

CS FOR SENATE BILL NO. 385(JUD) am
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Amended: 4/28/04

Offered: 4/22/04

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 passing through the**
 27 **checkpoint for weapons, explosives, chemicals, biological or biochemical agents,**
 28 **or other instruments capable of causing widespread severe injury to persons or**
 29 **property; however, at a checkpoint authorized under this paragraph, a person is**
 30 **entitled to retain possession of an amount of deadly weapons or defensive**
 31 **weapons that is reasonably justifiable for the person's lawful use, so long as those**

1 **weapons are not prohibited weapons; in this paragraph, "deadly weapon" and**
 2 **"defensive weapon" have the meanings given in AS 11.81.900(b), and "prohibited**
 3 **weapon" has the meaning given in AS 11.61.200** [NATIONAL DEFENSE OR FOR
 4 USE IN A DEFENSE INDUSTRY, AND MAY COORDINATE THE ACTIVITIES
 5 OF THE DEPARTMENTS OR AGENCIES OF THE STATE AND OF THE
 6 DISTRICTS CONCERNED WITH PUBLIC HIGHWAYS AND STREETS, IN A
 7 MANNER THAT WILL BEST CARRY OUT THOSE PLANS].

8 * **Sec. 11.** AS 26.20.110 is amended to read:

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

10 Notwithstanding any inconsistent provision of law,

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

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

18 **(2)** [(B)] enter into an agreement on behalf of the state for the use or
 19 loan to any **political subdivision** [DISTRICT] of the state, on terms and conditions
 20 the governor considers necessary to promote the public welfare and protect the
 21 interests of the state, of real or personal property of the state government, or the
 22 temporary transfer or employment of personnel of the state government, to or by any
 23 **political subdivision** [DISTRICT] of the state [;

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

25 (A) ENTER INTO A CONTRACT OR LEASE WITH THE
 26 STATE, OR ACCEPT A LOAN, OR EMPLOY PERSONNEL, AND THE
 27 DISTRICT MAY EQUIP, MAINTAIN, UTILIZE, AND OPERATE THE
 28 PROPERTY AND EMPLOY NECESSARY PERSONNEL FOR THAT
 29 PURPOSE IN ACCORDANCE WITH THE PURPOSES FOR WHICH THE
 30 CONTRACT IS EXECUTED;

31 (B) DO ALL THINGS AND PERFORM ALL ACTS THAT

1 THE GOVERNOR CONSIDERS NECESSARY TO CARRY OUT THE
2 PURPOSE FOR WHICH THE CONTRACT IS MADE].

3 * **Sec. 12.** AS 26.20.145 is amended to read:

4 **Sec. 26.20.145. Immunity of owners of public shelters.** A person owning or
5 controlling real estate who voluntarily and without compensation permits the
6 designation or use of the whole or part of the real estate for the purpose of sheltering
7 persons during an actual or practice attack **or homeland security or civil defense**
8 **emergency or practice drill** shall, together with the person's successors in interest, be
9 immune from suit for negligence arising out of the construction or maintenance of the
10 property causing the death of, or injury to, any person using the shelter during an
11 actual or practice attack **or homeland security or civil defense emergency or**
12 **practice drill**.

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

14 **Sec. 26.20.150. Authority to accept services, gifts, grants, and loans.** (a)
15 Whenever the federal government or an agency or officer of the federal government
16 offers to the state [, OR THROUGH THE STATE TO A DISTRICT,] services,
17 equipment, supplies, materials, or funds by way of gift, grant, or loan, for **the purpose**
18 [PURPOSES] of **homeland security or** civil defense, the **department** [STATE
19 ACTING THROUGH THE GOVERNOR, OR THE DISTRICT, ACTING WITH
20 THE CONSENT OF THE GOVERNOR AND THROUGH ITS EXECUTIVE
21 OFFICER OR GOVERNING BODY,] may accept the offer and [UPON
22 ACCEPTANCE THE GOVERNOR OR THE EXECUTIVE OFFICER OR
23 GOVERNING BODY OF THE DISTRICT MAY AUTHORIZE AN OFFICER OF
24 THE STATE OR THE DISTRICT, AS THE CASE MAY BE, TO] receive the
25 services, equipment, supplies, materials, or funds on behalf of the state [OR THE
26 DISTRICT], subject to the terms of the offer and the regulations, if any, of the agency
27 making the offer.

28 (b) Whenever a person offers to the state [OR TO A DISTRICT] services,
29 equipment, supplies, materials, or funds by way of gift, grant, or loan, for purpose of
30 **homeland security or** civil defense, the **department** [STATE ACTING THROUGH
31 THE GOVERNOR, OR THE DISTRICT ACTING THROUGH ITS EXECUTIVE

1 OFFICER OR GOVERNING BODY,] may accept the offer and [UPON
 2 ACCEPTANCE THE GOVERNOR OR THE EXECUTIVE OFFICER OR
 3 GOVERNING BODY OF THE DISTRICT MAY AUTHORIZE AN OFFICER OF
 4 THE STATE OR OF THE DISTRICT, AS THE CASE MAY BE, TO] receive the
 5 services, equipment, supplies, materials, or funds on behalf of the state, [OR
 6 DISTRICT, AND] subject to the terms of the offer.

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

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

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

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

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

23 (6) "political subdivision" means

24 (A) a municipality; or

25 (B) another unit of local government;

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

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

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

31 (1) suspend the provisions of any regulatory statute prescribing

1 procedures for the conduct of state business, or the orders or regulations of any state
2 agency, if compliance with the provisions of the statute, order, or regulation would
3 prevent, or substantially impede or delay, action necessary to cope with the disaster
4 emergency;

5 (2) use all available resources of the state government and of each
6 political subdivision of the state as reasonably necessary to cope with the disaster
7 emergency;

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

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

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

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

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

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

24 (9) make provisions for the availability and use of temporary
25 emergency housing;

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

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

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

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

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

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

6 (a) In the event of a conflict between this chapter and AS 26.20, including in the event
7 the governor declares a disaster under this chapter due to an attack or imminent threat
8 of attack as described in AS 26.23.900(2), the provisions of this chapter shall govern.

9 (b) The provisions of AS 26.20.140, providing for immunity of government,
10 employees, and other authorized persons in certain circumstances, apply when the
11 entities or persons covered by AS 26.20.140 perform duties under AS 26.23.010 -
12 26.23.220, except as otherwise provided in AS 26.23.136 for entities or other persons
13 providing assistance to the state under a compact in a form substantially as contained
14 in AS 26.23.136.

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

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

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

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

26 (C) equipment failure if the failure is not a predictably frequent
27 or recurring event or preventable by adequate equipment maintenance or
28 operation;

29 **(D) enemy or terrorist attack or an imminent threat of**
30 **enemy or terrorist attack in or against the state that the adjutant general**
31 **of the Department of Military and Veterans' Affairs or a designee of the**

1 adjutant general, in consultation with the commissioner of public safety or
 2 a designee of the commissioner of public safety, certifies to the governor
 3 has a high probability of occurring in the near future; the certification
 4 must meet the standards of AS 26.20.040(c); in this subparagraph,
 5 "attack" has the meaning given under AS 26.20.200; or

6 (E) an outbreak of disease or an imminent threat of an
 7 outbreak of disease that the commissioner of health and social services or
 8 a designee of the commissioner of health and social services certifies to the
 9 governor has a high probability of occurring in the near future; the
 10 certification must be based on specific information received from a local,
 11 state, federal, or international agency, or another source that the
 12 commissioner or the designee determines is reliable;

13 * **Sec. 20.** AS 26.20.050, 26.20.060, 26.20.070, 26.20.080, 26.20.090, 26.20.120,
 14 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)
 15 are repealed.

16 * **Sec. 21.** AS 24.20.680, 24.20.685, 24.20.690, 24.20.695, 24.20.700, 24.20.705,
 17 24.20.710, 24.20.715, 24.20.720, and 24.20.730, added by sec. 2 of this Act, are repealed
 18 January 1, 2009.

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

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

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

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

31 * **Sec. 23.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

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

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

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

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

12 (2) AS 26.23.040 from "Duties of the Alaska division of emergency services."
13 to "Homeland security duties of the Alaska division of homeland security and emergency
14 management."

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

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

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

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