

SB

385



# Alaska State Legislature

## House of Representatives



Official Business

### COMMITTEE ON RULES Representative Norman Rokeberg, Chairman

State Capitol, Rm. 214  
Juneau, Ak 99801-1182  
(907) 465-3764

#### MEMORANDUM

TO: LAA Legal Fax: 2029  
FROM: Janet Seitz, House Rules *JS*  
DATE: May 6, 2004  
RE: SB 385 *inferred*

Please prepare a House CS for the above as follows:

These amendments are to CSSB 385 (JUD) am:

Amendment #1 as follows (2 pages): SA.11 with technical amendment to page 2, line 3 "made" to "make"

Amendment #2 as follows (3 pages) SA.9 with technical amendment to page 1, line 8, "AS 24" to "AS 26"

Amendment #3 was withdrawn

Amendment #4 as follows (1 page)

Amendment #5 as follows (1 page) (ignore the handwritten information)

This bill will probably be scheduled for Saturday's floor session but we would like to have by tomorrow morning to read across in committee reports.

Thank you.

*Spiegel*

5/6/04  
Kott moved  
Bakavith tech. amend p 2  
Adopted.

23-LS1907\SA.11  
Crawford  
5/6/04

AMENDMENT #1

OFFERED IN THE HOUSE

TO: CSSB 385(JUD) am

*Withdrawn  
Bakavith: conceptual  
Resps. help to coordinate  
comm. instructions  
can occur across the  
state*

1 Page 1, line 12:

2 Delete "sec. 20"

3 Insert "sec. 22"

4

5 Page 21, following line 3:

6 Insert new bill sections to read:

7 **\*\* Sec. 18.** AS 26.23.170 is amended to read:

8 **Sec. 26.23.170. Communications.** The Department of Military and  
9 Veterans' Affairs [ALASKA DIVISION OF EMERGENCY SERVICES] shall  
10 ascertain what means exist for rapid and efficient communications in times of disaster  
11 emergency. The department [DIVISION] shall consider the desirability of  
12 supplementing these communications resources, or of integrating them into a  
13 comprehensive state or state-federal telecommunications network or other  
14 communication system or network. In studying the character and feasibility of any  
15 system or its several parts, the department [DIVISION] shall evaluate the possibility  
16 of multi-purpose use of it or its parts for general state and local governmental  
17 purposes. The department [DIVISION] shall make recommendations to the governor  
18 as appropriate.

19 **\* Sec. 19.** Sec. 26.23.170 is amended by adding a new subsection to read:

20 (b) A statewide 911 coordinator is established within the Department of  
21 Military and Veterans' Affairs to coordinate and facilitate the implementation of 911  
22 systems throughout the state. The 911 coordinator shall

23 (1) participate in efforts to set uniform statewide standards for

1 automatic number identification and automatic location identification data  
2 transmission for telecommunications systems;  
3 (2) ~~made~~ <sup>make</sup> recommendations as necessary for implementation of basic  
4 and enhanced 911 service."  
5  
6

7 Renumber the following bill sections accordingly.  
8

9 Page 23, line 5:

10 Delete "this Act"

11 Insert "this section"  
12

13 Page 23, following line 22:

14 ✓ Insert a new bill section to read:

15 "\* **Sec. 27.** Section 19 of this Act takes effect March 1, 2005."  
16

17 Renumber the following bill section accordingly.  
18

19 Page 23, line 23:

20 ✓ Delete "This Act"

21 Insert "Except as provided in sec. 27 of this Act, this Act"

5/6/04

Let moved & amended  
~~am to am #2~~ ~~Bob's subject~~ withdrawn

23-LS1907\SA.9  
Finley/Crawford  
5/5/04

Adopted

AMENDMENT #2

OFFERED IN THE HOUSE

BY REPRESENTATIVE

TO: CSSB 385(JUD) am

1 Page 2, line 4, through page 7, line 24:

2 Delete all material and insert:

3 **\*\* Sec. 2.** AS 24.20 is amended by adding a new section to article 5 to read:

4 **Sec. 24.20.680. Legislative <sup>oversight</sup> review.** (a) The president of the senate and the  
 5 speaker of the house of representatives shall appoint members or committees of the  
 6 senate and the house, respectively, to ~~review~~ <sup>oversee</sup> confidential activities, plans, reports,  
 7 recommendations, and other materials of the Alaska division of homeland security and  
 8 emergency management established in AS ~~24.20.025~~ <sup>6</sup>, or of other agencies or persons, <sup>← technical</sup>  
 9 relating to matters concerning homeland security and civil defense, emergencies, or <sup>amend.</sup>  
 10 disasters in the state or to the state's preparedness for or ability to mount a prompt  
 11 response to matters concerning homeland security and civil defense, emergencies, or  
 12 disasters. In making appointments under this subsection, each presiding officer shall  
 13 ensure that the political party membership of the members appointed by that presiding  
 14 officer is proportional to the political party membership of the house of the legislature  
 15 over which the officer presides.

16 (b) To be eligible for appointment under (a) of this section, a member shall  
 17 have a federal security clearance at the secret level at the time of appointment or shall  
 18 have an interim security clearance at the secret level at the time of appointment and  
 19 shall apply for and receive a federal security clearance at the secret level. Members  
 20 holding a federal security clearance at the secret level at the time of appointment or  
 21 receiving the clearance following appointment shall maintain the federal security  
 22 clearance at the secret level to remain qualified to serve in appointed status.

23 (c) The president of the senate and the speaker of the house of representatives

1        may condition the appointment of members under (a) of this section upon the  
 2        execution of appropriate confidentiality agreements by the members or by persons  
 3        assisting those members. Information and documents received by appointed members  
 4        or persons assisting appointed members under a confidentiality agreement as  
 5        described in this subsection are not public records and are not subject to public  
 6        disclosure under AS 40.25.100 - 40.25.220.

7            (d) Appointed members who remain qualified under (b) of this section serve  
 8        for the duration of the legislature during which the members are appointed. If a  
 9        member is reelected or a member's term of office extends into the next succeeding  
 10       legislature and the member remains qualified under (a) and (b) of this section, the  
 11       member shall continue to serve until reappointed or the appointment of the member's  
 12       successor.

13           (e) When a member appointed under (a) of this section files a declaration of  
 14        candidacy for an elective office other than that of member of either house of the  
 15        legislature, and the member has not resigned from appointed status, the member's  
 16        appointed status terminates on the date that the member leaves legislative office."  
 17

18        Page 22, line 16, through page 23, line 5:

19            Delete all material and insert: ✓

20            **"\* Sec. 21.** AS 24.20.680 is repealed January 1, 2009. ✓

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

23            PREPARATION AND PRESENTATION OF PROPOSED LEGISLATION. If the  
 24        adjutant general of the Department of Military and Veterans' Affairs determines that  
 25        additional qualifications for appointment under AS 24.20.680, added by sec. 2 of this Act,  
 26        would significantly enhance the security of sensitive materials or information to be reviewed  
 27        under AS 24.20.680, the adjutant general shall prepare a bill proposing amendments to  
 28        AS 24.20.680, enacted by sec. 2 of this Act, for consideration by each house of the legislature,  
 29        and shall deliver the bill to the Secretary of the Alaska State Senate and the Chief Clerk of the  
 30        Alaska State House of Representatives not later than 30 days following the convening of the  
 31        First Regular Session of the Twenty-Fourth Alaska State Legislature.

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

3           INITIAL APPOINTMENT. The President of the Alaska State Senate and the Speaker  
4 of the Alaska State House of Representatives shall make the appointments required under  
5 AS 24.20.680, enacted by sec. 2 of this Act, within 15 days after the effective date of this  
6 Act."

5/6/04  
Kertula moved  
Withdrawn

OK *[Signature]*

23-LS1907SA.10  
Crawford  
5/5/04

OK Bruce  
Weyhrauch  
by SA

AMENDMENT

#3

OK Jive DMVA

TO: CSSB 385(JUD) am

- 1 Page 19, line 8:
- 2 Delete "The"
- 3 Insert "To the extent preempted by federal law[or, in the absence of federal law
- 4 preemption, if and to the extent requested by authorized federal authorities, the"

B. strike everything after law line 3

5/6/04

Kerttula moved  
~~DKR objected~~  
adopted

Amendment 4 to CSSB 385 (JUD)

OK JUD

OK Bruce  
Weyhrauch  
by GA

OK Jue  
DMW

1. Page 11, line 28 - delete "threat of attacks" and insert "threat levels" ✓
2. Page 12, line 16 - delete "threats from attack" and insert "attack threats" ✓
3. Page 13, line 4 - delete "preventive" and insert "prevention" ✓
4. Page 21, lines 7-8 - delete "imminent threat of attack" and insert "a credible threat of imminent enemy or terrorist attack" ✓
5. Page 21, line 29 - delete "an imminent" and insert "a credible" ✓  
Page 21, line 30 - before "enemy" insert "imminent" ✓
6. Page 22, line 6 - delete "an imminent threat of" and insert "a credible threat of an imminent" ✓

5/6/04  
Kerttula moved  
adopted

AMENDMENT # 5

OK [Signature]  
OK Bruce  
Weybrauch  
by GA

TO: CSSB 385 (JUD) am

Page 16, lines 24-25

Delete "avoid the checkpoint by rerouting travel;"

Insert "turn around without passing through the checkpoint;"

OK  
DNC  
DMVA

EB: constitutional

MG: work to cure any constitutional problems  
will check w / AG + legal counsel's office

Order SB385  
amended  
w/ attach 1/2

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSSB 385(HES)  
 (S) Publish Date: 4/8/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Military & Veterans' Affair  
 Title An act relating to homeland security BRU Homeland Security & Emergency Serv  
 Component Homeland Security & Emergency Serv  
 Sponsor Senator Fred Dyson  
 Requester Military & Veterans' Affairs Component No. 2657

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	0.0	*	*	*	*	*
Travel	0.0	*	*	*	*	*
Contractual	0.0	*	*	*	*	*
Supplies	0.0	*	*	*	*	*
Equipment	0.0	*	*	*	*	*
Land & Structures	0.0	*	*	*	*	*
Grants & Claims	0.0	*	*	*	*	*
Miscellaneous	0.0	*	*	*	*	*
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	0.0	*	*	*	*	*
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<b>CHANGE IN REVENUES ( )</b>	0.0	*	*	*	*	*
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	0.0	*	*	*	*	*
1003 GF Match	0.0	*	*	*	*	*
1004 GF	0.0	*	*	*	*	*
1005 GF/Program Receipts	0.0	*	*	*	*	*
1037 GF/Mental Health	0.0	*	*	*	*	*
Other (Specify Type--Do not abbreviate)	0.0	*	*	*	*	*
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time	0.0	*	*	*	*	*
Part-time	0.0	*	*	*	*	*
Temporary	0.0	*	*	*	*	*

**ANALYSIS:** (Attach a separate page if necessary)

The department strongly supports this legislation. It is needed for implementation for Homeland Security programs. Implementation will have no fiscal impact to the Department of Military & Veterans' Affairs.

Prepared by: John Cramer, Director  
 Division: Administrative Services  
 Approved by: Commissioner Craig Campbell  
 Agency: Department of Military & Veterans' Affairs

Phone (907) 465-4602  
 Date/Time 4/5/04 2:07 PM  
 Date 4/5/2004



## SENATOR FRED DYSON

### SPONSOR STATEMENT CSSB 385 (JUD)

*(Homeland security, civil defense, emergencies, and disasters)*

Updated 4-26-04 Contact: Office of Senator Fred Dyson

The primary purposes of the legislation are (1) to amend existing civil defense statutes to update them for homeland security purposes; (2) to amend existing disaster statutes to make them applicable to homeland security and outbreaks of disease, (3) to combine two divisions in the Department of Military and Veterans Affairs into a single Division of Homeland Security and Emergency Management; and (4) to establish the Homeland Security and Emergency Management Subcommittee as a legislative subcommittee of the Joint Armed Services Committee.

The civil defense chapter in the DMVA statutes, AS 26.20, was enacted in 1951 during the cold war. The bill updates this chapter to make it relevant to homeland security. It specifies that DMVA shall coordinate homeland security and civil defense functions in the state in cooperation with and with assistance from other state agencies. It authorizes DMVA to undertake certain homeland security planning and preparedness activities. It also repeals obsolete and potentially far-reaching civil defense powers and requirements.

The bill authorizes the Governor to declare an emergency to exercise specified emergency powers in the event of a terrorist attack or a credible threat of imminent attack in the state. "Credible threat" requires certification by the commissioner of DMVA, in consultation with the commissioner of the Department of Public Safety and based on specific reliable information, that there is a high probability of attack in the near future. It also authorizes the Governor to declare a disaster and exercise the Governor's disaster powers in the event of an attack or imminent threat of attack, or an outbreak of disease or an imminent threat of an outbreak, again requiring certification of the threat. Such declarations are effective for a maximum of 30 days, and the legislature also may terminate the declared emergency or disaster at any time by law.

The bill also authorizes DMVA, in coordination with DPS and the Department of Transportation and Public Facilities, to establish checkpoints along roadways serving critical property or facilities in the state (such as oil pipelines), at the direction of the Governor. This provision strikes a balance between civil liberties and important homeland security concerns. It limits checkpoints to inspection of persons and vehicles for explosives or other instruments capable of causing widespread severe injury, and it applies only to those passing the checkpoints and not to those choosing to turn around. The checkpoints can be established only when the Governor determines that a sufficiently high threat of attack exists to warrant such action (for example, when the federal homeland security threat level is raised to high or extreme). The

Governor need not wait until there is a high probability of an attack in the state, as would be required for a declaration of a homeland security emergency or a disaster.

The bill consolidates DMVA's Division of Emergency Services and its Division of Homeland Security into a single division, the Division of Homeland Security and Emergency Management. Finally, the bill establishes a new Homeland Security and Emergency Management Subcommittee, a subcommittee of the legislature's Joint Armed Services Committee to review on state activities, plans, recommendations, and other materials relating to homeland security and civil defense, emergencies, and disasters, and to report back to the legislature as necessary. The subcommittee is authorized to obtain information from state agencies relating to these matters, and members of the subcommittee must have or obtain federal security clearance at the secret level.



## SENATOR FRED DYSON

### SECTIONAL ANALYSIS CSSB 385 (JUD)

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

Updated 4/26/04 Contact: Office of Senator Fred Dyson

The primary purposes of the legislation are (1) to amend the existing civil defense chapter of the military affairs and veterans statutes (AS 26.20) to update it for homeland security purposes; (2) to amend provisions of the existing disaster chapter (AS 26.23) to make it applicable to attacks and outbreaks of disease, (3) to combine two divisions in the Department of Military and Veterans Affairs (Division of Emergency Services and Division of Homeland Security) into a single division (Division of Homeland Security and Emergency Management); and (4) to establish as a statutory subcommittee the Homeland Security and Emergency Management Subcommittee as a legislative subcommittee of the Joint Armed Services Committee.

- Section 1 states the bill's purpose of furthering the consolidation of DMVA's Division of Emergency Services and its Division of Homeland Security into a single division, the Division of Homeland Security and Emergency Management.

- Sections 2 and 23 establish a new Homeland Security and Emergency Management Subcommittee as a subcommittee of the Joint Armed Services Committee of the legislature. The subcommittee may review state activities, plans, and materials relating to homeland security, emergencies, and disasters. It shall prepare a report to each legislature and may provide additional reports and recommendations on these matters. The subcommittee may request information from the Division of Homeland Security and Emergency Management, the Governor, and other agencies or persons. Subcommittee members must have or obtain federal security clearance at the secret level to enable their receipt of classified information. The bill includes procedures for keeping information confidential. Section 21 is a sunset provision terminating the subcommittee on January 1, 2009.

- Sections 3, 5, 8, 10, 11, 12, 13, and 24 update existing statutes to make them applicable to homeland security as well as to civil defense activities. The present civil defense chapter, AS 26.20, was enacted in 1951 during the cold war. Including "homeland security" updates this chapter to reflect current homeland security concerns. The overall scope of AS 26.20 is not significantly expanded, since "civil defense" presently is defined to include "the protection and defense of the civilian population by the organized efforts of the residents of the state other than those in the military service."

- Section 4 declares the purpose of AS 26.20 and the policy of the state that all homeland security and civil defense functions in the state be coordinated by DMVA, with the cooperation and assistance of all state agencies.

- Section 5 contains similar coordination and cooperation provisions and specific statutory authority for the preparation and implementation of homeland security plans. It authorizes DMVA to advise the Governor and the legislature on homeland security and civil defense and to coordinate state agencies in providing recommendations to the Governor for response as threats of attack change. Section 5 also repeals existing statutory authority authorizing DMVA to "assume direct operational control," to "give directions to state and local law enforcement officers and agencies," and to "take any measures that it considers proper" in response to a request from the president. Finally, in the event the Governor delegates additional authority to DMVA in a disaster or homeland security emergency, section 5 authorizes DMVA to exercise such additional authority as may be delegated by the Governor.

- Section 6 establishes in statute the homeland security duties of the Division of Homeland Security and Emergency Management.

- Section 8 authorizes the Governor to declare an emergency and exercise existing powers under AS 26.20 in the event of a "credible threat of imminent attack," without having to wait for an actual attack, as is presently required. Section 8 also adds to the Governor's homeland security emergency powers certain powers presently available in a declared disaster.

- Section 9 defines "credible threat of imminent attack," which triggers the Governor's emergency powers. It requires certification by the commissioner of DMVA, in consultation with the commissioner of the Department of Public Safety, that a threat has a high probability of occurring in the near future, based on specific reliable information. Section 9 also authorizes provides that a declared homeland security emergency may not remain in effect more than 30 days unless extended by the legislature, and authorizes the legislature to terminate a declared homeland security emergency at any time by law.

- Section 10 amends the existing traffic control statute to authorize DMVA, in coordination with DPS and DOT&PF, to establish checkpoints along roadways serving critical property or facilities in the state (such as oil pipelines), at the direction of the Governor. This provision strikes a balance between civil liberties and important homeland security concerns. It limits checkpoints to inspection of persons and vehicles for explosives or other instruments capable of causing widespread severe injury, and it applies only to those passing the checkpoints and not to those choosing to turn around. The checkpoints can be established only when the Governor determines that a sufficiently high threat of attack exists to warrant such action (for

example, when the federal homeland security threat level is raised to high or extreme). The Governor need not wait until there is a high probability of an attack in the state, as would be required for a declaration of a homeland security emergency or a disaster.

- Section 14 makes it clear, to avoid confusion to regulated industries or the public, that state homeland security requirements do not apply to facilities, aircraft, vessels, and other means and modes of transportation that are subject to federal homeland security requirements, including specified aviation security requirements and maritime and land security requirements.
- Section 15 adds new definitions to the homeland security and civil defense chapter, including definitions of “attack” (meaning “the use of weapons, explosives, chemicals, biological or biochemical agents, or other instruments with the potential for major force or impact, with apparent intent to inflict widespread or severe injury to persons or property”) and “homeland security” (meaning “the detection, prevention, preemption, and deterrence of, protection from, and response to, attacks targeted at territory, population, or infrastructure in this state”).
- Section 16 authorizes the Governor to allocate or redistribute medicine and other supplies in the event of a disaster, which adds to the Governor’s existing authority to allocate or redistribute food, water, fuel and clothing in the event of a disaster.
- Section 17 adds a cross-reference to the Alaska disaster statutes, cross-referencing the civil defense and homeland security functions of the Division of Homeland Security and Emergency Management.
- Section 18 states the relationship of AS 26.20 (homeland security and civil defense) and AS 26.23 (disasters). The Governor may find it necessary to declare a disaster emergency under AS 26.23 in the event of an attack or an imminent threat of an attack. If so, this section makes it clear statutes in AS 26.23 shall govern if a conflict arises between statutes in AS 26.20 and statutes in AS 26.23.
- Section 19 authorizes the Governor to declare a disaster and to exercise the Governor’s disaster management powers in the event of an attack or imminent threat of attack or in the event of an outbreak of disease or an imminent threat of an outbreak of disease, requiring certification of the threat from the appropriate commissioners.
- Sections 3, 5, 7, 11, 13, and 20 repeal several existing statutory provisions that are obsolete and that could be viewed as giving the government unnecessary and potentially overreaching powers. These include provisions (1) authorizing the establishment of local civil defense districts, with authority to issue orders and adopt regulations (districts have not been

established and would create an unnecessary bureaucracy); (2) providing that civil defense orders and regulations adopted by the Governor, DMVA, local districts, and other authorized agencies have the "effect of law"; (3) automatically suspending conflicting laws, ordinances or regulations; (4) directing the federal government and local law enforcement to enforce civil defense orders and regulations; (5) requiring a loyalty oath from civil defense personnel; and (6) prohibiting civil defense organizations from participating in any form of political activity.

*From: House State  
Affairs Referral  
File*

Sec. 1:

What is the rationale for converting "emergency services" into "emergency management"? The term "Emergency Management" is broader based and fits all of functions we currently do while "Emergency Services" describes a narrow perspective of a first responder. This has long confused the local jurisdictions as most think of this title as "Emergency Medical Services". Additionally the overwhelming majority of States use the term "Emergency Management" in the title of their organizations.

What type of emergency is the division in charge of? Does it manage emergencies? If so, where and under what circumstances? Section 1 relates only to purpose and what types of emergencies we are in charge of are covered within AS 26.20 and this law is only the Civil Defense portion.

Sec 2:

Why establish a Legislative subcommittee in statute? Why is the selection process so cumbersome?

What are the requirements of a federal security clearance or interim security clearance?

Page 4: Powers and Duties of Legislative committee: how does this committee determine ability to mount prompt response "to emergencies or disasters"

- what about forest fires (urban interface leading threat to communities)
- what about oil spills
- What happens to the State Emergency Response Commission — it has the same responsibility
- Does committee review other departments' emergency plans in addition to DMVA? DNR, DEC, Econ, etc?

Page 5, line 5: what is a subcommittee of a permanent interim committee?

- Requests for Information: vague scope of authority, interesting to be able to request info from the Gov in addition to state departments
- New Sec. at line 20: can you decipher this? A lot of "it's"
- Consider how this section relates to the "secret" security clearance needed by committee members? Why is this level of "managing" secrets needed? What, if anything, could the com do if it had secret or confidential information?
- Page 7, line 17: how will the committee get staff that meet security clearance? What does it take! cost to administer management of security clearances?

Simply this section was added at the request of various Senators to create a body that has the ability to receive and review classified and sensitive information relative to HLS matters. The concern was this Division had to be able report on accomplishments made with the funding provided through legislative appropriation that may be sensitive. They further added language to provide the ability for the legislature to react quickly with necessary support as needed.

Sec. 5:

See page 9, line 28: note the frequent use of the term "coordinate" ... who is in charge? If a terror act is a crime, why isn't I in charge along with fed police agencies? Remember Exxon Valdez response — in those days DEC "coordinated" now they are statutorily mandated as the Lead state agency on oil & hazmat incidents / spills. Also, DNR is Lead state agency for tire suppression.

The DPS was fully involved in the development and revision of this bill to include this section and has no problem with the content. Coordination is allowed to give the Governor the ability to task those necessary as the Governor is who is in charge under a Unified Command Structure which is fully understood and accepted by DEC, DNR and DPS.

Sec 6:

Notice the name of the new Division: what do they "manage"? The division now provides services (grant money, arguably training and exercise services, etc) — they do not come into a community and manage a disaster response operation — the local community has that responsibility — what does this bill do to empower the new division to manage Where in this bill does it say "who is in charge"?

The role of State Emergency Management is to provide coordination and management of resources necessary to provide response and recovery. The local community does have the role of their own disaster response operation and the State only becomes involved when the local requests assistance. The State then does not take over the role of the locals but instead supports and coordinates with them as per AS 26.20. We believe this is what Management means again we do not provide the Services as first responders. The Services that are listed above are encompassed in our Emergency Management Programs and have always been referred to as programs.

Page 12; line 16— this language suggest the DMVA folks will have police powers yet they do not get police training

- line 22: establish chains of command in plans? Shouldn't the agencies with responsibility (DPS, DNR, DEC. etc) do this if they are already for law enforcement, etc.?
- line 24; what is the organized militia? Again "coordination and deployment" language, but not clear description of who is in charge?
- line 28: what background does the new division have to design local security plans? Why is the new division involved in "police function" activities? Will "planners" tell local police how to develop and execute law enforcement strategies?
  - this is a key point: the new division will condition the pass through of federal grant money to locals based on the plans that they require
- line 30; again 'coordinate' term is used ... the use of the term "homeland security activities" is very broad. Will the new division coordinate federal, state and local law enforcement activities as well?

There are no police powers given to HLS in Section 6. The investigative powers in this section are not Executive Powers exercised through law enforcement. The authority to coordinate such functions as risk assessment, defense planning, and crisis management are what is reflected in this section. The investigation envisioned in this section is a management tool focused on risk assessment and mitigation only, as agreed to by the above departments. The organized militia is defined in existing AS 26.05.030 as including the National Guard, the Naval Militia (Naval Reserve and USMC Reserve) and the Alaska State Defense Force. The bill, which authorizes DMVA to assist local and private agencies in designing homeland security plans, does not authorize DMVA to tell local police how to develop and execute law enforcement strategies.

Page 13; line 1 ..notice all the plans, why not one master plan with annex's like the state oil spill plan? The division folks say they will do this but if the statute identifies multiple plans, you will get lots of state planners and lots of plans and lots of confusion.

- ask for information on the current state emergency plan — the current DES folks like to call it a "concept" document ... compare it to any other state and you can how poor it is.
- the crux of the problem is there in no SYSTEM to manage mandated by this bill!
- Line 6: this language could be a blank check to the division on what they determine to be homeland security matters
- Line 28; more blank check language

Obviously there is disagreement between the author and the DMVA on this issue. We believe the most important focus of our emergency plan for a statewide response is to be a functional tasking document to ensure appropriate resource allocation. The other departments have steadfastly pressed for a non-directive document and in fact the Federal Government's response plan (the National Response Plan) is written in the same manner as are many other States. We also need to remember that there are various federal requirements for plans that cannot be accomplished in ONE overall plan. Further, it would be inappropriate to specify by statute the number of or form of homeland security or emergency plans or the particular emergency management system to be employed. Additionally the State Oil Spill Plan is an operational plan with a very narrow focus on one event. The challenge is to have an overall document that provides the functional framework to ensure that each operational plan has the resources needed to accomplish it's mission.

Page 15 Sec. 9 — will a special session be required for this? Why not use the current system laid out in AS 26 re: legis oversight of disasters?

- notice too the absence of any source of disaster money to fund HLS activities?
- How can a new division be created at NO COST?
- What happens as federal grant money dries up?
- How much federal money will be spent on the new division?
- Will DES's current budget be commingled with the new HLS federal dollars?

The ability to declare an emergency in this section relates to the ability of the Governor to respond to a heightened level of threat and to exercise the necessary powers under section 8. The Alaska Disaster Act under 26.23.020 provides the ability to declare a disaster after an event has occurred and provides for recovery and funding for that action. The current Division of Homeland Security is funded through Legislative Appropriation in one BRU that contains Emergency Management. There is no additional cost for creation of a new Division as that was already provided for and efficiencies were obtained by combining the two existing divisions into one.

Sec. 10;

- read (2) very closely, notice how few definitions there are
- what is a critical property or facility?
- Who runs the checkpoints? State militia? What is their training ... who are these guys and do they carry guns, can they make arrests, etc.?

The Critical Facilities for Alaska were developed by the Governor's Homeland Security Task Force and are law enforcement sensitive and should not be published in a document through definitions. Any future revisions to the Critical Facilities List would be reviewed and approved by the new Governor's Homeland Security Executive Cabinet. Section 10 was developed with the full cooperation of the DPS and DOT/PF with agreed coordination for the deployment and establishment of checkpoints.

Sec. 13:

- line 10; Notice the removal of reference to pass through to local governments (deletion of state district)
- line 22; no clear language to reference local role

The old statute was in reference to the Civil Defense laws and allowed for Civil Defense Districts that no longer exist. Civil defense districts were a layer of bureaucracy established in 1951 separate from local governments, and removal of this unnecessary layer throughout the bill enhances rather than reduces the ability of local governments to participate. The concern over lack of reference to locals is not of concern in this section as all the requirements for locals are under AS 26.23 and all pass through of funds for those activities is considered under that law and through our budget documents.

Sec. 14:

- need to get a good explanation of what is excluded from this HIS bill
- all other facilities will be subject to the new authority of I
- this is important — most of the places where there is a threat are likely excepted due to current federal requirements
- I would suggest getting a list of these locations, most would be surprised how many places now have fed. security plans required ... makes the need for new HLS powers seem questionable

This State Law does not try to override or conflict with the federal law and requirements for HLS planning activities. This law has been fully coordinated with the other departments who raised the issues of compliance with their federal regulations. This well coordinated legislative initiative meets our needs and those of our planning partners without creating conflicts.

Thoughts.

The State Emergency Response Commission was not involved in development of this legislation. The current AO re: I could be revised by the Governor if needed. I am not

aware of the Gov. pushing this bill

Be suspect of a new division being created with no dollars related to it

If the bulk of ILS activities are quasi law enforcement and security related, why isn't DPS more in the lead?

Why not review the entire state EMERGENCY MANAGEMENT SYSTEM?

There is not a system in place to effectively manage resources outside of DNR / Fire and DEC / oil spills.

There should be no problem continuing to receive federal [ money is this bill is not passed. .

Why not have a panel of experts review the state of the state emergency management system and provide a comprehensive strategy to the legis for a fix.

This bill has been developed with the input and coordination of our State and federal Law Enforcement Agencies as well as the Governor's Homeland Security Executive Cabinet and external entities such as the American Civil Liberty Union, and other organizations. The SERC simply didn't need to play a role in this type of statute development, nor did any SERC members ask for SERC involvement. The Division received comments from SERC member agencies DEC, DNR, and DOT/PF and revised the bill significantly to address the concerns of each. In addition to being a public member of the SERC, Mr. Butler is the public at large member of the Governor's Homeland Security Executive Cabinet; he participated in a Homeland Security Executive Cabinet meeting on April 7, 2004 at which the bill was discussed and did not raise these concerns. Neither he nor any other SERC members requested that the SERC become involved in the legislation. The Governor can amend his A/O to change the structure of the Division however he cannot amend the outdated Civil Defense Laws through an A/O. Since those laws give us the power and responsibility to hold such outdated activities as air raid blackouts, forcible evacuation drills, shutting down infrastructure utilities for exercises and actual incident, and even control of public meetings and gatherings the Governor's Office believes this is an important updated piece of legislation to pass. The DMVA has received many accolades for the Homeland Security and Emergency Management organization and accomplishments to date.