

SB

385

Explanation of Cs 385 () 23-LS1907A

I. Conceptual changes that were made to \D:

1. New Section 2 added: (Page 2, Line 4 through Page 7, Line 4) *
2. Page 9, Line 16: Delete "looking" and replace it with "pertaining"
3. Page 9, Line 17: Insert constitutional limiting language pertaining to Department powers. "(B) are authorized under this chapter and are permissible under the constitution of the United States and the State of Alaska"
4. Page 14, Line 4: Undelete "[ENEMY]" and add the words "or terrorist"--- and make a similar change to Page 14, Line 5, so the subsection reads: "In the event of actual enemy or terrorist attack in or against the state, or credible threat of imminent enemy or terrorist attack,"
5. Page 15, Lines 10-12: Inserts limiting language pertaining to the Governor to read, "A state of emergency declared under (a) of this section may not remain in effect longer than 30 days unless extended by the legislature by concurrent resolution and may be terminated by law or withdrawal of the declaration."
6. Page 18, Line 31: Adds the words "unincorporated village" under definition of private agency.
7. Page 22, Lines 1-6: Adds a new subsection that allows 15 days after the effective date for the legislative committee to organize.

* Creates a Legislative "Homeland Security and Emergency Management Committee".

II. Policy decisions/ Clarifications to be made in Judiciary Committee:

1. Page 2, Line 29: "clearable"? Ask Department to clarify what this means.
2. Page 15, Line 11: We have been told by legislative drafters that the legislature cannot effect the powers of the Governor with a "resolution". If this opinion is held by the Judiciary Committee, then this should be changed to "by law". If this change is made, it probably should be conceptual so the sentence can be written to flow better.



SENATOR FRED DYSON

File

MEMORANDUM

April 20, 2004

To: Senator Ralph Seekins
From: Senator Fred Dyson *Fred*
RE: Request to expedite Judiciary hearing of SB 385

I request your consideration to hear SB 385 in Judiciary Committee tomorrow, April 21, or Thursday, April 22.

I make the request apologetically because I appreciate and respect the fact that your priorities and judiciary schedule have already been established. I am asking because I think it could be quite important that we pass this legislation this session if possible.

The rationale here is that the changes we want to make (that we have discussed), are extensive enough to make them difficult to get done on the floor and better handled in committee. This way we can maybe still get it out of the Senate this week.

If you share my concerns and choose to act, the following two things need to happen today on the floor.

1. Make a request to pull SB 385 back to Senate Judiciary Committee.
2. Request Suspension of Rule 23 for hearing SB 385 at a time specific (ex: Senate Judiciary Hearing, 8:00 AM, Wednesday, April 21) (11 votes required for this action)

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 19, 2004

SUBJECT: CSSB 385() (Work Order No. 23-LS1907A)

TO: Senator Fred Dyson
Attn: Wes Keller

FROM: James P. Crawford 
Assistant Revisor

First, I added the concepts of preparedness and prompt response relating to the new committee to proposed AS 24.20.800. For consistency's sake, I also added these concepts to proposed AS 24.20.870 and AS 24.20.880.

Second, I added the security clearance language in the Department's fax to proposed AS 24.20.810(b).

Note that as a practical matter, for legislators who do not already possess a "secret" level clearance at the time of appointment, it may be impossible to tell whether they are "clearable" to that level. Thus, setting up a membership criterion of being "clearable" to the secret level as a condition to appointment to the committee may be unworkable.

Also, there are many other issues surrounding this clearance question. Although my information could be incorrect, I have read that an outfit called the Defense Security Service performs the checks and that there is a processing backlog of several months. If this is true, you may wish to consider the problems that might arise if a legislator lacks a "secret" level clearance at the time of appointment, is appointed on the assumption that the legislator is "clearable," but is ultimately denied a "secret" clearance after serving on the committee for a long period of time. What if the legislator in question is a co-chair of the committee? What if the reason for denial relates to some fact or facts that the legislator considers sensitive? What if some other person or persons want to find out the reasons for denial?

Attached are materials taken from the internet relating to federal security clearances for your perusal. I don't know if these materials are up to date, but they may at least provide a general idea of what is involved in applying for a security clearance. Take them for what they are worth. Be aware that federal security clearance forms may ask questions that some legislators would find annoying at best and highly intrusive or offensive at worst. Also, be aware that the FBI may retain permanent records of applications for federal security clearances regardless of whether the clearances are granted or denied.

Senator Fred Dyson
April 19, 2004
Page 2

Third, I added the constitutional limitation language in the Department's fax to the powers of the department in AS 24.20.020(4).

Fourth, I added the time limit language in the Department's fax to proposed subsection (b) of AS 26.20.040. I believe a portion of this language is unconstitutional.

The problem arises from allowing the legislature to extend the state of emergency declaration "by concurrent resolution." A state of emergency declaration has effects outside the legislature that affect the state as a whole. Of necessity, an extension of a state of emergency declaration also affects the state as a whole. In this regard, the Alaska Supreme Court has stated that (1) when the legislature takes a given action, and (2) that action has effects outside the legislature, *i.e.*, the action affects the state as a whole, then (3) that action must be done through a bill and may not be done through a concurrent resolution. State v. A.L.I.V.E. Voluntary, 606 P.2d 769 (Alaska 1980).

There is a simple remedy to this problem: Change the language of subsection (b) so that "by concurrent resolution" is replaced with "by law."

Fifth, I gave the new committee the same effective date as the rest of the bill. You will notice a new transition provision (proposed bill section 22) that requires the committee to be organized within 15 days of the effective date of this act.

Sixth, bill section 21, relating to the department submitting additional requirements for membership, is still in this bill. In light of what the department has submitted relating to security clearances, should this be removed?

JPC:lmb
04-116.lmb

Attachments

Standard Form 86 Certification

Follow instructions fully or we cannot process your form. Be sure to sign and date the certification statement on page 2. If you have any questions, call the office that gave you the form.

The Standard Form 86 (SF 86), *Questionnaire for National Security Positions*, is completed by persons performing, or seeking to perform, national security duties for the Federal Government. The SF 86 is used by the Office of Personnel Management and by other Federal agencies to initiate the background investigation required to determine placement in national security positions in accordance with 42 U.S.C. 2165, 22 U.S.C. 2585, E.O. 10450, Security Requirements for Government Employment, issued April 27, 1953, and E.O. 12968, Access to Classified Information, issued August 2, 1995. There are many situations where individuals are required to fill out a new SF 86 when the sole purpose is to determine if any information on a previously executed SF 86 has changed. This requires extensive work by the individual even if nothing has changed. The SF 86C is a certification document that allows the reporting of changes in previously reported information on the SF 86. This certification will be in lieu of completing a new SF 86 and will allow the individual to indicate that there have been no changes in the data provided on the most recently filed SF 86. Or it will allow the individual to easily provide new or changed information. No investigation will be initiated based solely on the execution of this form.

Your Social Security Number (SSN) is needed to keep our records accurate, because other people may have the same name and birthdate. Public Law 104-134 (April 26, 1996) asks Federal agencies to use this number to help identify individuals in agency records. Giving us your SSN or any other information is voluntary. However, if you do not give us your SSN or any other information requested, we cannot process your application. Incomplete addresses and ZIP Codes may also slow processing.

Privacy Act Statement

Solicitation of this information is authorized by Executive Orders 10450 and 12968 and 5 CFR 732. The U.S. Government conducts background reinvestigations to establish that individuals continue to be eligible for positions involving national security or special nuclear information or material. We may share this information with other Federal agencies; Congress (when requested); a court of competent jurisdiction, news media and the general public when the disclosure would be in the public interest and would not constitute an unwarranted invasion of privacy; public authorities responsible for enforcing, investigating or prosecuting violations of statute, rule, regulation or order (except as noted in Question 24 on the SF 86); and, in compliance with the National Security Act of 1947, the CIA Act of 1949, Executive Order 12333, and other such acts as may be promulgated. If you do not supply the requested information, the processing of your investigation may stop and any clearances or access you have may be terminated.

Public Burden Statement

We think this form takes an average 15 minutes to complete, including the time for reviewing instructions, getting the needed data, and reviewing the completed form. Send comments regarding our estimate or any other aspect of this form, including suggestions for reducing completion time, to the U.S. Office of Personnel Management, OPM Forms Officer, Paperwork Reduction Act (3206-0005), Washington, D.C. 20415-7900. OPM may not collect this information, and you are not required to respond, unless this number is displayed. **Do not send your completed form to this address.**

Standard Form 86 Certification

INSTRUCTIONS: PLEASE TYPE OR LEGIBLY PRINT YOUR ANSWERS IN BLACK INK. Referencing information contained in your most recent Standard Form 86 (SF 86), *Questionnaire for National Security Positions*, (OMB No. 3206-0005), or information disclosed upon the date of your last background investigation, complete this Form. All questions on this Form must be answered. Any changes that you make to this Form after you sign it must be initialed and dated by you. The U.S. Criminal Code (Title 18, section 1001) provides that knowingly falsifying or concealing a material fact is a felony which may result in fines of up to \$10,000 and/or 5 years imprisonment, or both.

Do not provide information you have already provided on your most recent SF 86. Any Yes responses under Blocks 2 and/or 3 must be explained in Block 4. If additional space is needed, use a blank piece of paper. Each blank piece of paper must contain your name, date, and Social Security Number at the top of the page. Conclude by certifying the accuracy of your answers in Block 5, the Certification Note. You may request an interview with a government security officer/agent if you have questions pertaining to Blocks 2 and 3. Contractors shall inform employees that this Certification Form may be completed in private and returned to security personnel in a sealed envelope. It is **IMPORTANT** that you keep your most recent Standard Form 86 and a **COPY** of this certification form in your personal records file for immediate retrieval.

Block 1 - Identification

Full Name (Last, First, Middle, Maiden)		Social Security Number (SSN)	
Date of Birth (mm/dd/yyyy)	Place of Birth		
Telephone Numbers	Work	Home	Email

STOP! Check this box if you wish to consult with a government security officer before completing Blocks 2 and/or 3.

Block 2 - Part 1 of the Standard Form 86

Instructions: The following Sections, noted in Blocks 2 and 3, correlate with your SF 86. If you report no change to a Section, place an "X" in the No box. If there is a change to report, place an "X" in the Yes box. All Yes answers must be explained under Block 4, Explanation/Remarks.

Yes	No	Section
		Section 5. (Other Names Used)
		Section 6. (Other Identifying Information, Height/Weight/Hair/Eye/Sex M-F) (Not Applicable)
		Section 7. (Telephone Numbers) (Provide under Block 1, above)
		Section 8. (Citizenship)
		Section 9. (Where You Have Lived)
		Section 10. (Where You Went To School)
		Section 11. (Your Employment Activities)
		Section 12. (People Who Know You Well) (Not Applicable)
		Section 13. (Your Spouse)
		Section 14. (Your Relatives and Associates)
		Section 15. (Citizenship of Your Relatives and Associates)
		Section 16. (Your Military History)
		Section 17. (Your Foreign Activities)
		Section 18. (Foreign Countries You Have Visited)

Block 3 - Part 2 of the Standard Form 86

Yes	No	
		Section 19. (Your Military Record)
		Section 20. (Your Selective Service Record) (Not Applicable)
		Section 21. (Your Medical Record)
		Section 22. (Your Employment Record)
		Section 23. (Your Police Record)
		Section 24. (Your Use of Illegal Drugs and Drug Activity)
		Section 25. (Your Use Of Alcohol)
		Section 26. (Your Investigations Record)
		Section 27. (Your Financial Record)
		Section 28. (Your Financial Delinquencies)
		Section 29. (Public Record Civil Court Actions)
		Section 30. (Your Association Record)

Block 4 - Explanation/Remarks

Before each answer, identify the Standard Form 86 *section number* associated with your answer. For example, if you have had a *change of residence*, place a 9, and then list your new address.

<input type="checkbox"/>	Check this block if additional comments are attached. Place your name, date, and SSN at the top of each page.
<input type="checkbox"/>	STOP - Please check this block if your SF-86, <i>Questionnaire for National Security Positions</i> , is attached.

Block 5 - Certification Note

I certify that the above information includes all changes to my most recent Standard Form 86, dated _____, or since my last investigation, dated _____, (*per instruction from your sponsor, note only one date*). Changes, if any, are explained under Block 4. I make this certification to the best of my knowledge and belief, and I sign this Note in good faith. I understand that a knowing and willful false statement on this Certification Form can be punished by fine or imprisonment or both. (See United States Code, Title 18, Section 1001).

Signature (<i>Sign in ink</i>)	Date
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**Supplemental Instructions for Completing Standard Form 86 (SF-86)
"Questionnaire for Sensitive Positions"**

A properly executed SF-86 is essential for initiating a background investigation. A poorly executed form often causes additional investigation in order to resolve ambiguous or incomplete information. This delays completion of your investigation.

Please TYPE, insure information is recorded in a logical manner especially residence and employment. The form may contain NO HANDWRITTEN CORRECTIONS. Please answer ALL questions even if they do not apply to you. Type UNKNOWN, NONE, or N/A if it is not applicable.

Form SF-86 asks for information about you in a series of numbered categories. In some categories, OPM needs more information than is required by the form. This is to assure that your investigation is as complete as possible. Your careful attention to furnishing all the information required by the form and these supplemental instructions will assist OPM in completing your background investigation in a timely manner.

The supplemental instructions below relate to and are listed by the numbered categories on the form:

Items 1 -7 Self-explanatory

Item 8 **CITIZENSHIP**

After marking the box at the right be sure to follow the instructions next to the box you marked. For example, answer 8b, 8c, 8d, or 8e. Please answer each question; however, if the question does not apply to you type "NONE" or "N/A" (not applicable). If you or your spouse are naturalized citizens, provide date, place, and U.S. District Court where naturalized (information concerning spouse can be included under Item 18). If naturalized by derivative, provide above information on parents.

Item 9 **WHERE YOU HAVE LIVED**

There must be **no gaps** in time in your listings of the places you have lived for the past **10 years**. Month and year of beginnings and termination of each residence should be listed. If residence is in an apartment complex, the name of the complex and specific apartment number should be included. Also, include residences while in college. It is essential that addresses are complete. That is, street number, street name, city, state and zip code. For addresses listed in the past 10 years, provide a person who knew you at that address. Telephone numbers must also be completed with area codes. **DO NOT LEAVE ANY GAPS IN TIME.**

Item 10

WHERE YOU WENT TO SCHOOL

List the month and year you began and ended your schooling at each educational institution. If you attended school within the last seven years, list professors, instructors, or others who are familiar with you and provide their complete addresses and phone numbers. List any high school, college/university, or vocational/trade school you have attended. Include complete addresses for all schools, including street number, street name, city, state and zip code. List degree, diploma, certificate, etc. and date received. If you received no such degree, indicate "NONE" or "N/A" (not applicable). If a general equivalency diploma was obtained, the state which issued it and date obtained should be noted.

Item 11

YOUR EMPLOYMENT ACTIVITIES

There must be **no gaps** in time in your employment history for the past **10 years**. List all employment, full or part-time, in chronological order (starting with current employment). All supervisors must be listed for each employment, including their telephone numbers with area codes. If not known, type "UNKNOWN" or "NONE." Insure complete address (street/city/state/zip code) is included for each employment and job description listed.

If a government employment or employment by some other large organization, show the department, bureau, division, and section or specific subdivision. This is particularly important for individuals who have had numerous assignments within the military, government, large corporations or institutions. If you are a member of a **military** reserve component or National Guard unit, list the organization, its location, and name of your immediate superior officer and the officer's phone number, if known, if not known, type "UNKNOWN", "NONE" or "N/A".

Include all periods of **self-employment** and **unemployment** including periods during which you were a **student**. For periods of unemployment, you must indicate (1) that you were a student and (2) how you were supported during that period (e.g. unemployment benefits, parents, spouse, etc.). Provide names, addresses and telephone numbers of persons who can verify **all** periods of unemployment or self-employment, such as individuals unemployed by your, landlords, parents, spouse, friends, roommates, competitors, or clients. **DO NOT LEAVE ANY GAPS IN TIME.**

Note: Employment listed on the Standard Form 86 needs to be the same as employment listed on the Optional Application for Federal Employment (OF-612) or the resume for the past 10 years.

Item 12 **PEOPLE WHO KNOW YOU WELL**

Please provide complete home or business address (including name of firm, street number, street name, city, state and zip code) and home or business telephone number. The telephone number listed should be a daytime number where the reference can be reached during normal working hours. References should reside in the continental United States.

Item 13 **YOUR SPOUSE** - Self-explanatory

Item 14 **YOUR RELATIVES**

Full dates (including month, date and year), **places of birth** (city and state) and **complete addresses** (including street, number, street name, city, state and **zip codes**) for all relatives should be listed. If relative is deceased place an "X" in the box and list date of birth, country of birth and country citizenship. If relative resides overseas, please indicate if they are in the military. (Do not list APO or FPO address).

Item 15 **Citizenship of your Relatives and Associates** - Self-explanatory

Item 16 **YOUR MILITARY HISTORY** - Follow instructions carefully

Item 17 **YOUR FOREIGN ACTIVITIES** - self-explanatory

Item 18 **FOREIGN COUNTRIES YOU HAVE VISITED**

Please provide the beginning and ending month and year that you have visited foreign countries in the past 10 years. This includes even short trips to Mexico and Canada. Enter "NONE" or "N/A" if you have not visited a foreign country.

Item 19 **YOUR MILITARY RECORD** - Self-explanatory

Item 20 **SELECTIVE SERVICE RECORD**

If you are a male born after December 31, 1959, please indicate whether or not you are registered with the Selective Service System. If yes, provide your registration number. **You may contact the Selective Service System at 847-688-6888 and they will provide you with your registration number.**

Item 21 **YOUR MEDICAL RECORD**

Please attach a separate sheet of paper to provide a detailed explanation of the treatment you have received in the last 10 years. Name and address of physician and condition for which you were treated should be provided. Please state whether you were hospitalized and if so, provide dates and location. Please obtain a written

statement from the physician on his or her letterhead indicating the diagnosis and prognosis. This statement should also contain the clinician's estimate as to the applicant's ability to make judgments and handle stress.

Item 22 **YOUR EMPLOYMENT RECORD**

Follow the instructions carefully

Item 23 **YOUR POLICE RECORD**

Please attach a separate sheet to provide full details regarding any arrests, contacts with law enforcement, and judicial actions, except minor traffic violations for which you paid less than \$150 fine and contacts before your 16th birthday. All other incidents must be included even if they were dismissed or you merely forfeited collateral. Any court records/documentation regarding the disposition of the charge should be included.

Item 24-25 **ILLEGAL DRUGS AND ALCOHOL**

Follow the instructions carefully. (Go back 10 years)

Item 26 **YOUR INVESTIGATIONS RECORD**

If known, please insure that agency conducting the investigation and the approximate date (month and year) of investigation are listed.

Item 27-28 **YOUR FINANCIAL RECORD**

List any accounts placed for collection, defaults, judgments, repossessions, etc. in the last 10 years. All delinquent debts and financial obligations must be explained in detail. If you have ever filed for bankruptcy, list the date, location of court, and case number (if known). Provide the complete name and address of the business bringing this action, the date (month and year), and the account number. **If the debt(s) has been satisfied, please provide proof, e.g. statement showing zero balance, cancelled checks, money orders, etc. If the debt has not been satisfied, please contact the business and establish a repayment plan. Please provide a letter on the business' letterhead agreeing to a repayment plan.**

Item 29-30 **PUBLIC RECORD CIVIL COURT ACTIONS AND YOUR ASSOCIATION RECORD**

Follow the instructions carefully.

Page 9 CONTINUATION SPACE

Use this space for additional answers to questions 9, 10 and 11.

Pages 9/10 SIGNATURE/DATE

We must have one completed ORIGINAL form. Our headquarters will not accept a photo copy. Please make 4 copies of this form. Each copy must have an original signature and date on both pages 9 and 10.

MISCELLANEOUS

When completing form, do not abbreviate names of cities. An abbreviation commonly used by residents of a city is not necessarily recognizable nationwide.

23-LS19071
Crawford
4/19/04

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

BY

Offered:
Referred:

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 read:

5 **Article 6. Homeland Security and Emergency Management Committee.**

6 **Sec. 24.20.800. Homeland Security and Emergency Management**
7 **Committee established.** The Homeland Security and Emergency Management
8 Committee is established as a permanent interim committee of the legislature. The
9 establishment of the committee recognizes the need for prompt legislative
10 consideration of

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

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

15 **Sec. 24.20.810. Membership; qualifications.** (a) Subject to (b) of this
16 section, the committee is composed of six members, as follows:

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

19 (2) two senate members of the joint armed services committee if one
20 exists, or if one does not exist, then two members of the Senate State Affairs
21 Committee, selected by the president of the senate, one of whom is not a member of
22 the political party to which a majority of members of the senate belong; and

23 (3) two house members of the joint armed services committee if one
24 exists, or if one does not exist, then two members of the House State Affairs
25 Committee selected by the speaker of the house of representatives, one of whom is not
26 a member of the political party to which a majority of members of the house of
27 representatives belong.

28 (b) To be eligible to serve on the committee, a legislator shall have a federal
29 security clearance at the secret level or must be clearable at the secret level at the time
30 of appointment and apply for and receive a federal security clearance at the secret
31 level. A legislator may not serve on the committee, or if serving, may not continue to

1 serve, if the legislator has been convicted, including a conviction based on a guilty
2 plea or a plea of nolo contendere, of a felony or of the crime of unsworn falsification
3 under AS 11.56.210. If a legislator may not serve or may not continue to serve on the
4 committee under this subsection, a vacancy in the membership of the committee
5 exists.

6 **Sec. 24.20.820. Term of Membership.** (a) The committee shall be organized
7 within 15 days after the organization of each legislature. Members of the committee
8 who remain qualified under AS 24.20.810 serve for the duration of the legislature
9 during which the members are appointed. If the member is reelected or the member's
10 term of office extends into the next succeeding legislature and the member remains
11 qualified under AS 24.20.810, the member shall continue to serve until reappointed or
12 the appointment of the member's successor.

13 (b) When a member of the committee files a declaration of candidacy for an
14 elective office other than that of member of either house of the legislature, and the
15 member has not resigned from membership on the committee, the member's
16 committee membership terminates on the date of filing, and a vacancy in the
17 membership of the committee exists.

18 **Sec. 24.20.830. Vacancies.** When a vacancy occurs in the membership of the
19 committee, the presiding officer of the house incurring the vacancy shall choose a
20 successor. If the office of the president of the senate or speaker of the house of
21 representatives becomes vacant and a vacancy from the affected house occurs among
22 the membership of the committee, the remaining committee members from the house
23 incurring the vacancy shall appoint a new member.

24 **Sec. 24.20.840. Travel and per diem allowances.** Members of the
25 committee are entitled to reimbursement for travel expenses. Members of the
26 committee shall receive per diem allowances in accordance with the policy adopted by
27 the legislative council under AS 24.10.130(c).

28 **Sec. 24.20.850. Meetings.** (a) Four members of the committee constitute a
29 quorum.

30 (b) The committee members shall select one member from the senate and one
31 member from the house of representatives to serve as co-chairs of the committee.

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

4 **Sec. 24.20.860. Staff.** The Legislative Affairs Agency shall provide the
5 committee with professional and clerical assistance under the auspices of the
6 legislative council.

7 **Sec. 24.20.870. Powers and duties.** The committee

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

11 (A) matters concerning homeland security and civil defense,
12 emergencies, or disasters; or

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

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

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

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

24 (5) may perform other functions appropriate for a committee of the
25 legislature relating to the subject matter described in (1)(A) or (1)(B) of this section.

26 **Sec. 24.20.880. Requests for information.** The committee may request
27 information relating to matters concerning homeland security and civil defense,
28 emergencies, or disasters or to the state's preparedness for or ability to mount a prompt
29 response to matters concerning homeland security and civil defense, emergencies or
30 disasters as the committee determines appropriate in the performance of the
31 committee's powers and duties under AS 24.20.870 from

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

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

7 **Sec. 24.20.890. Disclosure of information; confidentiality.** (a) A person or
8 entity providing information under AS 24.40.880 may request confidential treatment
9 of the information provided to the committee by clearly identifying the information
10 and the reasons supporting the request for confidential treatment. The committee shall
11 keep the information confidential until the committee determines whether the
12 requirements of (b) of this section are met. If the committee has not made a
13 determination under (b) of this section within 14 days after receiving a request for
14 confidential treatment, the request is considered denied. If the committee determines
15 that the information does not meet the requirements of (b) of this section or if the
16 committee fails to make a determination within 14 days after receiving a request for
17 confidential treatment, the committee shall return the information and any copies of it
18 at the request of the provider.

19 (b) If requested by a person or entity providing information under
20 AS 24.20.880, the information provided to the committee shall be kept confidential if
21 the committee determines, upon an adequate showing by the provider, that the
22 information

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

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

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

28 (A) the Department of Military and Veterans' Affairs under
29 AS 26.20.020;

30 (B) the Alaska division of homeland security and emergency
31 management in the Department of Military and Veterans' Affairs under

1 AS 26.20.025 or AS 26.23.040;

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

3 (c) Information determined to be confidential under (b) of this section is
4 confidential under that subsection only so long as the reasons justifying the initial
5 determination of confidentiality under that subsection continue to exist. The
6 committee may not release information that the committee has previously determined
7 to be confidential under (b) of this section without providing the person or entity
8 providing the information notice and an opportunity to be heard.

9 (d) Notwithstanding the limitation in (c) of this section, information that is
10 determined to be confidential under (b) of this section may be disclosed by the
11 committee to the committee's staff, to other committees or legislators, or to the staff of
12 other committees or legislators. Information that is exchanged under this subsection
13 that was determined to be confidential under (b) of this section remains confidential
14 except as provided in (c) of this section. The portions of the records and files of the
15 other committees, legislators, or staff that reflect, incorporate, or analyze information
16 that is determined to be confidential under (b) of this section are not public records.
17 However, those portions may lose their confidential status as provided in (c) of this
18 section unless separately made confidential by another statute or other law.

19 (e) Notwithstanding the limitation in (c) of this section, information that is
20 determined to be confidential under (b) of this section may be disclosed by the
21 committee to employees or agents of the legislative audit division, the legislative
22 finance division, or the Legislative Affairs Agency. The portions of the records and
23 files of the employees or agents that reflect, incorporate, or analyze information that is
24 determined to be confidential under (h) of this section are not public records.
25 However, those portions may lose their confidential status as provided in (c) of this
26 section unless separately made confidential by another statute or other law. Before
27 confidential information is disclosed under this subsection, the person receiving the
28 information shall sign an appropriate confidentiality agreement if information received
29 by the person in the normal course of the person's employment is not already required
30 to be kept confidential by another statute or other law.

31 (f) Nothing in this section makes a record or file of the committee or a person

1 or entity receiving information under (d) or (e) of this section a public record that
2 would not otherwise be a public record under AS 40.25.100 - 40.25.220.

3 **Sec. 24.20.895. Definitions.** In AS 24.20.800 - 24.20.895, "committee"
4 means the Homeland Security and Emergency Management Committee.

5 * **Sec. 3.** AS 26.20.010 is amended to read:

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

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

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

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

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

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

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

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

6 * Sec. 5. AS 26.20.020 is amended to read:

7 **Sec. 26.20.020. Homeland security and civil [CIVIL] defense powers of**
8 **the Department of Military and Veterans' Affairs.** (a) The Department of Military
9 and Veterans' Affairs is responsible for carrying out the provisions of this chapter
10 [AND, IN THE EVENT OF DISASTER OR EMERGENCY BEYOND LOCAL
11 CONTROL, MAY ASSUME DIRECT OPERATIONAL CONTROL OVER ALL OR
12 ANY PART OF THE CIVIL DEFENSE FUNCTIONS WITHIN THIS STATE].

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

14 (1) issue, adopt, amend, and rescind the necessary orders and
15 regulations to carry out this chapter, with consideration of the plans and programs of
16 the federal government;

17 (2) prepare and implement [A] comprehensive plans [PLAN] and
18 programs [PROGRAM] for the homeland security and civil defense of this state,
19 and coordinate with state agencies in the preparation and implementation of
20 those plans and programs, which shall be integrated into and coordinated with the
21 homeland security and civil defense plans and programs of the federal government
22 and of each state of the United States to the fullest possible extent, and coordinate the
23 preparation and implementation of plans and programs for homeland security and
24 civil defense by political subdivisions and private agencies of the [DISTRICTS OF
25 THIS] state, which shall be integrated into and coordinated with the homeland
26 security and civil defense plans [PLAN] and programs [PROGRAM] of this state to
27 the fullest possible extent;

28 (3) ascertain the requirements of the state [OR THE DISTRICTS OF
29 THE STATE] for food or clothing or other necessities of life in the event of attack and
30 plan for and procure supplies, medicines, materials, and equipment, and use and
31 employ any of the property, services, and resources within the state, for the purposes

1 set out [FORTH] in this chapter; make surveys of the industries, resources, and
 2 facilities within the state that are necessary to carry out the purposes of this chapter;
 3 institute training programs and public information programs; [,] and take all other
 4 preparatory steps, including the partial or full mobilization of homeland security,
 5 civil defense, and emergency organizations and personnel in advance of actual
 6 attack [DISASTER], to ensure the furnishing of adequately trained and equipped
 7 [FORCES OF CIVIL DEFENSE] personnel and adequate resources in time of need;

8 (4) cooperate with the [PRESIDENT AND HEADS OF THE ARMED
 9 FORCES, AND THE CIVIL DEFENSE AGENCY OF THE UNITED STATES,
 10 AND WITH THE] officers and agencies of the United States and the states of the
 11 United States, in matters pertaining to the homeland security and civil defense of the
 12 state and nation and the incidents thereof; and, in this connection, [TO] take any
 13 measures that

14 (A) it considers proper to carry into effect a request of the
 15 president and the appropriate federal officers and agencies for action
 16 pertaining [LOOKING] to homeland security and civil defense; and

17 (B) are authorized under this chapter and are permissible
 18 under the Constitutions of the United States and the State of Alaska [,
 19 INCLUDING THE DIRECTION OR CONTROL OF

20 (A) BLACKOUTS AND PRACTICE BLACKOUTS, AIR
 21 RAID DRILLS, MOBILIZATION OF CIVIL DEFENSE FORCES, AND
 22 OTHER TESTS AND EXERCISES;

23 (B) WARNINGS AND SIGNALS FOR DRILLS OR
 24 ATTACKS AND THE MECHANICAL DEVICES TO BE USED IN
 25 CONNECTION WITH THEM;

26 (C) THE EFFECTIVE SCREENING OR EXTINGUISHING
 27 OF LIGHTS AND LIGHTING DEVICES AND APPLIANCES;

28 (D) SHUTTING OFF WATER MAINS, GAS MAINS,
 29 ELECTRIC POWER CONNECTIONS AND THE SUSPENSION OF
 30 OTHER UTILITY SERVICES;

31 (E) THE CONDUCT OF CIVILIANS AND THE

1 MOVEMENT AND CESSATION OF MOVEMENT OF PEDESTRIANS
2 AND VEHICULAR TRAFFIC DURING, BEFORE, AND AFTER DRILLS
3 OR ATTACK;

4 (F) PUBLIC MEETINGS OR GATHERINGS; AND

5 (G) THE EVACUATION AND RECEPTION OF THE
6 CIVILIAN POPULATION];

7 (5) exercise additional authority delegated by the governor to the
8 department [TAKE ACTION AND GIVE DIRECTIONS TO STATE AND LOCAL
9 LAW ENFORCEMENT OFFICERS AND AGENCIES AS ARE REASONABLE
10 AND NECESSARY] to secure compliance with this chapter and with the orders and
11 regulations issued or adopted under this chapter;

12 (6) employ measures and give directions to the state or local
13 [BOARDS OF] health agencies as are reasonably necessary for the purpose of
14 securing compliance with this chapter or with the findings or recommendations of
15 state or local [BOARDS OF] health agencies due to conditions arising from
16 [ENEMY] attack or the threat of [ENEMY] attack [OR OTHERWISE];

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

21 (8) [ESTABLISH AGENCIES AND OFFICES AND APPOINT
22 EXECUTIVE, TECHNICAL, CLERICAL, AND OTHER PERSONNEL
23 NECESSARY TO CARRY OUT THIS CHAPTER, INCLUDING, WITH
24 CONSIDERATION TO THE RECOMMENDATION OF THE LOCAL
25 AUTHORITIES, FULL TIME STATE AND DISTRICT DIRECTORS;

26 (9) delegate authority vested in the department under this chapter, and
27 provide for the subdelegation of this authority;

28 (9) [(10)] sponsor and develop mutual aid and cooperation plans and
29 agreements among [BETWEEN] the agencies [DISTRICTS] of the state, the political
30 subdivisions of the state, and private agencies and organizations;

31 (10) [(11)] ESTABLISH DISTRICTS IN THE STATE AS ARE

1 NEEDED TO CARRY OUT THE PURPOSES AND INTENT OF THIS CHAPTER;
 2 (12)] sell, lend, transfer, or deliver supplies or medicines to carry out
 3 the policy and purposes set out [FORTH] in this chapter on terms and conditions that
 4 the department considers reasonable;

5 (11) participate in and conduct exercises to implement homeland
 6 security plans and to prepare for a potential attack;

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

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

12 (A) MONEY DERIVED FROM THE SALE OF SUPPLIES
 13 AND MEDICINES SHALL BE DEPOSITED IN A SPECIAL FUND,
 14 WHICH SHALL BE USED BY THE DEPARTMENT TO REPLENISH AND
 15 PURCHASE THE NECESSARY SUPPLIES AND MEDICINES;

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

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

20 **Sec. 26.20.025. Creation and duties of the Alaska division of homeland**
 21 **security and emergency management.** (a) There is established in the department
 22 the Alaska division of homeland security and emergency management, possessing the
 23 powers and duties as set out in this section and as delegated by the adjutant general of
 24 the department.

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

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

31 (2) identification of geographical areas, municipalities, facilities,

1 systems, infrastructure, or other property or persons especially vulnerable to an attack;

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

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

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

10 (6) assistance to local officials and private agencies in designing local
11 and private security plans;

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

14 (8) coordination of the state homeland security plan with the state
15 emergency plan and with the homeland security and disaster plans of the federal
16 government;

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

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

20 (c) With the concurrence and approval of the adjutant general of the
21 department, the Alaska division of homeland security and emergency management
22 shall

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

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

27 (3) procure and pre-position personnel, supplies, medicines, materials,
28 and equipment;

29 (4) plan and make arrangements for the availability and use of private
30 facilities, services, and property and, if necessary and used, provide for payment for
31 use under terms and conditions agreed upon by the state and the other parties or as

1 provided under AS 26.20.045;

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

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

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

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

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

13 * Sec. 7. AS 26.20.030 is amended to read:

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

1 NECESSARY.]

2 * Sec. 8. AS 26.20.040 is amended to read:

3 **Sec. 26.20.040. Emergency powers of the governor.** In the event of actual
4 enemy or terrorist attack in or against the state, or a credible threat of imminent
5 enemv or terrorist attack, the governor may declare that a state of emergency exists,
6 and, during the period of time that the state of emergency exists or continues, the
7 governor has and may exercise the additional emergency power

8 (1) to enforce all laws and regulations relating to homeland security
9 and civil defense and assume direct operational control of all homeland security and
10 civil defense forces and helpers in the state;

11 (2) to seize, take, or condemn property if, and only to the extent that,
12 the governor determines that the property is needed for the protection of the public
13 [OR AT THE REQUEST OF THE PRESIDENT, THE ARMED FORCES OR THE
14 CIVIL DEFENSE AGENCY OF THE UNITED STATES], including

15 (A) [ALL MEANS OF] transportation and communication
16 equipment, except newspapers and news services;

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

18 (C) food, clothing, equipment, materials, medicines, and
19 supplies; and

20 (D) facilities including buildings and plants;

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

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

26 (5) to suspend the provisions of a regulatory statute prescribing
27 proccdures for the conduct of state business or the order or regulation of a state
28 agency if compliance with the provisions of the statute, order, or regulation
29 would prevent, or substantially impede or delay, action necessary to cope with
30 the emergency;

31 (6) to use all available resources of the state government and of

1 each political subdivision of the state as reasonably necessary to cope with the
 2 emergency;

3 (7) to transfer personnel or alter the functions of state departments
 4 and agencies or units of them for the purpose of responding to or facilitating the
 5 response to the emergency;

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

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

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

13 (c) In this section, "credible threat of imminent enemy or terrorist attack"
 14 means a threat of attack against persons or property in the state that the adjutant
 15 general of the department or a designee of the adjutant general, in consultation with
 16 the commissioner of public safety or a designee of the commissioner of public safety,
 17 certifies to the governor has a high probability of occurring in the near future; the
 18 certification must be based on specific information received from a local, state,
 19 federal, or international agency, or another source that the adjutant general or the
 20 designee of the adjutant general, in conjunction with the commissioner of public safety
 21 or a designee of the commissioner of public safety, determines is reliable.

22 * Sec. 10. AS 26.20.100 is amended to read:

23 Sec. 26.20.100. Traffic control. In coordination with the Department of
 24 Public Safety and the Department of Transportation and Public Facilities, the
 25 [THE] department may

26 (1) formulate and execute plans and regulations for the control of
 27 traffic for the rapid and safe movement of evacuation over public highways and streets
 28 of people, troops, or vehicles and materials for homeland security and civil defense :
 29 and

30 (2) establish and operate checkpoints along private or public
 31 roadways serving critical property or facilities in the state, at the direction of the

1 governor when the governor determines that a sufficiently high threat of attack
2 exists to warrant the action; the checkpoints established under this paragraph
3 may be in conjunction with closure of the roadway under AS 19.10.100;
4 operation of a checkpoint shall be limited to enforcement of the roadway closure
5 or reasonable inspection of persons and vehicles for weapons, explosives,
6 chemicals, biological or biochemical agents, or other instruments capable of
7 causing widespread or severe injury to persons or property [NATIONAL
8 DEFENSE OR FOR USE IN A DEFENSE INDUSTRY, AND MAY COORDINATE
9 THE ACTIVITIES OF THE DEPARTMENTS OR AGENCIES OF THE STATE
10 AND OF THE DISTRICTS CONCERNED WITH PUBLIC HIGHWAYS AND
11 STREETS, IN A MANNER THAT WILL BEST CARRY OUT THOSE PLANS].

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

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

14 Notwithstanding any inconsistent provision of law,

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

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

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

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

29 (A) ENTER INTO A CONTRACT OR LEASE WITH THE
30 STATE, OR ACCEPT A LOAN, OR EMPLOY PERSONNEL, AND THE
31 DISTRICT MAY EQUIP, MAINTAIN, UTILIZE, AND OPERATE THE

1 PROPERTY AND EMPLOY NECESSARY PERSONNEL FOR THAT
 2 PURPOSE IN ACCORDANCE WITH THE PURPOSES FOR WHICH THE
 3 CONTRACT IS EXECUTED;

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

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

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

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

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

1 (b) Whenever a person offers to the state [OR TO A DISTRICT] services,
2 equipment, supplies, materials, or funds by way of gift, grant, or loan, for purpose of
3 homeland security or civil defense, the department [STATE ACTING THROUGH
4 THE GOVERNOR, OR THE DISTRICT ACTING THROUGH ITS EXECUTIVE
5 OFFICER OR GOVERNING BODY,] may accept the offer and [UPON
6 ACCEPTANCE THE GOVERNOR OR THE EXECUTIVE OFFICER OR
7 GOVERNING BODY OF THE DISTRICT MAY AUTHORIZE AN OFFICER OF
8 THE STATE OR OF THE DISTRICT, AS THE CASE MAY BE, TO] receive the
9 services, equipment, supplies, materials, or funds on behalf of the state, [OR
10 DISTRICT, AND] subject to the terms of the offer.

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

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

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

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

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

27 (6) "political subdivision" means

28 (A) a municipality; or

29 (B) another unit of local government;

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

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

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

4 (1) suspend the provisions of any regulatory statute prescribing
5 procedures for the conduct of state business, or the orders or regulations of any state
6 agency, if compliance with the provisions of the statute, order, or regulation would
7 prevent, or substantially impede or delay, action necessary to cope with the disaster
8 emergency;

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

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

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

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

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

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

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

28 (9) make provisions for the availability and use of temporary
29 emergency housing;

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

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

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

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

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

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

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

13 (b) The provisions of AS 26.20.140, providing for immunity of government,
14 employees, and other authorized persons in certain circumstances, apply when the
15 entities or persons covered by AS 26.20.140 perform duties under AS 26.23.010 -
16 26.23.220, except as otherwise provided in AS 26.23.136 for entities or other persons
17 providing assistance to the state under a compact in a form substantially as contained
18 in AS 26.23.136.

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

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

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

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

30 (C) equipment failure if the failure is not a predictably frequent
31 or recurring event or preventable by adequate equipment maintenance or

1 operation;

2 (D) enemy or terrorist attack or an imminent threat of
 3 enemy or terrorist attack in or against the state that the adjutant general
 4 of the Department of Military and Veterans' Affairs or a designee of the
 5 adjutant general, in consultation with the commissioner of public safety or
 6 a designee of the commissioner of public safety, certifies to the governor
 7 has a high probability of occurring in the near future; the certification
 8 must meet the standards of AS 26.20.040(c); in this subparagraph,
 9 "attack" has the meaning given under AS 26.20.200; or

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

17 * Sec. 20. AS 26.20.050, 26.20.060, 26.20.070, 26.20.080, 26.20.090, 26.20.120,
 18 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)
 19 are repealed.

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

22 PREPARATION AND PRESENTATION OF PROPOSED LEGISLATION. If the
 23 adjutant general of the Department of Military and Veterans' Affairs determines that
 24 additional qualifications for membership on the Homeland Security and Emergency
 25 Management Committee established under AS 24.20.800, enacted by sec. 2 of this Act, would
 26 significantly enhance the security of sensitive materials or information coming before the
 27 committee in the course of its business, the adjutant general shall

28 (1) prepare a bill proposing amendments to AS 24.20.810, enacted by sec. 2 of
 29 this Act, for consideration by the committee; and

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

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

3 **TRANSITION.** Notwithstanding AS 24.20.820(a), enacted by sec. 2 of this Act, the
4 Homeland Security and Emergency Management Committee established in AS 24.20.800,
5 enacted by sec. 2 of this Act, shall be organized for the first time within 15 days after the
6 effective date of this Act.

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

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

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

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

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

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

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

24 * **Sec. 24.** This Act takes effect immediately under AS 01.10.070(c).


Subject: SB 385 -- URGENT

Date: Wed, 21 Apr 2004 08:16:27 -0800

From: "Jennifer Rudinger" <akclu@alaska.net>

To: <Senator_Johnny_Ellis@legis.state.ak.us>, <Sharon_Clark@legis.state.ak.us>, <Senator_Ralph_Seekins@legis.state.ak.us>, <Senator_Scott_Ogan@legis.state.ak.us>, <Senator_Gene_Therriault@legis.state.ak.us>, <Senator_Hollis_French@legis.state.ak.us>

For Judiciary hearing today...

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Alaska Civil Liberties Union

An Affiliate of the American Civil Liberties Union

P. O. Box 201844, Anchorage, AK 99520-1844

Phone: (907) 258-0044 Fax: (907) 258-0288 Email: akclu@alaska.net

To: Senate Judiciary Committee (Senator Seekins, Chair; Senator Ogan, Vice-Chair;
Senator Ellis, Senator Therriault, and Senator French)
CC: Senator Fred Dyson
Tom Burgess, Director, Alaska Department of Homeland Security
From: Jennifer Rudinger, Executive Director
Date: April 21, 2004
Re: Position statement on **Senate Bill 385**

Dear Senator Seekins and members of the Senate Judiciary Committee:

Thank you very much for the opportunity to submit written comments on SB 385 this morning, and thank you for hearing this bill in your committee and for giving it the very cautious, careful scrutiny that it deserves. I received a copy of the proposed work draft (version I) late yesterday afternoon, and I briefly outline some of our concerns about this proposed bill below:

1. We are generally pleased to see increased legislative oversight of these new powers and welcome the creation of the Homeland Security and Emergency Management Committee. The people's representatives are the watchdogs of our liberty and should be empowered to make sure that the appropriate balance between security and individual freedoms is struck.
 - a. Unfortunately, we have not had time to run this proposed language by an attorney who specializes in Alaska's open records law, so we cannot give any opinion at this time on whether this bill comports with federal and state "sunshine" laws.
 - b. Further, we have some questions about whether the Legislature has the authority to extend the declaration of a state of emergency by concurrent resolution, but we have not had time to research this.
 - c. Finally, we would like to see it made clear that the Committee has the power to request information from the Governor under Section 24.20.880 at the bottom of Page 4 and top of Page 5 in the work draft version I. There is an argument that the Governor is included under "other ... persons" in (2), but the Governor should specifically be subject to such requests for information on how he or she uses the sweeping new powers being granted by SB 385.
2. We have previously expressed our concerns about the breadth and scope of the powers being granted to the DMVA by this bill, particularly with language as broad as the phrase "any measures" in proposed Section 26.20.020(b)(4) of the HES committee substitute for SB 385 that moved out of committee. Authorizing this state agency to "take any measures that it considers proper to carry into effect a request" of the federal government could authorize the implementation of the

overreaching provisions of laws such as the USA PATRIOT Act that the Alaska Legislature and at least 12 local communities throughout Alaska have overwhelmingly and strongly criticized as violations of American's basic constitutional rights. The addition of the language in Sec. 26.20.020(b)(4)(B) on page 9 of work draft version I is a step in the right direction in terms of expressing legislative intent, but this language is superfluous and provides no real or meaningful protection for civil liberties. If any statute or action by a state agency or official ever fails to be "permissible under the Constitutions of the United States and the State of Alaska," then that statute or action is void as unconstitutional. We do not mean to suggest that this language should be stricken from the proposed bill; we are simply stating that the language does not provide real protection and we urge the Committee not to have a false sense of security from the inclusion of this clause. Our original concerns remain: the deletion of the language in lines 19-31 on Page 9 and lines 1-6 on Page 10 removes and clarity as to what powers specifically are intended to be authorized or created and leaves us simply with the vague term "any measures."

3. Further, the AkCLU urges the Legislature to be very wary of expanding the powers of the Governor to declare a state of emergency as proposed in this bill. State of emergency powers of the Governor are emergency measures – one Majority member of the Legislature accurately describes these as the powers to create a "police state" – that should only be used in the event of an actual emergency. These powers are drastic (i.e., seizure of private property), and they are used to restrict the liberties of the people of Alaska. Emergency powers are not invoked to prevent an attack from occurring; they are invoked to control the population and maintain order if there is an actual attack.
4. Finally, we are very concerned with the establishment of roadblocks and the authorization for the government to search people's cars and their persons when there is merely a threat of an emergency (not an actual emergency) and these individuals are not suspects in any criminal activity. It is one thing to close off a road and deter traffic if there is a need to protect a building or structure that our intelligence says is at a high risk of attack – but it is quite another, and in our view, excessive, to allow the government to stop people and search their clothes, bodies, purses, cars and other personal belongings without probable cause of criminal activity.

Again, thank you for the opportunity to submit written comments as you hear this bill today. We urge the Legislature to proceed cautiously and deliberately with this legislation and to carefully scrutinize the scope of the authority being created here. The bill was introduced just over two weeks ago, and it seems to have been racing through the Senate without sufficient opportunity for your constituents to even know about it, let alone submit their comments to you. Please do not make the mistakes that Congress made when it rushed adoption of the USA PATRIOT Act, resulting in what Don Young has called the "worst act [Congress] ever passed."

Please feel free to contact me at (907) 258-0044 or akclu@alaska.net if I may be of further assistance. Thank you very much.