

**CS FOR SENATE BILL NO. 385(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/22/04

Referred: Rules

Sponsor(s): SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to homeland security, to civil defense, to emergencies and to disasters,**  
2 **including disasters in the event of attacks, outbreaks of disease, or threats of attack or**  
3 **outbreak of disease; establishing the Alaska division of homeland security and**  
4 **emergency management in the Department of Military and Veterans' Affairs and**  
5 **relating to the functions of that division and that department; and providing for an**  
6 **effective date."**

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

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

10 PURPOSE. The purpose of the establishment of the Alaska division of homeland  
11 security and emergency management in sec. 6 of this Act and the repeal of AS 26.23.030 in  
12 sec. 20 of this Act is to further the consolidation of the Department of Military and Veterans'  
13 Affairs' emergency services and homeland security functions into a single division in order to

1 provide for more efficient administration of those functions and to transfer functions of the  
 2 division of emergency services into the division of homeland security and emergency  
 3 management.

4 \* **Sec. 2.** AS 24.20 is amended by adding new sections to article 5 to read:

5 **Sec. 24.20.680. Homeland Security and Emergency Management**  
 6 **Subcommittee established.** The Homeland Security and Emergency Management  
 7 Subcommittee is established as a subcommittee of the Joint Armed Services  
 8 Committee established under AS 24.20.650. The establishment of the subcommittee  
 9 recognizes the need for prompt legislative consideration of

10 (1) matters concerning homeland security and civil defense,  
 11 emergencies, or disasters; or

12 (2) the state's preparedness for or ability to mount a prompt response to  
 13 matters concerning homeland security and civil defense, emergencies, or disasters.

14 **Sec. 24.20.685. Membership; qualifications.** (a) Subject to (b) of this  
 15 section, the subcommittee is composed of four to six members, as follows:

16 (1) the respective chairs of the subcommittees of the House and Senate  
 17 Finance Committees that consider the military and veterans' affairs budget;

18 (2) if the chair of the senate subcommittee described in (1) of this  
 19 subsection is

20 (A) not a member of the Joint Armed Services Committee  
 21 established in AS 24.20.650, two senate members of the Joint Armed Services  
 22 Committee, selected by the president of the senate, one of whom is not a  
 23 member of the political party to which a majority of members of the senate  
 24 belong;

25 (B) a member of the Joint Armed Services Committee  
 26 established in AS 24.20.650, one senate member of the Joint Armed Services  
 27 Committee selected by the president of the senate;

28 (3) if the chair of the house subcommittee described in (1) of this  
 29 subsection is

30 (A) not a member of the Joint Armed Services Committee  
 31 established in AS 24.20.650, two house members of the Joint Armed Services

1 Committee selected by the speaker of the house of representatives, one of  
 2 whom is not a member of the political party to which a majority of members of  
 3 the house of representatives belong;

4 (B) a member of the Joint Armed Services Committee  
 5 established in AS 24.20.650, one house member of the Joint Armed Services  
 6 Committee selected by the speaker of the house of representatives.

7 (b) To be eligible to serve on the subcommittee, a legislator shall have a  
 8 federal security clearance or interim security clearance at the secret level at the time of  
 9 appointment and apply for and receive a federal security clearance at the secret level.  
 10 A legislator may not serve on the subcommittee, or if serving, may not continue to  
 11 serve, if the legislator has been convicted, including a conviction based on a guilty  
 12 plea or a plea of nolo contendere, of a felony or of the crime of unsworn falsification  
 13 under AS 11.56.210. If a legislator may not serve or may not continue to serve on the  
 14 subcommittee under this subsection, a vacancy in the membership of the  
 15 subcommittee exists.

16 **Sec. 24.20.690. Term of Membership.** (a) The subcommittee shall be  
 17 organized within 15 days after the organization of the Joint Armed Services  
 18 Committee established under AS 24.20.650. Members of the subcommittee who  
 19 remain qualified under AS 24.20.685 serve for the duration of the legislature during  
 20 which the members are appointed. If the member is reelected or the member's term of  
 21 office extends into the next succeeding legislature and the member remains qualified  
 22 under AS 24.20.685, the member shall continue to serve until reappointed or the  
 23 appointment of the member's successor.

24 (b) When a member of the subcommittee files a declaration of candidacy for  
 25 an elective office other than that of member of either house of the legislature, and the  
 26 member has not resigned from membership on the subcommittee, the member's  
 27 subcommittee membership terminates on the date that the member leaves legislative  
 28 office, and a vacancy in the membership of the subcommittee exists.

29 **Sec. 24.20.695. Vacancies.** When a vacancy occurs in the membership of the  
 30 subcommittee with respect to a member who was not a member of the Joint Armed  
 31 Services Committee established in AS 24.20.650, the presiding officer of the house

1 incurring the vacancy shall choose a successor. If the office of the president of the  
 2 senate or speaker of the house of representatives becomes vacant and a vacancy from  
 3 the affected house occurs among the membership of the subcommittee, the remaining  
 4 subcommittee members from the house incurring the vacancy shall appoint a new  
 5 member.

6 **Sec. 24.20.700. Travel and per diem allowances.** Members of the  
 7 subcommittee who are not members of the Joint Armed Services Committee  
 8 established in AS 24.20.650 are entitled to reimbursement for travel expenses and per  
 9 diem allowances in accordance with the provisions of AS 24.20.660.

10 **Sec. 24.20.705. Meetings.** (a) A majority of the members of the  
 11 subcommittee constitute a quorum.

12 (b) The subcommittee members shall select one member from the senate and  
 13 one member from the house of representatives to serve as co-chairs of the  
 14 subcommittee.

15 (c) The subcommittee may meet during sessions of the legislature and during  
 16 intervals between sessions at the times and places the co-chairs may determine.  
 17 Whenever possible, meetings shall be teleconferenced to reduce travel cost.

18 **Sec. 24.20.710. Powers and duties.** The subcommittee

19 (1) may review activities, plans, reports, recommendations, and other  
 20 materials of the Alaska division of homeland security and emergency management in  
 21 the Department of Military and Veterans' Affairs relating to

22 (A) matters concerning homeland security and civil defense,  
 23 emergencies, or disasters; or

24 (B) the state's preparedness for or ability to mount a prompt  
 25 response to matters concerning homeland security and civil defense,  
 26 emergencies, or disasters.

27 (2) may review activities, plans, reports, recommendations, and other  
 28 materials from other agencies or persons that perform activities relating to the subject  
 29 matter described in (1)(A) or (1)(B) of this section;

30 (3) shall prepare a report of its activities for each legislature and notify  
 31 the legislature that the report is available;

1                   (4) may present to the legislature additional reports or  
2 recommendations relating to the subject matter described in (1)(A) or (1)(B) of this  
3 section as the subcommittee from time to time determines appropriate; and

4                   (5) may perform other functions appropriate for a subcommittee of a  
5 permanent interim committee of the legislature relating to the subject matter described  
6 in (1)(A) or (1)(B) of this section.

7                   **Sec. 24.20.715. Requests for information.** The subcommittee may request  
8 information relating to matters concerning homeland security and civil defense,  
9 emergencies, or disasters or to the state's preparedness for or ability to mount a prompt  
10 response to matters concerning homeland security and civil defense, emergencies or  
11 disasters as the subcommittee determines appropriate in the performance of the  
12 subcommittee's powers and duties under AS 24.20.710 from

13                   (1) the Alaska division of homeland security and emergency  
14 management in the Department of Military and Veterans' Affairs;

15                   (2) the governor; or

16                   (3) other agencies or persons that perform activities relating to  
17 homeland security or civil defense, emergencies, or disasters in the state or to the  
18 state's preparedness for or ability to mount a prompt response to matters concerning  
19 homeland security and civil defense, emergencies, or disasters.

20                   **Sec. 24.20.720. Disclosure of information; confidentiality.** (a) A person or  
21 entity providing information under AS 24.40.715 may request confidential treatment  
22 of the information provided to the subcommittee by clearly identifying the information  
23 and the reasons supporting the request for confidential treatment. The subcommittee  
24 shall keep the information confidential until the subcommittee determines whether the  
25 requirements of (b) of this section are met. If the subcommittee has not made a  
26 determination under (b) of this section within 14 days after receiving a request for  
27 confidential treatment, the request is considered denied. If the subcommittee  
28 determines that the information does not meet the requirements of (b) of this section or  
29 if the subcommittee fails to make a determination within 14 days after receiving a  
30 request for confidential treatment, the subcommittee shall return the information and  
31 any copies of it at the request of the provider.

1 (b) If requested by a person or entity providing information under  
 2 AS 24.20.715, the information provided to the subcommittee shall be kept confidential  
 3 if the subcommittee determines, upon an adequate showing by the provider, that the  
 4 information

5 (1) is not subject to public disclosure under AS 40.25.100 - 40.25.220;

6 (2) is subject to a privilege recognized under the laws of this state,  
 7 whether at common law or by statute or by court rule; or

8 (3) is of such a nature that its disclosure would unreasonably interfere  
 9 in the exercise of powers or performance of duties or functions by

10 (A) the Department of Military and Veterans' Affairs under  
 11 AS 26.20.020;

12 (B) the Alaska division of homeland security and emergency  
 13 management in the Department of Military and Veterans' Affairs under  
 14 AS 26.20.025 or AS 26.23.040;

15 (C) the governor under AS 26.20.040 or AS 26.23.020.

16 (c) Information determined to be confidential under (b) of this section is  
 17 confidential under that subsection only so long as the reasons justifying the initial  
 18 determination of confidentiality under that subsection continue to exist. The  
 19 subcommittee may not release information that the subcommittee has previously  
 20 determined to be confidential under (b) of this section without providing the person or  
 21 entity providing the information notice and an opportunity to be heard.

22 (d) Notwithstanding the limitation in (c) of this section, information that is  
 23 determined to be confidential under (b) of this section may be disclosed by the  
 24 subcommittee to the subcommittee's staff, to other committees or legislators, or to the  
 25 staff of other committees or legislators. Information that is exchanged under this  
 26 subsection that was determined to be confidential under (b) of this section remains  
 27 confidential except as provided in (c) of this section. The portions of the records and  
 28 files of the other committees, legislators, or staff that reflect, incorporate, or analyze  
 29 information that is determined to be confidential under (b) of this section are not  
 30 public records. However, those portions may lose their confidential status as provided  
 31 in (c) of this section unless separately made confidential by another statute or other

1 law.

2 (e) Notwithstanding the limitation in (c) of this section, information that is  
 3 determined to be confidential under (b) of this section may be disclosed by the  
 4 subcommittee to employees or agents of the legislative audit division, the legislative  
 5 finance division, or the Legislative Affairs Agency. The portions of the records and  
 6 files of the employees or agents that reflect, incorporate, or analyze information that is  
 7 determined to be confidential under (b) of this section are not public records.  
 8 However, those portions may lose their confidential status as provided in (c) of this  
 9 section unless separately made confidential by another statute or other law. Before  
 10 confidential information is disclosed under this subsection, the person receiving the  
 11 information shall sign an appropriate confidentiality agreement if information received  
 12 by the person in the normal course of the person's employment is not already required  
 13 to be kept confidential by another statute or other law.

14 (f) Nothing in this section makes a record or file of the subcommittee or a  
 15 person or entity receiving information under (d) or (e) of this section a public record  
 16 that would not otherwise be a public record under AS 40.25.100 - 40.25.220.

17 **Sec. 24.20.725. Staff.** The Joint Armed Services Committee established  
 18 under AS 24.20.650 shall provide the subcommittee with professional and clerical  
 19 assistance. Individuals rendering assistance to the subcommittee under this section are  
 20 subject to the security clearance requirements established for members of the  
 21 subcommittee in AS 24.20.685(b).

22 **Sec. 24.20.730. Definitions.** In AS 24.20.680 - 24.20.730, "subcommittee"  
 23 means the Homeland Security and Emergency Management Subcommittee established  
 24 in AS 24.20.680.

25 \* **Sec. 3.** AS 26.20.010 is amended to read:

26 **Sec. 26.20.010. Policy and purpose.** (a) Because of the [NATIONAL  
 27 EMERGENCY AND THE] possibility of [DISASTERS OR EMERGENCIES  
 28 RESULTING FROM] enemy or terrorist attack, sabotage, or other hostile action  
 29 against or in the state, and in order to ensure [INSURE] adequate preparations for  
 30 attack [DISASTERS] or emergencies, and generally to provide for homeland  
 31 security and the common defense, it is found and declared to be necessary

1 (1) to provide for a state **homeland security and** civil defense agency  
 2 [, AND TO AUTHORIZE THE CREATION OF LOCAL ORGANIZATIONS FOR  
 3 CIVIL DEFENSE];

4 (2) to confer upon the governor [AND UPON THE EXECUTIVE  
 5 HEADS OF THE DISTRICTS OF THE STATE] the emergency powers provided in  
 6 this chapter;

7 (3) to provide for mutual aid **and cooperation** among the **state, local,**  
 8 **and private agencies** [DISTRICTS] of the state, with the other states of the United  
 9 States, [AND] with the federal government, **and with the provinces of another**  
 10 **country,** for carrying out **homeland security and** civil defense functions;

11 (4) to authorize the [ESTABLISHMENT OF ORGANIZATIONS  
 12 AND] taking of steps that are necessary and appropriate to carry out the provisions of  
 13 this chapter.

14 (b) It is further declared that the purpose of this chapter and the policy of the  
 15 state is that all **homeland security and** civil defense functions of this state be  
 16 coordinated to the maximum extent with the comparable functions of the federal  
 17 government, including its various departments and agencies, of the states of the United  
 18 States and localities, and of private agencies of every type, so that the most effective  
 19 preparation and use may be made of the state's manpower, resources, and facilities for  
 20 dealing with any **attack** [DISASTER] that occurs.

21 \* **Sec. 4.** AS 26.20.010 is amended by adding a new subsection to read:

22 (c) It is further declared that the purpose of this chapter and the policy of the  
 23 state is that all homeland security and civil defense functions of this state be  
 24 coordinated by and through the Department of Military and Veterans' Affairs, with the  
 25 cooperation and assistance of all state agencies.

26 \* **Sec. 5.** AS 26.20.020 is amended to read:

27 **Sec. 26.20.020. Homeland security and civil [CIVIL] defense powers of**  
 28 **the Department of Military and Veterans' Affairs.** (a) The Department of Military  
 29 and Veterans' Affairs is responsible for carrying out the provisions of this chapter  
 30 [AND, IN THE EVENT OF DISASTER OR EMERGENCY BEYOND LOCAL  
 31 CONTROL, MAY ASSUME DIRECT OPERATIONAL CONTROL OVER ALL OR

1 ANY PART OF THE CIVIL DEFENSE FUNCTIONS WITHIN THIS STATE].

2 (b) In performing its duties under this chapter, the department may

3 (1) issue, adopt, amend, and rescind the necessary orders and  
4 regulations to carry out this chapter, with consideration of the plans **and programs** of  
5 the federal government;

6 (2) prepare **and implement** [A] comprehensive **plans** [PLAN] and  
7 **programs** [PROGRAM] for the **homeland security and** civil defense of this state,  
8 **and coordinate with state agencies in the preparation and implementation of**  
9 **those plans and programs,** which shall be integrated into and coordinated with the  
10 **homeland security and** civil defense plans **and programs** of the federal government  
11 and of each state of the United States to the fullest possible extent, and coordinate the  
12 preparation **and implementation** of plans and programs for **homeland security and**  
13 civil defense by **political subdivisions and private agencies of** the [DISTRICTS OF  
14 THIS] state, which shall be integrated into and coordinated with the **homeland**  
15 **security and** civil defense **plans** [PLAN] and **programs** [PROGRAM] of this state to  
16 the fullest possible extent;

17 (3) ascertain the requirements of the state [OR THE DISTRICTS OF  
18 THE STATE] for food or clothing or other necessities of life in the event of attack and  
19 plan for and procure supplies, medicines, materials, and equipment, and use and  
20 employ any of the property, services, and resources within the state, for the purposes  
21 set **out** [FORTH] in this chapter; make surveys of the industries, resources, and  
22 facilities within the state that are necessary to carry out the purposes of this chapter;  
23 institute training programs and public information programs; [,] and take all other  
24 preparatory steps, including the partial or full mobilization of **homeland security,**  
25 civil defense, **and emergency** organizations **and personnel** in advance of actual  
26 **attack** [DISASTER], to ensure the furnishing of adequately trained and equipped  
27 [FORCES OF CIVIL DEFENSE] personnel **and adequate resources** in time of need;

28 (4) **coordinate** [COOPERATE] with the [PRESIDENT AND HEADS  
29 OF THE ARMED FORCES, AND THE CIVIL DEFENSE AGENCY OF THE  
30 UNITED STATES, AND WITH THE] officers and agencies of the **United States and**  
31 **the** states of the United States, in matters pertaining to the **homeland security and**

1 civil defense of the state and nation [AND THE INCIDENTS THEREOF; AND IN  
 2 THIS CONNECTION, TO TAKE ANY MEASURES THAT IT CONSIDERS  
 3 PROPER TO CARRY INTO EFFECT A REQUEST OF THE PRESIDENT AND  
 4 THE APPROPRIATE FEDERAL OFFICERS AND AGENCIES FOR ACTION  
 5 LOOKING TO CIVIL DEFENSE, INCLUDING THE DIRECTION OR CONTROL  
 6 OF

7 (A) BLACKOUTS AND PRACTICE BLACKOUTS, AIR  
 8 RAID DRILLS, MOBILIZATION OF CIVIL DEFENSE FORCES, AND  
 9 OTHER TESTS AND EXERCISES;

10 (B) WARNINGS AND SIGNALS FOR DRILLS OR  
 11 ATTACKS AND THE MECHANICAL DEVICES TO BE USED IN  
 12 CONNECTION WITH THEM;

13 (C) THE EFFECTIVE SCREENING OR EXTINGUISHING  
 14 OF LIGHTS AND LIGHTING DEVICES AND APPLIANCES;

15 (D) SHUTTING OFF WATER MAINS, GAS MAINS,  
 16 ELECTRIC POWER CONNECTIONS AND THE SUSPENSION OF  
 17 OTHER UTILITY SERVICES;

18 (E) THE CONDUCT OF CIVILIANS AND THE  
 19 MOVEMENT AND CESSATION OF MOVEMENT OF PEDESTRIANS  
 20 AND VEHICULAR TRAFFIC DURING, BEFORE, AND AFTER DRILLS  
 21 OR ATTACK;

22 (F) PUBLIC MEETINGS OR GATHERINGS; AND

23 (G) THE EVACUATION AND RECEPTION OF THE  
 24 CIVILIAN POPULATION];

25 (5) **exercise additional authority delegated by the governor to the**  
 26 **department** [TAKE ACTION AND GIVE DIRECTIONS TO STATE AND LOCAL  
 27 LAW ENFORCEMENT OFFICERS AND AGENCIES AS ARE REASONABLE  
 28 AND NECESSARY] to secure compliance with this chapter and with the orders and  
 29 regulations issued or adopted under this chapter;

30 (6) employ measures and give directions to the state or local  
 31 [BOARDS OF] health **agencies** as are reasonably necessary for the purpose of

1       securing compliance with this chapter or with the findings or recommendations of  
 2       state or local [BOARDS OF] health **agencies** due to conditions arising from  
 3       [ENEMY] attack or the threat of [ENEMY] attack [OR OTHERWISE];

4               (7) **obtain and** utilize the services, [AND] facilities, **and information**  
 5       of existing officers [,] and agencies of the state and of the **political subdivisions**  
 6       [DISTRICTS] of the state, whose duty it is to cooperate with and extend their services,  
 7       [AND] facilities, **and information** to the department as requested by it;

8               (8) [ESTABLISH AGENCIES AND OFFICES AND APPOINT  
 9       EXECUTIVE, TECHNICAL, CLERICAL, AND OTHER PERSONNEL  
 10       NECESSARY TO CARRY OUT THIS CHAPTER, INCLUDING, WITH  
 11       CONSIDERATION TO THE RECOMMENDATION OF THE LOCAL  
 12       AUTHORITIES, FULL TIME STATE AND DISTRICT DIRECTORS;

13              (9)] delegate authority vested in the department under this chapter, and  
 14       provide for the subdelegation of this authority;

15              (9) [(10)] sponsor and develop mutual aid **and cooperation** plans and  
 16       agreements **among** [BETWEEN] the **agencies** [DISTRICTS] of the state, **the political**  
 17       **subdivisions of the state, and private agencies and organizations;**

18              (10) [(11)] ESTABLISH DISTRICTS IN THE STATE AS ARE  
 19       NEEDED TO CARRY OUT THE PURPOSES AND INTENT OF THIS CHAPTER;

20              (12)] sell, lend, transfer, or deliver supplies or medicines to carry out  
 21       the policy and purposes set **out** [FORTH] in this chapter on terms and conditions that  
 22       the department considers reasonable;

23              (11) **participate in and conduct exercises to implement homeland**  
 24       **security plans and to prepare for a potential attack;**

25              (12) **advise the governor and the legislature on appropriate policy**  
 26       **of the state for matters of homeland security and civil defense; and**

27              (13) **coordinate with state agencies in providing a recommendation**  
 28       **to the governor for state action in response to changes in threats of attack** [, BUT  
 29       SUBJECT TO THE FOLLOWING:

30                           (A) MONEY DERIVED FROM THE SALE OF SUPPLIES  
 31       AND MEDICINES SHALL BE DEPOSITED IN A SPECIAL FUND,

1 WHICH SHALL BE USED BY THE DEPARTMENT TO REPLENISH AND  
2 PURCHASE THE NECESSARY SUPPLIES AND MEDICINES;

3 (B) A SALE UNDER THIS PARAGRAPH MAY NOT BE  
4 FOR AN AMOUNT BELOW 10 PER CENT OF THE REQUISITION COST  
5 UNLESS FIRST APPROVED BY THE DEPARTMENT].

6 \* **Sec. 6.** AS 26.20 is amended by adding a new section to read:

7 **Sec. 26.20.025. Creation and duties of the Alaska division of homeland**  
8 **security and emergency management.** (a) There is established in the department  
9 the Alaska division of homeland security and emergency management, possessing the  
10 powers and duties as set out in this section and as delegated by the adjutant general of  
11 the department.

12 (b) The Alaska division of homeland security and emergency management,  
13 with the concurrence and approval of the adjutant general of the department, shall  
14 prepare and maintain a state homeland security plan and keep it current. The plan may  
15 include provisions for

16 (1) investigation and assessment of threats from attack to persons,  
17 facilities, systems, infrastructure, and other property in this state;

18 (2) identification of geographical areas, municipalities, facilities,  
19 systems, infrastructure, or other property or persons especially vulnerable to an attack;

20 (3) prioritization of measures to protect persons, facilities, systems,  
21 infrastructure, and other property in the state from attack;

22 (4) organization of personnel, including chains of command, and other  
23 resources;

24 (5) coordination and deployment of personnel, including the organized  
25 militia, state and local agency personnel, and authorized volunteers, and other  
26 resources to protect persons, facilities, systems, infrastructure, and other property in  
27 the state from attack or to respond to an attack;

28 (6) assistance to local officials and private agencies in designing local  
29 and private security plans;

30 (7) coordination of federal, state, local, and private agencies' homeland  
31 security activities;

1 (8) coordination of the state homeland security plan with the state  
 2 emergency plan and with the homeland security and disaster plans of the federal  
 3 government;

4 (9) other planning, preventive, preparedness, response, and mitigation  
 5 measures designed to eliminate or reduce the threat or effect of an attack; and

6 (10) other actions necessary to carry out the purposes of this chapter.

7 (c) With the concurrence and approval of the adjutant general of the  
 8 department, the Alaska division of homeland security and emergency management  
 9 shall

10 (1) develop, coordinate, and maintain a prioritized list of critical  
 11 infrastructure in the state;

12 (2) determine requirements of the state and its political subdivisions  
 13 for food, medicine, clothing, and other necessities in the event of an attack;

14 (3) procure and pre-position personnel, supplies, medicines, materials,  
 15 and equipment;

16 (4) plan and make arrangements for the availability and use of private  
 17 facilities, services, and property and, if necessary and used, provide for payment for  
 18 use under terms and conditions agreed upon by the state and the other parties or as  
 19 provided under AS 26.20.045;

20 (5) establish a register of persons with types of training and skills  
 21 important in homeland security and emergency response functions;

22 (6) prepare, for issuance or adoption by the governor, orders,  
 23 proclamations, and regulations as necessary or appropriate in coping with attacks;

24 (7) cooperate with the federal government and public or private  
 25 agencies or entities in achieving the purposes of this chapter and in implementing  
 26 programs for homeland security, civil defense, and attack prevention, preparedness,  
 27 response, recovery, and mitigation;

28 (8) do other things necessary or proper for the implementation of this  
 29 chapter.

30 (d) The division has the additional powers and duties set out in AS 26.23.040.

31 \* **Sec. 7.** AS 26.20.030 is amended to read:

1           **Sec. 26.20.030. Reciprocal aid agreements with other governments. In**  
 2           **accordance with this chapter, the** [THE] governor may enter into reciprocal aid  
 3           agreements with other states, [AND WITH] the federal government, **and provinces**  
 4           [EITHER ON A STATEWIDE BASIS OR LOCAL DISTRICT BASIS OR WITH A  
 5           NEIGHBORING STATE OF THE UNITED STATES OR A PROVINCE] of a  
 6           foreign country. [THESE MUTUAL AID AGREEMENTS SHALL BE LIMITED  
 7           TO THE FURNISHING OR EXCHANGE OF FOOD, CLOTHING, MEDICINE,  
 8           AND OTHER SUPPLIES; ENGINEERING SERVICES; EMERGENCY HOUSING;  
 9           POLICE SERVICES; NATIONAL OR STATE GUARDS WHILE UNDER THE  
 10          CONTROL OF THE STATE; HEALTH, MEDICAL AND RELATED SERVICES;  
 11          FIRE FIGHTING, RESCUE, TRANSPORTATION, AND CONSTRUCTION  
 12          SERVICES AND EQUIPMENT; PERSONNEL NECESSARY TO PROVIDE OR  
 13          CONDUCT THESE SERVICES; AND OTHER SUPPLIES, EQUIPMENT,  
 14          FACILITIES, PERSONNEL, AND SERVICES THAT ARE NEEDED; THE  
 15          REIMBURSEMENT OF COSTS AND EXPENSES FOR EQUIPMENT, SUPPLIES,  
 16          PERSONNEL, AND SIMILAR ITEMS FOR MOBILE SUPPORT UNITS, FIRE-  
 17          FIGHTING UNITS, POLICE UNITS, AND HEALTH UNITS. THE AGREEMENTS  
 18          SHALL BE ON TERMS AND CONDITIONS THAT ARE CONSIDERED  
 19          NECESSARY.]

20          \* **Sec. 8.** AS 26.20.040 is amended to read:

21           **Sec. 26.20.040. Emergency powers of the governor.** In the event of actual  
 22          enemy **or terrorist** attack **in or** against the state, **or a credible threat of imminent**  
 23          **enemy or terrorist attack,** the governor may declare that a state of emergency exists,  
 24          and, during the period of time that the state of emergency exists or continues, the  
 25          governor has and may exercise the additional emergency power

26                   (1) to enforce all laws and regulations relating to **homeland security**  
 27                   **and** civil defense and assume direct operational control of all **homeland security and**  
 28                   civil defense forces and helpers in the state;

29                   (2) to seize, take, or condemn property **if, and only to the extent that,**  
 30                   **the governor determines that the property is needed** for the protection of the public  
 31                   [OR AT THE REQUEST OF THE PRESIDENT, THE ARMED FORCES OR THE

1 CIVIL DEFENSE AGENCY OF THE UNITED STATES], including

2 (A) [ALL MEANS OF] transportation and communication  
3 **equipment**, except newspapers and news services;

4 (B) [ALL STOCKS OF] fuel [OF WHATEVER NATURE];

5 (C) food, clothing, equipment, materials, medicines, and  
6 supplies; and

7 (D) facilities including buildings and plants;

8 (3) to sell, lend, give, or distribute the fuel, food, clothing, medicines,  
9 and supplies among the inhabitants of the state and account to the commissioner of  
10 revenue for funds received for the property;

11 (4) to make compensation for the property seized, taken, or condemned  
12 on the basis described in AS 26.20.045;

13 (5) **to suspend the provisions of a regulatory statute prescribing**  
14 **procedures for the conduct of state business or the order or regulation of a state**  
15 **agency if compliance with the provisions of the statute, order, or regulation**  
16 **would prevent, or substantially impede or delay, action necessary to cope with**  
17 **the emergency;**

18 **(6) to use all available resources of the state government and of**  
19 **each political subdivision of the state as reasonably necessary to cope with the**  
20 **emergency;**

21 **(7) to transfer personnel or alter the functions of state departments**  
22 **and agencies or units of them for the purpose of responding to or facilitating the**  
23 **response to the emergency;**

24 **(8)** to perform and exercise other functions, powers, and duties that are  
25 considered necessary to promote and secure the safety and protection of the civilian  
26 population.

27 \* **Sec. 9.** AS 26.20.040 is amended by adding new subsections to read:

28 (b) A state of emergency declared under (a) of this section may not remain in  
29 effect longer than 30 days unless extended by the legislature by law and may be  
30 terminated by law or withdrawal of the declaration.

31 (c) In this section, "credible threat of imminent enemy or terrorist attack"

1 means a threat of attack against persons or property in the state that the adjutant  
 2 general of the department or a designee of the adjutant general, in consultation with  
 3 the commissioner of public safety or a designee of the commissioner of public safety,  
 4 certifies to the governor has a high probability of occurring in the near future; the  
 5 certification must be based on specific information received from a local, state,  
 6 federal, or international agency, or another source that the adjutant general or the  
 7 designee of the adjutant general, in conjunction with the commissioner of public safety  
 8 or a designee of the commissioner of public safety, determines is reliable.

9 \* **Sec. 10.** AS 26.20.100 is amended to read:

10 **Sec. 26.20.100. Traffic control. In coordination with the Department of**  
 11 **Public Safety and the Department of Transportation and Public Facilities, the**  
 12 [THE] department may

13 **(1) formulate and execute plans and regulations for the control of**  
 14 **traffic for the rapid and safe movement of evacuation over public highways and streets**  
 15 **of people, troops, or vehicles and materials for homeland security and civil defense ;**  
 16 **and**

17 **(2) establish and operate checkpoints along private or public**  
 18 **roadways serving critical property or facilities in the state, at the direction of the**  
 19 **governor when the governor determines that a sufficiently high threat of enemy**  
 20 **or terrorist attack exists to warrant the action; the checkpoints established under**  
 21 **this paragraph may be in conjunction with closure of the roadway under**  
 22 **AS 19.10.100; operation of a checkpoint shall include the posting of checkpoint**  
 23 **signs in a manner that provides advance notice of the checkpoint so that persons**  
 24 **are afforded a reasonable opportunity to avoid the checkpoint by rerouting**  
 25 **travel; operation of a checkpoint shall be limited to enforcement of the roadway**  
 26 **closure or reasonable inspection of persons and vehicles for weapons, explosives,**  
 27 **chemicals, biological or biochemical agents, or other instruments capable of**  
 28 **causing widespread severe injury to persons or property** [NATIONAL DEFENSE  
 29 OR FOR USE IN A DEFENSE INDUSTRY, AND MAY COORDINATE THE  
 30 ACTIVITIES OF THE DEPARTMENTS OR AGENCIES OF THE STATE AND OF  
 31 THE DISTRICTS CONCERNED WITH PUBLIC HIGHWAYS AND STREETS, IN

1 A MANNER THAT WILL BEST CARRY OUT THOSE PLANS].

2 \* **Sec. 11.** AS 26.20.110 is amended to read:

3 **Sec. 26.20.110. Lease or loan of state property and transfer of personnel.**

4 Notwithstanding any inconsistent provision of law,

5 [(1)] whenever the governor considers it is in the public interest [,] and  
6 the urgency of the situation demands, the governor may

7 **(1)** [(A)] authorize a department or agency of the state to lease or lend,  
8 on the terms and conditions that the governor considers necessary to promote the  
9 public welfare and protect the interests of the state, real or personal property of the  
10 state government to the president, the heads of the armed forces, or to the **homeland**  
11 **security or** civil defense agency of the United States;

12 **(2)** [(B)] enter into an agreement on behalf of the state for the use or  
13 loan to any **political subdivision** [DISTRICT] of the state, on terms and conditions  
14 the governor considers necessary to promote the public welfare and protect the  
15 interests of the state, of real or personal property of the state government, or the  
16 temporary transfer or employment of personnel of the state government, to or by any  
17 **political subdivision** [DISTRICT] of the state [;

18 (2) THE DIRECTOR OF EACH DISTRICT OF THE STATE MAY

19 (A) ENTER INTO A CONTRACT OR LEASE WITH THE  
20 STATE, OR ACCEPT A LOAN, OR EMPLOY PERSONNEL, AND THE  
21 DISTRICT MAY EQUIP, MAINTAIN, UTILIZE, AND OPERATE THE  
22 PROPERTY AND EMPLOY NECESSARY PERSONNEL FOR THAT  
23 PURPOSE IN ACCORDANCE WITH THE PURPOSES FOR WHICH THE  
24 CONTRACT IS EXECUTED;

25 (B) DO ALL THINGS AND PERFORM ALL ACTS THAT  
26 THE GOVERNOR CONSIDERS NECESSARY TO CARRY OUT THE  
27 PURPOSE FOR WHICH THE CONTRACT IS MADE].

28 \* **Sec. 12.** AS 26.20.145 is amended to read:

29 **Sec. 26.20.145. Immunity of owners of public shelters.** A person owning or  
30 controlling real estate who voluntarily and without compensation permits the  
31 designation or use of the whole or part of the real estate for the purpose of sheltering

1 persons during an actual or practice attack **or homeland security or civil defense**  
 2 **emergency or practice drill** shall, together with the person's successors in interest, be  
 3 immune from suit for negligence arising out of the construction or maintenance of the  
 4 property causing the death of, or injury to, any person using the shelter during an  
 5 actual or practice attack **or homeland security or civil defense emergency or**  
 6 **practice drill**.

7 \* **Sec. 13.** AS 26.20.150 is amended to read:

8 **Sec. 26.20.150. Authority to accept services, gifts, grants, and loans.** (a)

9 Whenever the federal government or an agency or officer of the federal government  
 10 offers to the state [, OR THROUGH THE STATE TO A DISTRICT,] services,  
 11 equipment, supplies, materials, or funds by way of gift, grant, or loan, for **the purpose**  
 12 **[PURPOSES]** of **homeland security or** civil defense, the **department** [STATE  
 13 ACTING THROUGH THE GOVERNOR, OR THE DISTRICT, ACTING WITH  
 14 THE CONSENT OF THE GOVERNOR AND THROUGH ITS EXECUTIVE  
 15 OFFICER OR GOVERNING BODY,] may accept the offer and [UPON  
 16 ACCEPTANCE THE GOVERNOR OR THE EXECUTIVE OFFICER OR  
 17 GOVERNING BODY OF THE DISTRICT MAY AUTHORIZE AN OFFICER OF  
 18 THE STATE OR THE DISTRICT, AS THE CASE MAY BE, TO] receive the  
 19 services, equipment, supplies, materials, or funds on behalf of the state [OR THE  
 20 DISTRICT], subject to the terms of the offer and the regulations, if any, of the agency  
 21 making the offer.

22 (b) Whenever a person offers to the state [OR TO A DISTRICT] services,  
 23 equipment, supplies, materials, or funds by way of gift, grant, or loan, for purpose of  
 24 **homeland security or** civil defense, the **department** [STATE ACTING THROUGH  
 25 THE GOVERNOR, OR THE DISTRICT ACTING THROUGH ITS EXECUTIVE  
 26 OFFICER OR GOVERNING BODY,] may accept the offer and [UPON  
 27 ACCEPTANCE THE GOVERNOR OR THE EXECUTIVE OFFICER OR  
 28 GOVERNING BODY OF THE DISTRICT MAY AUTHORIZE AN OFFICER OF  
 29 THE STATE OR OF THE DISTRICT, AS THE CASE MAY BE, TO] receive the  
 30 services, equipment, supplies, materials, or funds on behalf of the state, [OR  
 31 DISTRICT, AND] subject to the terms of the offer.

1 \* **Sec. 14.** AS 26.20 is amended by adding a new section to read:

2           **Sec. 26.20.195. Federal regulation of homeland security.** The requirements  
3 of this chapter do not apply to facilities, aircraft, vessels, and other means and modes  
4 of transportation that are subject to federal homeland security requirements, including  
5 aviation security requirements at 49 C.F.R. Chapter XII Subchapter B, Part 1520 and  
6 Subchapter C, Parts 1540 - 1550 and maritime and land security requirements at 33  
7 C.F.R. Chapter 1 Subchapter H, Parts 101 - 106 and 49 C.F.R. Chapter XII Subchapter  
8 D, Parts 1570 - 1572.

9 \* **Sec. 15.** AS 26.20.200 is amended by adding new paragraphs to read:

10           (4) "attack" means the use of weapons, explosives, chemicals,  
11 biological or biochemical agents, or other instruments with the potential for major  
12 force or impact, with apparent intent to inflict widespread or severe injury to persons  
13 or property;

14           (5) "homeland security" means the detection, prevention, preemption,  
15 and deterrence of, protection from, and response to, attacks targeted at territory,  
16 population, or infrastructure in this state;

17           (6) "political subdivision" means

18                   (A) a municipality; or

19                   (B) another unit of local government;

20           (7) "private agency" means a for-profit or nonprofit corporation,  
21 unincorporated village, association, or other group or entity operating in the state.

22 \* **Sec. 16.** AS 26.23.020(g) is amended to read:

23           (g) In addition to any other powers conferred upon the governor by law, the  
24 governor may, under AS 26.23.010 - 26.23.220,

25           (1) suspend the provisions of any regulatory statute prescribing  
26 procedures for the conduct of state business, or the orders or regulations of any state  
27 agency, if compliance with the provisions of the statute, order, or regulation would  
28 prevent, or substantially impede or delay, action necessary to cope with the disaster  
29 emergency;

30           (2) use all available resources of the state government and of each  
31 political subdivision of the state as reasonably necessary to cope with the disaster

1 emergency;

2 (3) transfer personnel or alter the functions of state departments and  
3 agencies or units of them for the purpose of performing or facilitating the performance  
4 of disaster emergency services;

5 (4) subject to any applicable requirements for compensation under  
6 AS 26.23.160, commandeer or utilize any private property, except for all news media  
7 other than as specifically provided for in AS 26.23.010 - 26.23.220, if the governor  
8 considers this necessary to cope with the disaster emergency;

9 (5) direct and compel the relocation of all or part of the population  
10 from any stricken or threatened area in the state [,] if the governor considers relocation  
11 necessary for the preservation of life or for other disaster mitigation purpose;

12 (6) prescribe routes, modes of transportation, and destinations in  
13 connection with necessary relocation;

14 (7) control ingress to and egress from a disaster area, the movement of  
15 persons within the area, and the occupancy of premises in it;

16 (8) suspend or limit the sale, dispensing, or transportation of alcoholic  
17 beverages, [FIREARMS,] explosives, and combustibles;

18 (9) make provisions for the availability and use of temporary  
19 emergency housing;

20 (10) allocate or redistribute food, water, fuel, [OR] clothing, medicine,  
21 or supplies; and

22 (11) use money from the oil and hazardous substance release response  
23 account in the oil and hazardous substance release prevention and response fund,  
24 established by AS 46.08.010, to respond to a declared disaster emergency related to an  
25 oil or hazardous substance discharge.

26 \* **Sec. 17.** AS 26.23.040 is amended by adding a new subsection to read:

27 (g) The Alaska division of homeland security and emergency management has  
28 the additional powers and duties set out in AS 26.20.025.

29 \* **Sec. 18.** AS 26.23.210 is repealed and reenacted to read:

30 **Sec. 26.23.210. Relationship to homeland security and civil defense laws.**

31 (a) In the event of a conflict between this chapter and AS 26.20, including in the event

1 the governor declares a disaster under this chapter due to an attack or imminent threat  
2 of attack as described in AS 26.23.900(2), the provisions of this chapter shall govern.

3 (b) The provisions of AS 26.20.140, providing for immunity of government,  
4 employees, and other authorized persons in certain circumstances, apply when the  
5 entities or persons covered by AS 26.20.140 perform duties under AS 26.23.010 -  
6 26.23.220, except as otherwise provided in AS 26.23.136 for entities or other persons  
7 providing assistance to the state under a compact in a form substantially as contained  
8 in AS 26.23.136.

9 \* **Sec. 19.** AS 26.23.900(2) is amended to read:

10 (2) "disaster" means the occurrence or imminent threat of widespread  
11 or severe damage, injury, loss of life or property, or shortage of food, water, or fuel  
12 resulting from

13 (A) an incident such as storm, high water, wind-driven water,  
14 tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide,  
15 avalanche, snowstorm, prolonged extreme cold, drought, fire, flood, epidemic,  
16 explosion, or riot;

17 (B) the release of oil or a hazardous substance if the release  
18 requires prompt action to avert environmental danger or mitigate  
19 environmental damage; [OR]

20 (C) equipment failure if the failure is not a predictably frequent  
21 or recurring event or preventable by adequate equipment maintenance or  
22 operation;

23 **(D) enemy or terrorist attack or an imminent threat of**  
24 **enemy or terrorist attack in or against the state that the adjutant general**  
25 **of the Department of Military and Veterans' Affairs or a designee of the**  
26 **adjutant general, in consultation with the commissioner of public safety or**  
27 **a designee of the commissioner of public safety, certifies to the governor**  
28 **has a high probability of occurring in the near future; the certification**  
29 **must meet the standards of AS 26.20.040(c); in this subparagraph,**  
30 **"attack" has the meaning given under AS 26.20.200; or**

31 **(E) an outbreak of disease or an imminent threat of an**

1           **outbreak of disease that the commissioner of health and social services or**  
 2           **a designee of the commissioner of health and social services certifies to the**  
 3           **governor has a high probability of occurring in the near future; the**  
 4           **certification must be based on specific information received from a local,**  
 5           **state, federal, or international agency, or another source that the**  
 6           **commissioner or the designee determines is reliable;**

7           \* **Sec. 20.** AS 26.20.050, 26.20.060, 26.20.070, 26.20.080, 26.20.090, 26.20.120,  
 8           26.20.130, 26.20.160, 26.20.170, 26.20.180, 26.20.200(3); AS 26.23.030, and 26.23.900(4)  
 9           are repealed.

10          \* **Sec. 21.** AS 24.20.680, 24.20.685, 24.20.690, 24.20.695, 24.20.700, 24.20.705,  
 11          24.20.710, 24.20.715, 24.20.720, and 24.20.730, added by sec. 2 of this Act, are repealed  
 12          January 1, 2009.

13          \* **Sec. 22.** The uncodified law of the State of Alaska is amended by adding a new section to  
 14          read:

15                PREPARATION AND PRESENTATION OF PROPOSED LEGISLATION. If the  
 16          adjutant general of the Department of Military and Veterans' Affairs determines that  
 17          additional qualifications for membership on the Homeland Security and Emergency  
 18          Management Subcommittee established under AS 24.20.680, enacted by sec. 2 of this Act,  
 19          would significantly enhance the security of sensitive materials or information coming before  
 20          the subcommittee in the course of its business, the adjutant general shall

21                       (1) prepare a bill proposing amendments to AS 24.20.685, enacted by sec. 2 of  
 22          this Act, for consideration by the subcommittee; and

23                       (2) present the bill to the subcommittee not later than 30 days following the  
 24          convening of the First Regular Session of the Twenty-Fourth Alaska State Legislature.

25          \* **Sec. 23.** The uncodified law of the State of Alaska is amended by adding a new section to  
 26          read:

27                TRANSITION. Notwithstanding AS 24.20.690(a), enacted by sec. 2 of this Act, the  
 28          Homeland Security and Emergency Management Subcommittee established in AS 24.20.680,  
 29          enacted by sec. 2 of this Act, shall be organized for the first time within 15 days after the  
 30          effective date of this Act.

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

1 read:

2 REVISOR'S INSTRUCTIONS. (a) The revisor of statutes is instructed to change the  
3 heading of

4 (1) AS 26.20 from "Chapter 20. Civil Defense" to "Chapter 20. Homeland  
5 Security and Civil Defense";

6 (2) AS 26.23.040 from "Duties of the Alaska division of emergency services."  
7 to "Homeland security duties of the Alaska division of homeland security and emergency  
8 management."

9 (b) Wherever in the Alaska Statutes and the Alaska Administrative Code the term  
10 "division of emergency services," which is in the Department of Military and Veterans'  
11 Affairs, is used, it shall be read as the "division of homeland security and emergency  
12 management" when to do so would be consistent with the purpose of this Act.

13 (c) Under AS 01.05.031, the revisor of statutes shall implement this section in the  
14 statutes.

15 (d) Under AS 44.62.125(b)(6), the regulations attorney shall implement (b) of this  
16 section in the Alaska Administrative Code.

17 \* **Sec. 25.** This Act takes effect immediately under AS 01.10.070(c).