS 47.55;

28 (C) the mentally ill; for the purposes of this subparagraph,
29 "institution" includes a designated treatment facility and an evaluation facility,
30 as those terms are defined in AS 47.30.915;

31 * **Sec. 28.** AS 19.15.025(a) is amended to read:

(a) **The** [BEFORE OCTOBER 1, 2006, THE DEPARTMENT MAY ANNUALLY ALLOCATE UP TO FOUR PERCENT OF NONRESTRICTED FEDERAL-AID HIGHWAY APPORTIONMENTS TO PROJECTS CLASSIFIED UNDER THE TRAILS AND RECREATIONAL ACCESS FOR ALASKA PROGRAM UNDER A STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM. ON OR AFTER OCTOBER 1, 2006, THE] department may allocate up to two percent of nonrestricted federal-aid highway apportionments to projects classified under the trails and recreational access for Alaska program under a statewide transportation improvement program.

* **Sec. 29.** AS 19.15.025(b) is amended to read:

(b) **The** [BEFORE OCTOBER 1, 2006, THE DEPARTMENT SHALL ANNUALLY ALLOCATE AT LEAST 37 PERCENT OF NONRESTRICTED FEDERAL-AID HIGHWAY APPORTIONMENTS TO PROJECTS CLASSIFIED UNDER THE COMMUNITY TRANSPORTATION PROGRAM UNDER A STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM. ON OR AFTER OCTOBER 1, 2006, THE] department shall annually allocate at least 39 percent of nonrestricted federal-aid highway apportionments to projects classified under the community transportation program under a statewide transportation improvement program.

* **Sec. 30.** AS 21.54.120(a) is amended to read:

(a) A health care insurer that offers, issues for delivery, delivers, or renews in this state a health care insurance plan in the group market shall count a period of creditable coverage based on

(1) the standard method authorized by 42 U.S.C. 300gg (Health **Insurance** [CARE] Portability and Accountability Act of 1996) for determining creditable coverage without regard to the specific benefits covered during the period; or

(2) an alternative method based on coverage of benefits within each of several classes or categories of benefits specified in federal regulation if

(A) made on a uniform basis for all participants and beneficiaries; and

(B) the insurer counts a period of creditable coverage with respect to any class or category of benefits if any level of benefits is covered within the class or category.

* **Sec. 31.** AS 21.54.500(11) is amended to read:

(11) "federal continuation provision" means a "COBRA continuation provision" as defined in 42 U.S.C. 300gg-91(d) (Health Insurance [CARE] Portability and Accountability Act of 1996);

* **Sec. 32.** AS 21.54.500(17) is amended to read:

(17) "health care insurer" means a person transacting the business of health care insurance, including an insurance company licensed under AS 21.09, a hospital or medical service corporation licensed under AS 21.87, a fraternal benefit society licensed under AS 21.84, a health maintenance organization licensed under AS 21.86, a multiple employer welfare arrangement, a church plan, and a governmental plan, except for a nonfederal governmental plan that elects to be excluded under 42 U.S.C. 300gg-21(b)(2) (Health Insurance [CARE] Portability and Accountability Act of 1996);

* **Sec. 33.** AS 23.05.060 is amended to read:

Sec. 23.05.060. Powers of the department. The department may

(1) enforce all state labor laws;

(2) act as mediator and appoint deputy commissioners of conciliation in labor disputes whenever it considers the interest of industrial peace requires it;

(3) make investigations and [,] collect and compile statistical information concerning the conditions of labor generally and upon all matters relating to the enforcement of this chapter;

(4) institute court proceedings against an employer of labor without cost to the employee when it is satisfied that the employer has failed to pay an employee an amount due by contract;

(5) issue cease and desist orders and other orders and regulations necessary for the enforcement of state labor laws;

(6) in accordance with AS 37.07 (the Executive Budget Act), receive and spend money derived from agreements with local governments, nongovernmental

1 organizations, or other persons.

2 * **Sec. 34.** AS 23.05.067(a) is amended to read:

3 (a) Each insurer providing workers' compensation insurance and each
4 employer who is self-insured or uninsured for purposes of AS 23.30 in this state shall
5 pay an annual service fee to the department for the administrative expenses of the state
6 for workers' safety programs under AS 18.60 and the workers' compensation program
7 under AS 23.30 as follows:

8 (1) for each employer,

9 (A) except as provided in (b) of this section, the service fee
10 shall be paid each year to the department at the time that the annual report is
11 required to be filed under AS 23.30.155(m) or (n); and

12 (B) the service fee is 2.9 percent of all payments reported to the
13 division of workers' compensation in the department [ALASKA
14 WORKERS' COMPENSATION BOARD] under AS 23.30.155(m) or (n),
15 except second injury fund payments; and

16 (2) for each insurer, the director of the division of insurance shall,
17 under (e) of this section, deposit from funds received from the insurer under
18 AS 21.09.210 a service fee of 1.82 percent of the direct premium income for workers'
19 compensation insurance received by the insurer during the year ending on the
20 preceding December 31, subject to all the deductions specified in AS 21.09.210(b).

21 * **Sec. 35.** AS 23.20.175(c) is amended to read:

22 (c) For the purposes of AS 23.20.165 and 23.20.170, [AFTER DECEMBER
23 31, 1982,] wages do not include that part of remuneration paid during any calendar
24 year to an individual by an employer or by a predecessor of the employer that exceeds
25 75 percent of the average annual wage, as defined in AS 23.20.520, in Alaska for the
26 preceding 12-month period ending June 30 computed to the nearest multiple of \$100.

27 * **Sec. 36.** AS 23.20.276(b) is amended to read:

28 (b) A nonprofit organization described in this section that [WHICH], under
29 AS 23.20.525(a)(4) [AS 23.20.525(a)(6)], is, or becomes, subject to this chapter [ON
30 OR AFTER JANUARY 1, 1972,] shall pay contributions under the provisions of
31 AS 23.20.165, unless it elects, in accordance with this section, to pay to the

department for the unemployment compensation fund an amount equal to the amount of regular benefits and of one-half of the extended benefits paid, that is attributable to service in the employ of the nonprofit organization, to individuals for weeks of unemployment **that** [WHICH] begin during the effective period of the election.

* **Sec. 37.** AS 23.20.277(c) is amended to read:

(c) Each nonprofit organization that has elected payments in place of contributions may request permission to make payments as provided in this subsection. This method of payment becomes effective upon approval by the department. At the end of each calendar quarter or at the end of any other period as determined by the department, the department shall bill each nonprofit organization for an amount representing one of the following:

(1) [FOR 1972, .25 PERCENT OF ITS TOTAL PAYROLL FOR 1971;

(2) FOR YEARS AFTER 1972,] that percentage of its total payroll for the immediately preceding calendar year as the department determines; the determination shall be based each year on the average benefit costs attributable to service in the employ of nonprofit organizations during the preceding calendar year;

(2) [(3)] for any organization **that** [WHICH] did not pay wages throughout the four calendar quarters of the preceding calendar year, that percentage of its payroll during the year as the department determines.

* **Sec. 38.** AS 23.20.278 is amended to read:

Sec. 23.20.278. Financing benefits paid to employees of the state and its political subdivisions. A political subdivision or a department, division, or other agency of the state subject to this chapter, under **AS 23.20.525(a)(12)** [AS 23.20.525(a)(4) AND (14)], shall pay contributions under the provisions of AS 23.20.165, unless it elects to reimburse the department for the unemployment compensation fund according to the provisions applicable to nonprofit organizations under AS 23.20.276 and 23.20.277.

* **Sec. 39.** AS 23.20.401(b) is amended to read:

(b) The department shall, unless the obligor and obligee agree otherwise, deduct and withhold from unemployment compensation payable to an individual who

owes child support obligations as defined in (h) of this section

(1) the amount specified by the individual to the department to be deducted and withheld under this subsection, if neither (2) nor (3) of this subsection is applicable;

(2) the amount specified in an agreement submitted to the department under section 42 U.S.C. 654(19)(B)(i) (sec. 454(19)(B)(i), Social Security Act) [42 U.S.C. 654(20)(B)(i) (SEC. 454 (20)(B)(i), SOCIAL SECURITY ACT)], by the child support services agency of the Department of Revenue, unless (3) of this subsection is applicable; or

(3) any amount required to be deducted and withheld through legal process, as defined in 42 U.S.C. 659(i)(5) (sec. 459(i)(5), Social Security Act) [42 U.S.C. 662(e) (SEC. 462(e), SOCIAL SECURITY ACT)], properly served upon the department.

* **Sec. 40.** AS 23.20.408(h) is amended to read:

(h) In (f) [AND (g)] of this section, "rate of insured unemployment" means the percentage derived by dividing (1) the average weekly number of individuals filing claims for regular compensation in this state for weeks of unemployment with respect to the most recent 13 consecutive week period, as determined by the department on the basis of its reports to the United States Secretary of Labor, by (2) the average monthly employment covered under this chapter for the first four of the most recent six completed calendar quarters ending before the close of that 13-week period. Computations required by this subsection shall be made by the department in accordance with regulations prescribed by the United States Secretary of Labor.

* **Sec. 41.** AS 23.20.525 is amended to read:

Sec. 23.20.525. "Employment" defined. (a) In this chapter, unless the context otherwise requires, "employment" means

(1) service performed by an individual for wages or by an officer of a corporation, including service in interstate commerce;

(2) service performed by an individual who, under (8) [(10)] of this subsection, has the status of an employee;

(3) service performed by an individual other than an individual who is

1 an employee under (1) or (2) of this subsection who performs services for
2 remuneration for any person

3 (A) as an agent-driver or commission-driver engaged in
4 distributing meat products, vegetable products, fruit products, bakery products,
5 beverages, or laundry or dry-cleaning services, for the individual's principal; or

6 (B) as a traveling or city salesman, other than as an agent-
7 driver or commission-driver, engaged upon a full-time basis in the solicitation
8 on behalf of, and the transmission to, the individual's principal of orders from
9 wholesalers, retailers, contractors, or operators of hotels, restaurants, or other
10 similar establishments for merchandise for resale or supplies for use in their
11 business operations; however, for all purposes of this paragraph, the term
12 "employment" includes services described in this subparagraph and (A) of this
13 paragraph [, PERFORMED AFTER DECEMBER 31, 1971,] only if

14 (i) the contract of service contemplates that
15 substantially all of the services are to be performed personally by the
16 individual;

17 (ii) the individual does not have a substantial
18 investment in facilities used in connection with the performance of the
19 services, other than in facilities for transportation; and

20 (iii) the services are not in the nature of a single
21 transaction that is not part of a continuing relationship with the person
22 for whom the services are performed;

23 (4) [SERVICE PERFORMED AFTER DECEMBER 31, 1971 AND
24 THROUGH DECEMBER 31, 1977 BY AN INDIVIDUAL IN THE EMPLOY OF
25 THIS STATE OR ANY INSTRUMENTALITY OF THIS STATE, OR IN THE
26 EMPLOY OF THIS STATE AND ONE OR MORE STATES OR THEIR
27 INSTRUMENTALITIES, FOR A HOSPITAL OR INSTITUTION OF HIGHER
28 EDUCATION IN THIS STATE EXCEPT SERVICE DESCRIBED IN
29 AS 23.20.526(d) IF THE SERVICE IS EXCLUDED FROM THE TERM
30 "EMPLOYMENT" SOLELY BY REASON OF 26 U.S.C. 3306(c)(7) (FEDERAL
31 UNEMPLOYMENT TAX ACT, INTERNAL REVENUE CODE);

1 (5) SERVICE PERFORMED BEFORE JANUARY 1, 1978, IN THE
 2 EMPLOY OF A POLITICAL SUBDIVISION OF THIS STATE OR A WHOLLY
 3 OWNED INSTRUMENTALITY OF A POLITICAL SUBDIVISION OF THIS
 4 STATE, IF COVERAGE WAS ELECTED UNDER AS 23.20.325;

5 (6)] service performed by an individual in a calendar quarter [AFTER
 6 JUNE 30, 1962,] in the employ of an organization exempt from income tax under 26
 7 U.S.C. 501(a) (Internal Revenue Code), other than an organization described in 26
 8 U.S.C. 401(a), or under 26 U.S.C. 521, if the remuneration for the service is \$250 or
 9 more; notwithstanding the provisions of this paragraph, services performed [AFTER
 10 DECEMBER 31, 1971,] by an individual in the employ of a religious, charitable,
 11 educational, or other organization described in 26 U.S.C. 501(c)(3) (Internal Revenue
 12 Code) that is exempt from income tax under 26 U.S.C. 501(a), constitutes employment
 13 for the purposes of this chapter even though remuneration for the services is less than
 14 \$250 in a calendar quarter, but only if the organization had four or more individuals in
 15 employment for some portion of a day in each of 20 different weeks, whether or not
 16 the weeks were consecutive, within either the current or preceding calendar year,
 17 regardless of whether the individuals were employed at the same moment of time;

18 (5) [(7)] service of an individual who is a citizen of the United States,
 19 performed outside the United States, except in Canada, [AFTER DECEMBER 31,
 20 1971,] in the employ of an American employer, or of this state or of any of its
 21 instrumentalities or any of its political subdivisions, other than service that [WHICH]
 22 is considered "employment" under the provisions of (9) or (10) [(11) OR (12)] of this
 23 subsection or the parallel provisions of the law of another state, if

24 (A) the employer's principal place of business in the United
 25 States is located in this state; or

26 (B) the employer has no place of business in the United States,
 27 but

28 (i) the employer is an individual who is a resident of
 29 this state; or

30 (ii) the employer is a corporation that [WHICH] is
 31 organized under the laws of this state; or

(iii) the employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one other state; or

(C) none of the criteria in (A) and (B) of this paragraph is met but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on service described in this paragraph, under the law of this state;

(6) [(8)] notwithstanding the provisions of (9) [(11)] of this subsection, all service performed by an officer or member of the crew of an American vessel or in connection with the vessel, if the operating office, from which the operations of vessels operating on navigable waters inside, or inside and outside the United States are ordinarily and regularly supervised, managed, directed, and controlled, is inside this state;

(7) [(9)] notwithstanding any other provisions of this section, service with respect to which tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under this chapter;

(8) [(10)] service performed by an individual whether or not the common-law relationship of master and servant exists, unless and until it is shown to the satisfaction of the department that

(A) the individual has been and will continue to be free from control and direction in connection with the performance of the service, both under the individual's contract for the performance of service and in fact;

(B) the service is performed either outside the usual course of the business for which the service is performed or is performed outside of all the places of business of the enterprise for which the service is performed; and

(C) the individual is customarily engaged in an independently established trade, occupation, profession, or business of the same nature as that involved in the service performed;

1 (9) [(11)] an individual's entire service performed inside or both inside
 2 and outside this state if the service is localized in this state; service is considered to be
 3 localized inside a state or territory if

4 (A) the service is performed entirely inside the state or
 5 territory; or

6 (B) the service is performed both inside and outside the state or
 7 territory but the service performed outside the state or territory is incidental to
 8 the individual's service inside the state or territory; for example, where it is
 9 temporary or transitory in nature or consists of isolated transactions;

10 (10) [(12)] an individual's entire service performed inside or both
 11 inside and outside this state if the service is not localized in a state or territory but
 12 some of the service is performed in this state and

13 (A) the individual's base of operations is in this state; or

14 (B) if there is no base of operations, then the place from which
 15 the service is directed or controlled is in this state; or

16 (C) the individual's base of operations or place from which the
 17 service is directed or controlled is not in a state or territory in which some part
 18 of the service is performed, but the individual's residence is in this state;

19 (11) [(13)] service covered by an election under AS 23.20.325, and
 20 service covered by an election approved by the commissioner in accordance with an
 21 arrangement under AS 23.20.090(a) during the effective period of the election;

22 (12) [(14)] service [PERFORMED AFTER DECEMBER 31, 1977,] in
 23 the employ of this state or any of its instrumentalities or any political subdivision of
 24 this state or any of its instrumentalities or any instrumentality of any of the foregoing
 25 and one or more other states or political subdivisions, if that service is excluded from
 26 "employment" under 26 U.S.C. 3306(c)(7) (Federal Unemployment Tax Act, Internal
 27 Revenue Code) and is not excluded from "employment" under AS 23.20.526(d)(8);

28 (13) [(15)] domestic services [PERFORMED AFTER DECEMBER
 29 31, 1977,] for an employer who paid wages of \$1,000 or more in any calendar quarter
 30 in the current or preceding calendar year for those services;

31 (14) [(16)] service [PERFORMED AFTER DECEMBER 31, 1977,]

1 by an individual in agricultural labor when that service is performed for a person who

2 (A) during any calendar quarter in either the current or the
3 preceding year, paid remuneration in cash of \$20,000 or more to individuals
4 employed in agricultural labor; or

5 (B) employed in agricultural labor 10 or more individuals for
6 some portion of the day in each of at least 20 different calendar weeks in either
7 the current or the preceding calendar year, whether or not the weeks were
8 consecutive, and regardless of whether the individuals were employed at the
9 same moment of time;

10 (C) for the purposes of this paragraph, any individual who is a
11 member of a crew furnished by a crew leader to perform service in agricultural
12 labor for any other person shall be treated as an employee of that crew leader

13 (i) if that crew leader holds a valid certificate of
14 registration under the Farm Labor Contractor Registration Act of 1963,
15 or substantially all the members of that crew operate or maintain
16 tractors, mechanized harvesting or cropdusting equipment, or any other
17 mechanized equipment, which is provided by that crew leader; and

18 (ii) if that individual is not an employee of that other
19 person within the meaning of (8) [(10)] of this subsection;

20 (D) for the purposes of this paragraph, in the case of an
21 individual who is furnished by a crew leader to perform service in agricultural
22 labor for any other person and who is not treated as an employee of that crew
23 leader under (C) of this paragraph,

24 (i) that other person and not the crew leader shall be
25 treated as the employer of that individual; and

26 (ii) that other person shall be treated as having paid cash
27 remuneration to that individual in an amount equal to the amount of
28 cash remuneration paid to that individual by the crew leader, either on
29 behalf of the crew leader or on behalf of that other person, for the
30 service in agricultural labor performed for that other person;

31 (E) for the purposes of this paragraph, the term "crew leader"

means an individual who

(i) furnishes individuals to perform service in agricultural labor for any other person;

(ii) pays, either on behalf of the crew leader or on behalf of that other person, the individuals furnished by the crew leader for the service in agricultural labor performed by the individuals; and

(iii) has not entered into a written agreement with that farm operator under which the agricultural worker is designated as an employee of that farm operator.

(b) In (a)(5) [(a)(7)] of this section, "American employer" means a person who is

(1) an individual who is a resident of the United States;

(2) a partnership if two-thirds or more of the partners are residents of the United States;

(3) a trust, if all of the trustees are residents of the United States; or

(4) a corporation organized under the laws of the United States or of any state.

* **Sec. 42.** AS 23.20.526(a) is amended to read:

(a) In this chapter, unless the context otherwise requires, "employment" does not include

(1) domestic service in a private home, except as provided in AS 23.20.525(a)(13) [AS 23.20.525(a)(15)];

(2) service performed by an individual under 18 years of age [NEWSBOYS' SERVICES] in selling or distributing newspapers on the street or from house to house;

(3) service not in the course of the employing unit's trade or business performed in a calendar quarter by an individual, unless the cash remuneration paid for the service is \$50 or more and the service is performed by an individual who is regularly employed by the employing unit to perform the service; an individual is here considered to be regularly employed to perform service not in the course of an employing unit's trade or business during a calendar quarter only if the individual

1 performs the service for some portion of the day on each of [SOME] 24 days during
2 the quarter or during the preceding calendar quarter;

3 (4) service performed by an individual in the employ of the
4 individual's

5 (A) son, daughter, or spouse;

6 (B) parent or legal guardian if the individual was under the age
7 of 21 years and a full-time student during eight of the last 12 months and
8 intends to resume full-time student status within the next four months; and

9 (C) mother or father if the service is performed by a child under
10 the age of 18;

11 (5) service with respect to which unemployment insurance is payable
12 under an unemployment insurance program established by an Act of Congress;

13 (6) service performed in the employ of a foreign government including
14 service as a consular or other officer or employee or a nondiplomatic representative;

15 (7) service performed in the employ of an instrumentality wholly
16 owned by a foreign government if

17 (A) the service is of a character similar to that performed in
18 foreign countries by employees of the United States government or its
19 instrumentalities; and

20 (B) the department finds that the United States Secretary of
21 State has certified to the United States Secretary of the Treasury that the
22 foreign government, with respect to whose instrumentality exemption is
23 claimed, grants an equivalent exemption with respect to similar service
24 performed in the foreign country by employees of the United States
25 government and its instrumentalities;

26 (8) service performed by an insurance agent, insurance solicitor, [A]
27 real estate broker, [A] real estate salesperson, or [A] securities salesperson
28 [SALESMAN] to the extent the person is compensated by commission, unless the
29 service is required to be covered under the Federal Unemployment Tax Act, as
30 amended;

31 (9) notwithstanding AS 23.20.525(a)(9) [AS 23.20.525(a)(11)], service

1 performed by an officer or member of the crew of an American vessel on or in
 2 connection with the vessel, if the operating office, from which the operations of the
 3 vessel operating on navigable waters inside or inside and outside the United States are
 4 ordinarily and regularly supervised, managed, directed, and controlled, is outside this
 5 state;

6 (10) service performed on or in connection with a vessel not an
 7 American vessel by an individual if the individual performed service on and in
 8 connection with the vessel when outside the United States;

9 (11) service performed in the employ of the United States government
 10 or an instrumentality of the United States exempt under the Constitution of the United
 11 States from the contributions imposed by this chapter, except that to the extent that the
 12 Congress of the United States permits states to require an instrumentality of the United
 13 States to make payments into an unemployment fund under a state employment
 14 security law, all of the provisions of this chapter apply to the instrumentalities, and to
 15 service performed for the instrumentalities in the same manner, to the same extent, and
 16 on the same terms as to all other employers, employing units, individuals, and service;
 17 however, if this state is not certified for any year by the United States Secretary of
 18 Labor under 26 U.S.C. 3304(c) (Federal Unemployment Tax Act, Internal Revenue
 19 Code), the payments required of the instrumentalities with respect to the year shall be
 20 refunded by the department from the fund in the same manner and within the same
 21 period as is provided in AS 23.20.225 with respect to contributions erroneously
 22 collected;

23 (12) service performed in the employ of another state, or political
 24 subdivision of another state, or an instrumentality of another state or political
 25 subdivision that [WHICH] is wholly owned by another state or its political
 26 subdivision, or a service performed in the employ of an instrumentality of another
 27 state or its political subdivisions to the extent that the instrumentality is, with respect
 28 to the service, exempt under the Constitution of the United States from the tax
 29 imposed by 26 U.S.C. 3301 (Federal Unemployment Tax Act, Internal Revenue
 30 Code);

31 (13) service performed in the employ of an international organization;

1 (14) service covered by an election approved by the agency charged
 2 with the administration of any other state or federal employment security law, in
 3 accordance with an arrangement under AS 23.20.090(a) during the effective period of
 4 the election;

5 (15) service performed by an individual in agricultural labor, except as
 6 provided in AS 23.20.525(a)(14) [AS 23.20.525(a)(16)]; the term "agricultural labor"
 7 means remunerated service

8 (A) on a farm, in the employ of any person in connection with
 9 cultivating the soil, or in connection with raising or harvesting any agricultural
 10 or horticultural commodity, including the raising, shearing, feeding, caring for,
 11 training, and management of livestock, bees, poultry, and fur-bearing animals
 12 and wildlife;

13 (B) in the employ of the owner or tenant or other operator of a
 14 farm, in connection with the operation, management, conservation,
 15 improvement, or maintenance of the farm and its tools and equipment, or in
 16 salvaging timber or clearing land of brush and other debris left by a hurricane,
 17 if the major part of the service is performed on a farm;

18 (C) in connection with the production or harvesting of any
 19 commodity defined as an agricultural commodity in 12 U.S.C. 1141j (Sec.
 20 15(g), Agricultural Marketing Act), as amended, or in connection with the
 21 operation or maintenance of ditches, canals, reservoirs, or waterways, not
 22 owned or operated for profit, used exclusively for supplying and storing water
 23 for farming purposes;

24 (D) in the employ of the operator of a farm in handling,
 25 planting, drying, packing, packaging, processing, freezing, grading, storing, or
 26 delivering to storage or to market or to a carrier for transportation to market, in
 27 its unmanufactured state, any agricultural or horticultural commodity; but only
 28 if the operator produced more than one-half of the commodity with respect to
 29 which the service is performed except as stated in (b) of this section;

30 (E) in the employ of a group of operators of farms, or a
 31 cooperative organization of which the operators are members, in the

1 performance of service described in (D) of this paragraph, but only if the
 2 operators produced more than one-half of the commodity with respect to which
 3 the service is performed;

4 (F) on a farm operated for profit if the service is not in the
 5 course of the employer's trade or business;

6 (16) service performed as a student nurse in the employ of a hospital or
 7 a nurses' training school by an individual who is enrolled and is regularly attending
 8 classes in a nurses' training school chartered or approved in accordance with the laws
 9 of this state, and service performed as an intern in the employ of a hospital by an
 10 individual who has completed a four-year course in a medical school chartered or
 11 approved in accordance with the laws of this state, unless the service is required to be
 12 covered under the Federal Unemployment Tax Act;

13 (17) service performed by an individual on a boat engaged in catching
 14 fish or other forms of aquatic animal life under an arrangement with the owner or
 15 operator of that boat under which

16 (A) that individual does not receive any cash remuneration
 17 except as provided in (B) of this paragraph;

18 (B) that individual receives a share of the boat's, or the boats' in
 19 the case of a fishing operation involving more than one boat, catch of fish or
 20 other forms of aquatic animal life or a share of the proceeds from the sale of
 21 that catch; and

22 (C) the amount of that individual's share depends on the
 23 amount of the boat's, or the boats' in the case of a fishing operation involving
 24 more than one boat, catch of fish or other forms of aquatic animal life; but only
 25 if the operating crew of that boat, or each boat from which the individual
 26 receives a share in the case of a fishing operation involving more than one
 27 boat, is normally made up of fewer than 10 individuals;

28 (18) service performed as a prospective or impaneled juror in a court;

29 (19) service performed for a corporation by an employee of the
 30 corporation if

31 (A) the corporation is incorporated under AS 10.06;

(B) the corporation is not a government corporation; and

(C) the employee is an executive officer of the corporation;

(20) service performed by an individual who drives a taxicab whose compensation and written contractual arrangements are as described in AS 23.10.055(a)(13);

(21) service of an individual who

(A) directly sells or solicits the sale of consumer products, for resale or otherwise, personally to a prospective consumer in the home or otherwise than in a permanent retail establishment; a sale or solicitation by telephone, mail, other telecommunications method, or other nonpersonal method does not satisfy the requirement of this subparagraph;

(B) is compensated solely by

(i) commissions on sales or other remuneration directly related to sales or sales performance; or

(ii) a profit represented by the difference between the wholesale cost of the product to the seller and the final sale price to the consumer; and

(C) performs under a written contract with the person for whom the service is performed that provides, notwithstanding AS 23.20.395(a), that the individual is not an employee for purposes of this chapter or for federal or state tax purposes;

(22) temporary services related to emergency oil spill training and response activities by an individual described in (17) of this subsection; in this paragraph, "temporary" means a period of less than seven continuous days.

* **Sec. 43.** AS 23.20.526(d) is amended to read:

(d) For the purposes of AS 23.20.525(a)(4) and (12) [AS 23.20.525(a)(4) - (6) AND (14)], the term "employment" does not apply to service performed

(1) by a duly ordained, commissioned, or licensed minister of a church in the exercise of the person's ministry or by a member of a religious order in the exercise of duties required by the order;

(2) in a facility conducted for the purpose of carrying out a program of

1 rehabilitation for individuals whose earning capacity is impaired by age or physical or
2 mental deficiency or injury or providing remunerative work for individuals who,
3 because of their impaired physical or mental capacity, cannot be readily absorbed in
4 the competitive labor market by an individual receiving the rehabilitation or
5 remunerative work;

6 (3) as part of an unemployment work-relief or work-training program
7 assisted or financed in whole or in part by any federal agency or any agency of a state
8 or political subdivision of the state, by an individual receiving work relief or work
9 training;

10 (4) for a state hospital by an inmate of a prison or correctional
11 institution;

12 (5) in the employ of a school, college, or university if the service is
13 performed by a student who is enrolled and is regularly attending classes at the school,
14 college, or university;

15 (6) by an individual under the age of 22 who is enrolled at a nonprofit
16 or public educational institution that normally maintains a regular faculty and
17 curriculum and normally has a regularly organized body of students in attendance at
18 the place where its educational activities are carried on as a student in a full-time
19 program, taken for credit at the institution, that combines academic instruction with
20 work experience if the service is an integral part of the program and the institution has
21 so certified to the employer, except that this paragraph does not apply to service
22 performed in a program established for or on behalf of an employer or group of
23 employers;

24 (7) in the employ of a hospital if the service is performed by a patient
25 of the hospital, as defined in AS 23.20.520;

26 (8) in the employ of the state or a political subdivision of the state if
27 the service is performed by an individual in the exercise of duties

28 (A) as a judicial officer, the governor, the lieutenant governor,
29 a person hired or appointed as the head or deputy head of a department in the
30 executive branch, a person hired or appointed as the director of a division of a
31 department in the executive branch, an assistant to the governor, a chair or

1 member of a state commission or board, state investment officers and the state
 2 comptroller in the Department of Revenue, an appointed or elected municipal
 3 officer, any other elected official, the fiscal analyst of the legislative finance
 4 division, the legislative auditor of the legislative audit division, the executive
 5 director of the Legislative Affairs Agency, and the directors of the divisions
 6 within the Legislative Affairs Agency;

7 (B) as a member of the Alaska Army National Guard or Alaska
 8 Air National Guard or Alaska Naval Militia;

9 (C) as an employee serving on only a temporary basis in case
 10 of fire, storm, snow, earthquake, flood, or similar emergency; or

11 (D) as an election official or election worker if the amount of
 12 remuneration received by the individual during the calendar year for services
 13 as an election official or election worker is less than \$1,000;

14 (9) in the employ of

15 (A) a church or a convention or association of churches; or

16 (B) an organization that is operated primarily for religious
 17 purposes and that is operated, supervised, controlled, or principally supported
 18 by a church or a convention or association of churches.

19 * **Sec. 44.** AS 23.20.530(b) is amended to read:

20 (b) In this chapter, unless the context otherwise requires, "wages" does not
 21 include

22 (1) the amount of any payment, including an amount paid by an
 23 employing unit for insurance or annuities or into a fund to provide for the payment, to
 24 or on behalf of an individual or the individual's dependent under a plan or system
 25 established by an employing unit that [WHICH] makes provisions generally for
 26 individuals performing service for it, or for such individuals generally and their
 27 dependents, or for a class or classes of the individuals and their dependents, on
 28 account of

29 (A) retirement; [,]

30 (B) sickness or accident disability; [,]

31 (C) medical or hospitalization expenses in connection with

1 sickness or accident disability; [,] or

2 (D) death;

3 (2) the amount of a payment made by an employing unit to an
4 individual performing service for it, including an amount paid by an employing unit
5 for insurance or annuities or into a fund to provide for the payment, on account of
6 retirement;

7 (3) the amount of a payment on account of sickness or accident
8 disability, or medical or hospitalization expenses in connection with sickness or
9 accident disability [MADE AFTER DECEMBER 31, 1954], by an employing unit to
10 or on behalf of an individual performing service for it after the expiration of six
11 calendar months following the last calendar month in which the individual performed
12 services for the employing unit;

13 (4) the amount of a payment made by an employing unit to or on
14 behalf of an individual performing services for it or the individual's beneficiary

15 (A) from or to a trust described in 26 U.S.C. 401(a) (Internal
16 Revenue Code) that [WHICH] is exempt from taxation [TAX] under 26
17 U.S.C. 501(a) at the time of the payment, unless the payment is made to an
18 individual performing services for the trust as remuneration for those services
19 and not as a beneficiary of the trust; [,] or

20 (B) under or to an annuity plan that, [WHICH] at the time of
21 the payment, meets the requirements of 26 U.S.C. 401(a)(3) - (6);

22 (5) the amount of a payment made by an employing unit (without
23 deduction from the remuneration of the individual in its employ) of the tax imposed
24 upon an individual in its employ under 26 U.S.C. 3101 (Internal Revenue Code) with
25 respect to service performed [AFTER JANUARY 1, 1941];

26 (6) remuneration paid in a medium other than cash to an individual for
27 service not in the course of the employing unit's trade or business;

28 (7) the amount of a payment, other than vacation or sick pay, [MADE
29 AFTER DECEMBER 31, 1954,] to an individual after the month in which the
30 individual attains the age of 65, if the individual did not perform services for the
31 employing unit in the period for which the payment is made;

1 (8) dismissal payments that [AFTER JANUARY 1, 1941, WHICH]
2 the employing unit is not legally required to make;

3 (9) the amount of any payment, including any amount paid by an
4 employer into a fund to provide for any such payment, made to or on behalf of an
5 employee under a plan or system established by an employer that [WHICH] makes
6 provision for the employer's employees generally, or for a class or group of the
7 employer's employees, for the purpose of supplementing unemployment benefits;

8 (10) the amount of a payment made to or on behalf of an employee for
9 subsistence while the employee is employed away from home, but this exemption
10 applies only to that portion of a subsistence payment that [WHICH] does not exceed
11 the actual expenses of the employee while so employed;

12 (11) compensation received for inactive service performed by a
13 member of the Alaska National Guard or Naval Militia;

14 (12) the amount of a payment made to or on behalf of an employee or
15 the employee's beneficiary under a cafeteria plan as defined in 26 U.S.C. 125, if the
16 payment would not be treated as wages under this section without regard to the
17 cafeteria plan;

18 (13) the amount of payment made, or benefit furnished, by the
19 employer under a plan to provide educational assistance to or for the benefit of an
20 employee if, at the time of the payment or the furnishing, it is reasonable to believe
21 that the employee will be able to exclude the payment or benefit from income under
22 26 U.S.C. 127(b).

23 * **Sec. 45.** AS 24.05.135(c) is amended to read:

24 (c) As the tapes, spools, or other recording devices are filled, or as reports are
25 completed, they shall be transferred to the state library for placement in the state
26 archives. Reproductions shall be placed in a centrally located public library in Juneau,
27 Anchorage, and Fairbanks, until one year after adjournment of the legislative session
28 recorded. The division of **the Department of Education and Early Development**
29 **that has responsibility for** state libraries, archives, and museums shall supply
30 reproductions of electronic recordings at cost to any person requesting them.

31 * **Sec. 46.** AS 25.27.125(a) is amended to read:

(a) Federal incentive payments received by the state under 42 U.S.C. 658a [42 U.S.C. 658] shall be deposited in the general fund, and the commissioner of administration shall separately account for the payments. The annual estimated balance in the account may be used by the legislature to make appropriations to the Department of Revenue to carry out the purposes of AS 25.27.020.

* **Sec. 47.** AS 29.10.200 is amended to read:

Sec. 29.10.200. Limitation of home rule powers. Only the following provisions of this title apply to home rule municipalities as prohibitions on acting otherwise than as provided. These provisions supersede existing and prohibit future home rule enactments that provide otherwise:

- (1) AS 29.05.140 (transition);
- (2) AS 29.06.010 (change of municipal name);
- (3) AS 29.06.040 - 29.06.060 (annexation and detachment);
- (4) AS 29.06.090 - 29.06.170 (merger and consolidation);
- (5) AS 29.06.190 - 29.06.420 (unification of municipalities);
- (6) AS 29.06.450 - 29.06.530 (dissolution);
- (7) AS 29.10.100 (charter amendment);
- (8) AS 29.20.010 (conflict of interest);
- (9) AS 29.20.020 (meetings public);
- (10) AS 29.20.050 (legislative power);
- (11) AS 29.20.060 - 29.20.120 (assembly composition and apportionment);
- (12) AS 29.20.140 (qualifications of members of governing bodies);
- (13) AS 29.20.150 (term of office);
- (14) AS 29.20.220 (executive power);
- (15) AS 29.20.270(e) (ordinance veto by mayor);
- (16) AS 29.20.630 (prohibited discrimination);
- (17) AS 29.20.640 (reports);
- (18) AS 29.25.010(a)(10) (municipal exemption on contractor bond requirements);
- (19) AS 29.25.050 (codification);

- 1 (20) AS 29.25.060 (resolutions);
- 2 (21) AS 29.25.070(e) (notices of certain civil actions);
- 3 (22) AS 29.25.074 (surcharge);
- 4 (23) AS 29.25.080 (breast-feeding);
- 5 (24) AS 29.26.030 (notice of elections);
- 6 (25) AS 29.26.050 (voter qualification);
- 7 (26) AS 29.26.250 - 29.26.360 (recall);
- 8 (27) AS 29.35.020 (extraterritorial jurisdiction);
- 9 (28) AS 29.35.030 (eminent domain);
- 10 (29) AS 29.35.050 (garbage and solid waste services);
- 11 (30) AS 29.35.055 (local air quality control program);
- 12 (31) AS 29.35.060 (franchises and permits);
- 13 (32) AS 29.35.070 (public utilities);
- 14 (33) AS 29.35.080 (alcoholic beverages);
- 15 (34) AS 29.35.090(b) (certain vacations of rights-of-way prohibited);
- 16 (35) AS 29.35.120 (post audit);
- 17 (36) AS 29.35.125 (fees for police protection services);
- 18 (37) AS 29.35.131 - 29.35.137 (enhanced 911 system);
- 19 (38) AS 29.35.141 (regulation of radio antennas);
- 20 (39) AS 29.35.145 (regulation of firearms);
- 21 (40) AS 29.35.160 (education);
- 22 (41) AS 29.35.170(b) (assessment and collection of taxes);
- 23 (42) AS 29.35.180(b) (land use regulation);
- 24 (43) AS 29.35.250 (cities inside boroughs);
- 25 (44) AS 29.35.260 (cities outside boroughs);
- 26 (45) AS 29.35.340 (acquisition of areawide power);
- 27 (46) AS 29.35.450 ([VOTER APPROVAL OF ALTERATION OR
- 28 ABOLISHMENT OF] service areas);
- 29 (47) AS 29.35.500 - 29.35.590 (hazardous materials and wastes);
- 30 (48) AS 29.40.160(a) - (c) (title to vacated areas);
- 31 (49) AS 29.40.200 (subdivisions of state land);

1 (50) AS 29.45.010 - 29.45.560 and 29.45.800 [AS 29.45.010 -
2 29.45.570] (property taxes);

3 (51) AS 29.45.650(c), (d), (e), (f), (i), (j), and (k) (sales and use tax);

4 (52) AS 29.45.700(d), (e), and (g) (sales and use tax);

5 (53) AS 29.45.750 (taxation of mobile telecommunications);

6 (54) AS 29.45.810 (exemption from municipal taxation);

7 (55) AS 29.46.010(b) (exemption from municipal assessment);

8 (56) AS 29.47.200(b) (security for bonds);

9 (57) AS 29.47.260 (revenue bonds) [(CONSTRUCTION)];

10 (58) AS 29.47.470 (air carriers);

11 (59) [REPEALED

12 (60) REPEALED

13 (61)] AS 29.65 (general grant land);

14 (60) [(62)] AS 29.71.040 (procurement preference for state agricultural
15 and fisheries products);

16 (61) [(63)] AS 29.71.050 (procurement preference for recycled Alaska
17 products).

18 * **Sec. 48.** AS 29.46.010(b) is amended to read:

19 (b) Notwithstanding (a) of this section, a party to a contract approved by the
20 legislature as a result of submission of a proposed contract developed under AS 43.82
21 or as a result of acts by the legislature in implementing the purposes of AS 43.82, is
22 exempt, as specified in the contract, from assessment under this chapter against real
23 property associated with the approved qualified project that is subject to the contract.

24 **This subsection applies to home rule municipalities.**

25 * **Sec. 49.** AS 29.46.030(a) is amended to read:

26 (a) When an improvement proposal is filed with the municipal clerk and
27 presented to the governing body, the municipality shall find by resolution or ordinance
28 whether (1) the improvement requested is necessary and should be made, and (2) if by
29 petition, the request has sufficient and proper petitioners. The findings under this
30 subsection [SECTION] are conclusive.

31 * **Sec. 50.** AS 29.60.860(b) is amended to read:

(b) The per capita amount distributed to each community in the unorganized borough may not, when added to the basic community revenue sharing payment for that community, exceed the basic amount calculated under AS 29.60.855(b)(3). If the per capita distribution for a community in the unorganized borough, when added to the basic community revenue sharing payment for that community, would exceed [EXCEEDS] the basic amount calculated under AS 29.60.855(b)(3), the excess amount shall be distributed on a per capita basis to other communities in the unorganized borough.

* Sec. 51. AS 33.16.090(c)(1) is amended to read:

(1) "active term of imprisonment" has the meaning given in AS 12.55.127 [AS 12.55.185];

* Sec. 52. AS 33.30.015(a) is amended to read:

(a) The [ON AND AFTER AUGUST 27, 1999, THE] commissioner may not

(1) make per capita expenditures for food for prisoners in a state correctional facility operated by the state that exceed 90 percent of per capita expenditures for food that is available to enlisted personnel in the United States Army stationed in the state;

(2) provide, in a state correctional facility operated by the state,

(A) living quarters for a prisoner into which the view is obstructed; however, the commissioner is not required to renovate a facility to comply with this subparagraph if the facility is being used as a correctional facility on August 27, 1997, or if the facility was already built before being acquired by the department;

(B) equipment or facilities for publishing or broadcasting material the content of which is not subject to prior approval by the department as consistent with keeping order in the institution and prisoner discipline;

(C) cable television service other than a level of basic cable television service that is available as a substitute for services that are broadcast to the public in the community in which a correctional facility is located;

(3) allow a prisoner held in a state correctional facility operated by the state to

1 (A) possess in the prisoner's cell a cassette tape player or
2 recorder, a video cassette recorder (VCR), or a computer or modem of any
3 kind;

4 (B) view movies rated "R," "X," or "NC-17";

5 (C) possess printed or photographic material that

6 (i) is obscene as defined by the commissioner in
7 regulation;

8 (ii) could reasonably be expected to incite racial, ethnic,
9 or religious hatred that is detrimental to the security, good order, or
10 discipline of the institution or violence;

11 (iii) could reasonably be expected to aid in an escape or
12 in the theft or destruction of property;

13 (iv) describes procedures for brewing alcoholic
14 beverages or for manufacturing controlled substances, weapons, or
15 explosives; or

16 (v) could reasonably be expected to facilitate criminal
17 activity or a violation of institution rules;

18 (D) receive instruction in person, or by broadcast medium, or
19 engage in boxing, wrestling, judo, karate, or other martial art or in any activity
20 that, in the commissioner's discretion, would facilitate violent behavior;

21 (E) possess or have access to equipment for use in the activities
22 listed in (D) of this paragraph;

23 (F) possess or have access to free weights;

24 (G) possess in the prisoner's cell a coffee pot, hot plate,
25 appliance or heating element for food preparation, or more than three electrical
26 appliances of any kind;

27 (H) possess or appear in a state of dress, hygiene, grooming, or
28 appearance other than as permitted as uniform or standard in the correctional
29 facility;

30 (I) use a computer other than those approved by the
31 correctional facility; the use of a computer under this subparagraph may be

1 approved only as part of the prisoner's employment, education, or vocational
2 training and may not be used for any other purpose;

3 (J) smoke or use tobacco products of any kind.

4 * **Sec. 53.** AS 38.07.030(a) is amended to read:

5 (a) An owner of agricultural land, or a lessee from the state of agricultural
6 land, in the general vicinity of the land to be cleared or drained under AS 38.07.010(a)
7 may apply to the commissioner to have the land cleared or drained or both along with
8 the state land. The applicant's land shall be included in the contract of land to be
9 cleared or drained if, in the discretion of the commissioner, the inclusion is feasible
10 and furthers the agricultural policies of the division of **the Department of Natural**
11 **Resources with responsibility for** agriculture.

12 * **Sec. 54.** AS 39.25.110(14) is amended to read:

13 (14) petroleum engineers and petroleum geologists employed in a
14 professional capacity by the Department of Natural Resources and by the **Alaska** Oil
15 and Gas Conservation Commission, except for those employed in the division of
16 geological and geophysical surveys in the Department of Natural Resources;

17 * **Sec. 55.** AS 41.10.100(b) is amended to read:

18 (b) The board shall also

19 (1) receive and review reports concerning the use of soil resources of
20 the state;

21 (2) hold public hearings and meetings to determine whether land in the
22 state is being used in a manner consistent with sound soil and water conservation
23 practices;

24 (3) make recommendations for specific action necessary to provide for
25 the effective and orderly development of agricultural, forest, and grazing land in the
26 state;

27 (4) review an appeal by an applicant or lessee from a decision of the
28 director of the division of lands concerning a sale or lease of state agricultural or
29 grazing land and submit its recommendations to the commissioner or hearing officer;

30 (5) act in an advisory capacity to the soil and water conservation
31 districts in the state;

(6) act in an advisory capacity to the commissioner and director of the division of the department with responsibility for agriculture in the review of farm conservation plans for all state agricultural land sales in the state.

* **Sec. 56.** AS 44.41.035(b) is amended to read:

(b) The Department of Public Safety shall collect for inclusion into the DNA identification registration system a blood sample, oral sample, or both, from (1) a person convicted in this state of a crime against a person or a felony under AS 11 or AS 28.35 or a law or ordinance with elements similar to a crime against a person or a felony under AS 11 or AS 28.35, (2) a minor 16 years of age or older, adjudicated as a delinquent in this state for an act that would be a crime against a person or a felony under AS 11 or AS 28.35 if committed by an adult or for an act that would violate a law or ordinance with elements similar to a crime against a person or a felony under AS 11 or AS 28.35 if committed by an adult, (3) a voluntary donor, (4) an anonymous DNA donor for use in forensic validation, forensic protocol development, quality control, or population or statistical data bases, (5) a person required to register as a sex offender or child kidnapper under AS 12.63, and (6) a person arrested for a crime against a person or a felony under AS 11 or AS 28.35, or a law or ordinance with elements similar to a crime against a person or a felony under AS 11 or AS 28.35. The department also may collect for inclusion into the DNA identification registration system a blood sample, oral sample, or tissue sample from crime scene evidence or from unidentified human remains. The DNA identification registration system consists of the blood, oral, or tissue samples drawn under this section, any DNA or other blood grouping tests done on those samples, and the identification data related to the samples or tests. Blood samples, oral samples, and tissue samples not subject to testing under this section, and test or identification data related to those samples, may not be entered into, or made a part of, the DNA identification registration system.

* **Sec. 57.** AS 44.41.035(l) is amended to read:

(l) The Department of Public Safety may not include in the DNA identification registration system a blood sample, oral sample, or tissue sample of the victim of a crime, unless that person would otherwise be included under (b)(1) - (6) of this section.

1 * **Sec. 58.** AS 44.41.035(n) is amended to read:

2 (n) A juvenile or adult correctional, probation, or parole officer or a peace
3 officer may use reasonable force to collect an oral sample for inclusion into the DNA
4 identification registration system from a person required to submit to collection of a
5 sample under this section, AS 12.55.015(h), 12.55.100(d), AS 33.16.150(a), or another
6 law.

7 * **Sec. 59.** AS 44.41.035(p) is amended to read:

8 (p) The department shall make every reasonable effort to process each sample
9 collected from a person under (b)(1), (b)(2), (b)(5), and (b)(6) of this section and
10 include the identification data resulting from the testing of the sample in the DNA
11 identification registration system within 90 days after receiving the sample.

12 * **Sec. 60.** AS 45.07.309(a) is amended to read:

13 (a) A carrier who issues a bill of lading, whether negotiable or nonnegotiable,
14 shall [MUST] exercise the degree of care in relation to the goods that a reasonably
15 careful person [MAN] would exercise under like circumstances. This subsection does
16 not repeal or change any law or rule of law that imposes liability upon a common
17 carrier for damages not caused by its negligence.

18 * **Sec. 61.** AS 45.10.220(6) is amended to read:

19 (6) "rate" means the percentage that [WHICH], when multiplied by
20 [TIMES] the outstanding balance for each month or other installment period, yields
21 the amount of the service charge for the month or period;

22 * **Sec. 62.** AS 45.14.403(a) is amended to read:

23 (a) Payment of the sender's obligation under AS 45.14.402 to pay the
24 receiving bank occurs as follows:

25 (1) if the sender is a bank, payment occurs when the receiving bank
26 receives final settlement of the obligation through a federal reserve bank or through a
27 funds-transfer system;

28 (2) if the sender is a bank and the sender
29 [(A)] credited an account of the receiving bank with the sender

30 [;] or

31 [(B)] caused an account of the receiving bank in another bank

1 to be credited, payment occurs when the credit is withdrawn or, if not
 2 withdrawn, at midnight of the day on which the credit is withdrawable and the
 3 receiving bank learns of that fact;

4 (3) if the receiving bank debits an account of the sender with the
 5 receiving bank, payment occurs when the debit is made to the extent that the debit is
 6 covered by a withdrawable credit balance in the account.

7 * **Sec. 63.** AS 45.29.313(b) is amended to read:

8 (b) With respect to goods covered by a certificate of title issued by this state, a
 9 secured party may perfect a security interest in the goods by taking possession of the
 10 goods only in the circumstances described in AS 45.29.316(d) [AS 45.29.316(e)].

11 * **Sec. 64.** AS 45.29.314(a) is amended to read:

12 (a) A security interest in deposit accounts, electronic chattel paper, investment
 13 property, or letter-of-credit rights [, OR] may be perfected by control of the collateral
 14 under AS 45.29.104, 45.29.105, 45.29.106, or 45.29.107.

15 * **Sec. 65.** AS 45.50.471(b)(34) is amended to read:

16 (34) violating AS 08.66.260 - 08.66.350 [AS 08.66.200 - 08.66.350]
 17 (motor vehicle buyers' agents);

18 * **Sec. 66.** AS 46.03.450(8) is amended to read:

19 (8) "underground storage tank" means one or a combination of
 20 stationary devices, including underground pipes connected to the devices, that is
 21 designed to contain an accumulation of petroleum, the volume of which, including the
 22 volume of underground pipes, is 10 percent or more beneath the surface of the ground,
 23 except that the term does not include a

24 (A) farm or residential tank of 1,100 gallons or less capacity
 25 used for storing motor fuel for noncommercial purposes;

26 (B) tank used for storing heating oil for consumptive use on the
 27 premises where stored;

28 (C) septic tank;

29 (D) pipeline facility, including gathering lines,

30 [(i)] regulated under 49 U.S.C. 60101 [49 U.S.C. 1671,]
 31 et seq. [, (NATURAL GAS PIPELINE SAFETY ACT OF 1968);

(ii) REGULATED UNDER 49 U.S.C. 2001, ET SEQ.,
(HAZARDOUS LIQUID PIPELINE SAFETY ACT OF 1979);] or

[(iii)] that is an intrastate pipeline facility regulated
under state laws comparable to the provisions of 49 U.S.C. 60101 et
seq. [LAW REFERRED TO IN (i) OR (ii) OF THIS
SUBPARAGRAPH];

(E) surface impoundment, pit, pond, or lagoon;

(F) storm water or waste water collection system;

(G) flow-through process tank;

(H) liquid trap or associated gathering lines directly related to
oil or gas production and gathering operations;

(I) storage tank situated in an underground area such as a
basement, cellar, mineworking, drift, shaft, or tunnel, if the storage tank is
situated upon or above the surface of the floor;

(J) tank with a capacity of 110 gallons or less;

(K) tank containing hazardous wastes regulated under 42
U.S.C. 6921 - 6939b; or

(L) tank system that the department has exempted by
regulations adopted under AS 46.03.365;

* **Sec. 67.** AS 46.06.090(a) is amended to read:

(a) A [BEGINNING OCTOBER 1, 1981, A] person may not sell or offer to
sell a nonglass beverage container that is designed and constructed so that the
container is opened by detaching a metal ring or tab. This section does not apply to a
beverage container that is opened by a detachable piece of tape, foil, or other soft
material.

* **Sec. 68.** AS 46.06.090(b) is amended to read:

(b) A [BEGINNING JANUARY 1, 1985, A] person may not sell or offer to
sell in this state beverage containers that are held together by plastic rings or similar
plastic devices unless the rings or devices are degradable and bear a distinguishing
mark furnished to the department by the manufacturer. The department may require
test data that shows that the plastic rings or plastic devices meet or exceed the

1 department's standards of degradability.

2 * **Sec. 69.** AS 46.14.170(c) is amended to read:

3 (c) Failure by the department to act within the time limits established in or
4 under (a) [, (b),] or (d) of this section is considered to be a final agency action, but
5 only for the purpose of judicial review to determine whether the court will require that
6 action be taken by the department.

7 * **Sec. 70.** AS 46.14.300(c) is amended to read:

8 (c) Except as provided in AS 46.14.310(b), the department shall provide
9 assistance as described in (b) of this section to a requesting stationary source that is
10 not a small business concern as defined in 15 U.S.C. 632 [15 U.S.C. 631] but that is
11 subject to the requirements of this chapter if the legislature appropriates money from
12 the general fund for this purpose.

13 * **Sec. 71.** AS 46.14.990(24) is amended to read:

14 (24) "small business facility" means a stationary source that

15 (A) is owned or operated by a person who employs 100 or
16 fewer individuals;

17 (B) is a small business concern as defined in 15 U.S.C. 632 [15
18 U.S.C. 631 (SMALL BUSINESS ACT)]; and

19 (C) emits less than 100 TPY of regulated air pollutants;

20 * **Sec. 72.** AS 46.15.035(c) is amended to read:

21 (c) Except as provided in AS 46.15.090, and in addition to the requirements of
22 (a) of this section, the commissioner may approve an application for removal or permit
23 an appropriation for removal under (a) of this section of water from a lake, river, or
24 stream that is used by fish for spawning, incubation, rearing, or migration, or ground
25 water that significantly influences the volume of water in a lake, river, or stream that is
26 used by fish for spawning, incubation, rearing, or migration, only if the commissioner
27 reserves a volume of water in the lake or an instream flow in the river or stream for the
28 use of fish and to maintain habitat for fish. The commissioner may adjust the volume
29 of water reserved under this subsection if the commissioner, after public notice and
30 opportunity to comment and with the concurrence of the commissioner of fish and
31 game, finds that the best interests of the state are served by the adjustment. A

1 reservation under this subsection

2 (1) of a volume of water or an instream flow for the use of fish and to
3 maintain habitat for fish that is reserved under this section is withdrawn from
4 appropriation;

5 (2) for fish from a lake, river, or stream, identified under AS 16.05.871
6 [AS 16.05.870] or identified in a Department of Fish and Game regional guide as
7 being used by fish for spawning, incubation, rearing, or migration on or before July 1,
8 1992, has a priority date as of July 1, 1992;

9 (3) of water does not apply to an application for removal or
10 appropriation for removal under AS 46.15.040 for nonconsumptive uses of water or
11 for single family domestic use;

12 (4) is not subject to AS 46.15.145;

13 (5) of water does not apply to appropriations of ground water of 5,000
14 gallons or less a day unless the commissioner, in consultation with the Department of
15 Fish and Game, determines that the appropriation may adversely affect fish habitat in
16 a lake, river, or stream; the commissioner shall consider multiple appropriations of
17 water for a single related use as a single appropriation for the purposes of this
18 subsection.

19 * **Sec. 73.** AS 46.15.165(c) is amended to read:

20 (c) Upon initiation of the adjudication, the commissioner shall

21 (1) serve the order on each applicant, certificate holder, or permittee
22 listed in the department's records within the adjudication area;

23 (2) serve the order on any agency of the federal, state, or a local
24 government with management authority over land or water within the adjudication
25 area;

26 (3) serve the order on any person who owns or claims land within the
27 adjudication area if the land is held in trust by the United States for the person or if the
28 patent, deed, or certificate to the land from the United States was issued under 25
29 U.S.C. 334 (Indian General Allotment Act of February 8, 1887, 24 Stat. 389, as
30 amended and supplemented), 25 U.S.C. 372 (the Allotment Act of June 25, 1910, 36
31 Stat. 855), former 43 U.S.C. 270-1, 270-2 (the Allotment Act of May 17, 1906, 34

Stat. 197), any other allotment act, or the Alaska Native Townsite Act of May 25, 1926, 44 Stat. 629, and serve the order on the United States on behalf of the person;

(4) serve the order on the United States and the appropriate governing body of the Annette Island Reserve established by 25 U.S.C. 495 (the Act of March 3, 1891, 26 Stat. 1101) if the land or water, including hydrologically interconnected water, of the Annette Island Reserve is within the adjudication area;

(5) serve the order on any other person claiming a federal reserved water right within the adjudication area;

(6) serve the regional corporation and village corporation established under 43 U.S.C. 1601 et seq. (Alaska Native Claims Settlement Act) that has a pending land selection or has acquired ownership to land under that act that is located within the adjudication area; and

(7) serve the order on each mining claimant of record with the United States and the state within the adjudication area as of the date of the order initiating the administrative adjudication.

* **Sec. 74.** AS 46.30.080 is amended to read:

Sec. 46.30.080. Regulations. The department, with the advice of the Water and Wastewater Works Advisory Board, shall adopt regulations for administration of this chapter. The regulations must include

(1) the basis for classification of potable water supply and wastewater systems and facilities, including the type and size of lesser systems and facilities, if any, to which the provisions of this chapter do not apply, as required by AS 46.30.010;

(2) criteria for the qualification of applicants for operator certification corresponding to each of the classifications referred to in AS 46.30.010;

(3) procedures for examination of candidates and renewal of certificates;

(4) procedures for the revocation of certificates;

(5) determination as to which additional personnel shall be certified when certification is required for more than the operator in direct responsible charge.

* **Sec. 75.** AS 47.10.396 is amended to read:

Sec. 47.10.396. Confidentiality of records. If the department requires record

1 keeping by a shelter for runaways or by a [NONPROFIT] corporation that is licensed
 2 to designate shelters for runaways, records of the shelter and the [NONPROFIT]
 3 corporation that identify a runaway minor who has been sheltered in a shelter for
 4 runaways or has sought assistance from a shelter for runaways are confidential and are
 5 not subject to inspection or copying under AS 40.25.110 - 40.25.120 unless

6 (1) after being informed of the minor's right to privacy, the minor
 7 consents in writing to the disclosure of the records;

8 (2) the records are relevant to an investigation or proceeding involving
 9 child abuse or neglect or a child in need of aid petition; or

10 (3) disclosure of the records is necessary to protect the life or health of
 11 the minor.

12 * **Sec. 76.** AS 47.14.100 is amended by adding a new subsection to read:

13 (n) In this section, "adult family member" has the meaning given in
 14 AS 47.10.990.

15 * **Sec. 77.** AS 47.14.990(12) is amended to read:

16 (12) ["TREATMENT FACILITY" OR] "treatment institution" means a
 17 hospital, clinic, institution, center, or other health care facility that has been designated
 18 by the department for the treatment of juveniles.

19 * **Sec. 78.** AS 47.30.660(b) is amended to read:

20 (b) The department, in fulfilling its duties under this section and through its
 21 division responsible for [OF] mental health [AND DEVELOPMENTAL
 22 DISABILITIES], shall

23 (1) administer a comprehensive program of services for persons with
 24 mental disorders, for the prevention of mental illness, and for the care and treatment of
 25 persons with mental disorders, including inpatient and outpatient care and treatment
 26 and the procurement of services of specialists or other persons on a contractual or
 27 other basis;

28 (2) take the actions and undertake the obligations that are necessary to
 29 participate in federal grants-in-aid programs and accept federal or other financial aid
 30 from whatever sources for the study, prevention, examination, care, and treatment of
 31 persons with mental disorders;

1 (3) administer AS 47.30.660 - 47.30.915;

2 (4) designate, operate, and maintain treatment facilities equipped and
3 qualified to provide inpatient and outpatient care and treatment for persons with
4 mental disorders;

5 (5) provide for the placement of patients with mental disorders in
6 designated treatment facilities;

7 (6) enter into arrangements with governmental agencies for the care or
8 treatment of persons with mental disorders in facilities of the governmental agencies
9 in the state or in another state;

10 (7) enter into contracts with treatment facilities for the custody and
11 care or treatment of persons with mental disorders; contracts under this paragraph are
12 governed by AS 36.30 (State Procurement Code);

13 (8) enter into contracts, which incorporate safeguards consistent with
14 AS 47.30.660 - 47.30.915 and the preservation of the civil rights of the patients with
15 another state for the custody and care or treatment of patients previously committed
16 from this state under 48 U.S.C. 46 et seq., and P.L. 84-830, 70 Stat. 709;

17 (9) prescribe the form of applications, records, reports, requests for
18 release, and consents to medical or psychological treatment required by AS 47.30.660
19 - 47.30.915;

20 (10) require reports from the head of a treatment facility concerning
21 the care of patients;

22 (11) visit each treatment facility at least annually to review methods of
23 care or treatment for patients;

24 (12) investigate complaints made by a patient or an interested party on
25 behalf of a patient;

26 (13) delegate upon mutual agreement to another officer or agency of it,
27 or a political subdivision of the state, or a treatment facility designated, any of the
28 duties and powers imposed upon it by AS 47.30.660 - 47.30.915;

29 (14) after consultation with the Alaska Mental Health Trust Authority,
30 adopt regulations to implement the provisions of AS 47.30.660 - 47.30.915;

31 (15) provide technical assistance and training to providers of mental

1 health services; and

2 (16) set standards under which each designated treatment facility shall
3 provide programs to meet patients' medical, psychological, social, vocational,
4 educational, and recreational needs.

5 * **Sec. 79.** AS 47.30.662(c) is amended to read:

6 (c) The board members

7 (1) shall include the director of the division of the department
8 responsible for mental health [AND DEVELOPMENTAL DISABILITIES IN THE
9 DEPARTMENT]; and

10 (2) may include representatives of the principal state agencies with
11 respect to education, vocational rehabilitation, criminal justice, housing, social
12 services, medical assistance, substance abuse, and aging.

13 * **Sec. 80.** AS 47.30.772 is amended to read:

14 **Sec. 47.30.772. Medication and treatment.** An evaluation facility or
15 designated treatment facility may administer medication or other treatment to an
16 involuntarily committed patient only in a manner that is consistent with the provisions
17 of AS 47.30.817 - 47.30.865 [AS 47.30.825 - 47.30.865].

18 * **Sec. 81.** AS 47.30.835(b) is amended to read:

19 (b) Court-ordered evaluation or treatment under AS 47.30.660 - 47.30.915 is
20 not a determination of legal incapacity under AS 13.26.005 - 13.26.320 [AS 13.26.005
21 - 13.26.330].

22 * **Sec. 82.** AS 47.30.838(b) is amended to read:

23 (b) When a patient is no longer in the crisis situation that led [LEAD] to the
24 use of psychotropic medication without consent under (a) of this section, an
25 appropriate health care professional shall discuss the crisis with the patient, including
26 precursors to the crisis, in order to increase the patient's and the professional's
27 understanding of the episode and to discuss prevention of future crises. The
28 professional shall seek and consider the patient's recommendations for managing
29 potential future crises.

30 * **Sec. 83.** AS 47.30.855 is amended to read:

31 **Sec. 47.30.855. Posting of rights.** The rights set out in AS 47.30.817 -

1 **47.30.855** [AS 47.30.825 - 47.30.855] shall be prominently posted in all treatment
 2 facilities in places accessible to all patients. A patient who does not understand
 3 English shall have the patient rights explained in a language the patient understands.

4 * **Sec. 84.** AS 47.80.040(a) is amended to read:

5 (a) The council consists of **not** [NO] fewer than 18 nor more than 26 members
 6 appointed by the governor in a manner that satisfies the requirements for a state
 7 interagency coordinating council under 20 U.S.C. 1482 and a state [PLANNING]
 8 council under **42 U.S.C. 15025** [42 U.S.C. 6024].

9 * **Sec. 85.** AS 47.80.090 is amended to read:

10 **Sec. 47.80.090. Responsibilities.** The council shall

11 (1) serve as a forum by which issues and benefits regarding current and
 12 potential services to disabled and gifted persons may be discussed by consumer,
 13 public, private, professional, and lay interests;

14 (2) advocate the needs of disabled and gifted persons before the
 15 executive and legislative branches of the state government and before the public;

16 (3) advise the executive and legislative branches of the state
 17 government and the private sector on programs and policies pertaining to current and
 18 potential services to disabled or gifted persons and their families;

19 (4) submit periodic reports to the commissioner of health and social
 20 services, the commissioner of education and early development, and [TO] other
 21 appropriate departments [,] on the effects of current federal and state programs
 22 regarding services to disabled or gifted persons; these reports must include program
 23 performance reports to the governor, the federal government, and [TO] state agencies
 24 as required under 20 U.S.C. 1482 and **40 U.S.C. 15025** [42 U.S.C. 6024];

25 (5) in conjunction with the Departments of Health and Social Services
 26 and Education and Early Development, develop, prepare, adopt, periodically review,
 27 and revise as necessary an annual state plan prescribing programs that meet the needs
 28 of persons with developmental disabilities as required under **42 U.S.C. 15024** [42
 29 U.S.C. 6022];

30 (6) review and comment to commissioners of state departments on all
 31 state plans and proposed regulations relating to programs for persons who are

1 experiencing disabilities before the adoption of a plan or regulation; for this purpose,
2 the appropriate departments shall submit the plans and proposed regulations to the
3 council;

4 (7) recommend the priorities and specifications for the use of funds
5 received by the state under 20 U.S.C. 1471 - 1482 and 42 U.S.C. 15001 - 15083 [20
6 U.S.C. 1471 - 1485 AND 42 U.S.C. 6000 - 6083];

7 (8) submit annually to the commissioner of health and social services,
8 the commissioner of education and early development, and the commissioner of
9 commerce, community, and economic development a proposed interdepartmental
10 program budget for services to disabled or gifted persons that includes, insofar as
11 possible, projected revenues and expenditures for programs implemented by state
12 agencies, local governmental agencies, and private organizations; the
13 interdepartmental program budget is an informational supplement to the regular
14 annual budgetary submissions of the departments to the Office of the Governor;

15 (9) provide information and guidance for the development of
16 appropriate special educational programs and services for a child with a disability as
17 defined in AS 14.30.350;

18 (10) monitor and evaluate budgets or other implementation plans and
19 programs for disabled and gifted persons to assure nonduplication of services and
20 encourage efficient and coordinated use of federal, state, and private resources in the
21 provision of services; members of the council, with the approval of the council, have
22 access to information in the possession of state agencies subject to disclosure
23 restrictions imposed by state or federal confidentiality or privacy laws;

24 (11) perform other duties required under applicable federal laws or
25 AS 14.30.231 and as the governor may assign;

26 (12) govern the special education service agency and may hire
27 personnel necessary to operate the agency; and

28 (13) provide to the Alaska Mental Health Trust Authority for its
29 review and consideration recommendations concerning the integrated comprehensive
30 mental health program for the people of the state who are described in
31 AS 47.30.056(b)(2) and the use of the money in the mental health trust settlement

1 income account in a manner consistent with regulations adopted under AS 47.30.031.

2 * **Sec. 86.** Section 14, ch. 137, SLA 2002, is amended to read:

3 Sec. 14. AS 16.43.970(b) is amended to read:

4 (b) A person [OR ENTITY] who knowingly makes a false statement to the
5 commission for the purpose of obtaining a benefit, including the issuance, renewal,
6 duplication, or transfer of an entry or interim-use permit or [,] vessel license [,
7 VESSEL INTERIM-USE PERMIT, OR VESSEL ENTRY PERMIT,] or a person who
8 assists another by knowingly making a false statement to the commission for the
9 purpose of obtaining a benefit for another, is guilty of the crime of unsworn
10 falsification in the second degree as set out in AS 11.56.210. Upon conviction, the
11 person [OR ENTITY] is also subject to suspension of commercial fishing privileges
12 and revocation of commercial fishing permits under (i) of this section.

13 * **Sec. 87.** Section 12, ch. 50, SLA 2005, is amended to read:

14 Sec. 12. [AS 14.25.070(b);] AS 39.35.150(f), 39.35.150(g), 39.35.150(h), and
15 39.35.270(b) are repealed July 1, 2009.

16 * **Sec. 88.** AS 08.36.246(a)(4)(B); AS 31.05.080(b); AS 44.88.180(b); AS 46.14.170(b),
17 46.14.990(13); AS 47.14.295(1), 47.14.990(11); AS 47.20.390(4); and sec. 33, ch. 122, SLA
18 1977, are repealed.

19 * **Sec. 89.** AS 14.25.070(e) is repealed.

20 * **Sec. 90.** The uncoded law of the State of Alaska is amended by adding a new section to
21 read:

22 **CONDITIONAL EFFECT.** Section 89 of this Act takes effect only if AS 14.20.135 is
23 repealed under sec. 12 and 15, ch. 57, SLA 2001, as amended by sec. 6, ch. 15, SLA 2003,
24 and by secs. 10 and 17, ch. 50, SLA 2005, and any future amendments extending the date of
25 that repeal.

26 * **Sec. 91.** Section 34, ch. 122, SLA 1977, is repealed.

27 * **Sec. 92.** If sec. 89 of this Act takes effect, it takes effect on the date of the repeal described
28 in sec. 90 of this Act.

29 * **Sec. 93.** Section 59 of this Act takes effect July 1, 2009.

30 * **Sec. 94.** Except as provided in secs. 92 and 93 of this Act, this Act takes effect
31 immediately under AS 01.10.070(c).