

ALASKA LEGISLATURE COMMITTEE FILES 1900-1900 00/2

4100 SJUD SB 341 (FILE 6) 980

1 (9) eliminate and prevent discrimination in state contracting
2 because of race, religion, color, national origin, sex, age, marital sta-
3 tus, pregnancy, parenthood, handicap, or political affiliation.

4 * Sec. 2. AS 36 is amended by adding a new chapter to read:

5 CHAPTER 30. STATE PROCUREMENT CODE.

6 ARTICLE 1. ORGANIZATION OF STATE PROCUREMENT.

7 Sec. 36.30.005. CENTRALIZATION OF PROCUREMENT AUTHORITY. (a)
8 Except as otherwise provided, all rights, powers, duties, and
9 authority relating to the procurement of supplies, services, and
10 professional services, and the control over supplies, services, and
11 professional services vested in or exercised by an agency on
12 January 1, 1987, are transferred to the commissioner of administration
13 and to the chief procurement officer.

14 (b) Except as otherwise provided, all rights, powers, duties,
15 and authority relating to the procurement of construction and
16 procurements of equipment or services for the state equipment fleet
17 and the control over construction and the state equipment fleet vested
18 in or exercised by an agency on January 1, 1987, are transferred to
19 the commissioner of transportation and public facilities, subject to
20 regulations adopted by the commissioner of administration.
21 Notwithstanding AS 44.71.010, authority relating to disposals from the
22 state equipment fleet is vested in the the commissiorer of
23 transportation and public facilities, subject to regulations adopted
24 by the commissioner of administration.

25 Sec. 36.30.010. CHIEF PROCUREMENT OFFICER. (a) The commis-
26 sioner shall appoint to the partially exempt service the chief
27 procurement officer of the state. The chief procurement officer must
28 have at least five years of prior experience in public procurement,
29 including large scale procurement of supplies, services, or

1 professional services, and must be a person with demonstrated
2 executive and organizational ability. The chief procurement officer
3 may be removed by the commissioner only for cause. The term of office
4 of the chief procurement officer expires when the term of the governor
5 expires.

6 (b) Except as otherwise specifically provided in this chapter,
7 the chief procurement officer shall

8 (1) procure or supervise the procurement of all supplies,
9 services, and professional services needed by an agency;

10 (2) exercise general supervision and control over all
11 inventories of supplies belonging to an agency and prescribe the
12 manner in which supplies shall be purchased, delivered, stored, and
13 distributed;

14 (3) prescribe the time, manner, authentication, and form of
15 making requisitions for supplies and services;

16 (4) sell, trade, transfer between agencies, or otherwise
17 dispose of surplus, obsolete, or unused supplies and make proper
18 adjustments in the accounts of agencies concerned;

19 (5) establish and maintain programs for the inspection,
20 testing, and acceptance of supplies and services and the testing of
21 samples submitted with bids;

22 (6) prescribe standard forms for bids and contracts; and

23 (7) provide for other matters that may be necessary to
24 carry out the provisions of this chapter and the regulations adopted
25 under this chapter.

26 Sec. 36.30.015. EXECUTIVE BRANCH AGENCIES. (a) The
27 commissioner of transportation and public facilities may delegate to
28 another agency the authority to contract for construction. Before
29 delegating authority to an agency under this subsection, the

1 commissioner of transportation and public facilities shall make a
2 written determination that the agency is capable of implementing the
3 delegated authority. Contracts for construction and procurements to
4 the state equipment fleet are governed by this chapter and regulations
5 adopted by the commissioner of administration under this chapter.

6 (b) The commissioner of administration may delegate to an agency
7 the authority to contract for and manage services, professional
8 services, and supplies. Notwithstanding delegation of authority under
9 this subsection, an agency's authority to contract for supplies,
10 services, and professional services, is governed by this chapter and
11 regulations adopted by the commissioner under this chapter. Before
12 delegating authority to an agency under this subsection, the commis-
13 sioner shall make a written determination that the agency is capable
14 of implementing the delegated authority.

15 (c) The commissioner of administration may not delegate the
16 authority to adopt regulations under this chapter.

17 (d) An agency may not contract for the services of legal counsel
18 without the approval of the attorney general.

19 (e) The board of directors of the Alaska Railroad Corporation
20 shall adopt procedures to govern the procurement of supplies, ser-
21 vices, professional services, and construction by the corporation.
22 The procedures must be substantially equivalent to the procedures pre-
23 scribed in this chapter and in regulations adopted under this chapter.

24 Sec. 36.30.020. LEGISLATURE. The Legislative Council shall
25 adopt procedures to govern the procurement of supplies, services,
26 professional services, and construction by the legislature, legisla-
27 tors, and legislative agencies and committees. The procedures must be
28 substantially equivalent to the procedures prescribed in this chapter.

29 Sec. 36.30.030. COURT SYSTEM. The supreme court shall adopt

1 procedures to govern the procurement of supplies, services, profes-
2 sional services, and construction by the judicial branch. The proce-
3 dures must be substantially equivalent to the procedures prescribed in
4 this chapter.

5 Sec. 36.30.040. PROCUREMENT REGULATIONS. (a) The commissioner
6 shall adopt regulations governing the procurement, management, and
7 control of supplies, services, professional services and construction
8 by agencies. The commissioner may audit and monitor the imple-
9 mentation of the regulations and the requirements of this chapter with
10 respect to using agencies.

11 (b) The commissioner shall adopt regulations pertaining to the
12 following:

13 (1) suspension, debarment, and reinstatement of prospective
14 bidders and contractors;

15 (2) bid protests;

16 (3) conditions and procedures for the procurement of per-
17 ishables and items for resale;

18 (4) conditions and procedures for the use of source selec-
19 tion methods authorized by this chapter, including sole source pro-
20 curements, emergency procurements, and small procurements;

21 (5) the opening or rejection of bids and offers, and waiver
22 of informalities in bids and offers;

23 (6) confidentiality of technical data and trade secrets
24 submitted by actual or prospective bidders or offerors;

25 (7) partial, progressive, and multiple awards;

26 (8) storerooms and inventories, including determination of
27 appropriate stock levels and the management, transfer, sale, or other
28 disposal of agency supplies;

29 (9) definitions and classes of contractual services and

1 procedures for acquiring them;

2 (10) providing for conducting price analysis;

3 (11) use of payment and performance bonds in connection with
4 contracts for supplies and services;

5 (12) guidelines for use of cost principles in negotiations,
6 adjustments, and settlements; and

7 (13) the elimination and prevention of discrimination in
8 state contracting because of race, religion, color, national origin,
9 sex, age, marital status, pregnancy, parenthood, handicap, or
10 political affiliation.

11 Sec. 36.30.050. LISTS OF CONTRACTORS. (a) The commissioner
12 shall establish and maintain lists of persons who desire to provide
13 supplies, services, professional services, or construction services to
14 the state.

15 (b) A person who desires to be on a list shall submit to the
16 commissioner evidence of a valid Alaska business license together with
17 a biennial fee established by regulation in an amount reasonably
18 calculated to pay the costs of administering this section. A
19 construction contractor shall also submit a valid certificate of
20 registration issued under AS 08.18. The commissioner, by regulation,
21 may require submission of additional information.

22 (c) The lists may be used by the chief procurement officer or an
23 agency when issuing invitations to bid or requests for proposals under
24 this chapter. The lists may be used by the Legislative Council, the
25 court system, and the Alaska Railroad Corporation.

26 (d) The lists shall be used in providing notice of intent to
27 make a small procurement. A procurement officer who intends to make a
28 procurement under AS 36.30.320 shall request names from the
29 appropriate list and the department shall furnish names on a rotating

1 basis from the list in response to each request.

2 Sec. 36.30.060. SPECIFICATIONS. (a) The commissioner shall
3 adopt regulations governing the preparation, revision, and content of
4 specifications for supplies, services, professional services, and
5 construction required by an agency. The commissioner shall monitor
6 the use of these specifications.

7 (b) Specifications for construction of highways must conform as
8 closely as practicable to those adopted by the American Association of
9 State Highway and Transportation Officials.

10 (c) The commissioner may obtain expert advice and assistance
11 from personnel of using agencies in the development of specifications.
12 Specifications must promote overall economy for the purposes intended
13 and encourage competition in satisfying the state's needs, and may not
14 be unduly restrictive. The requirements of this subsection regarding
15 the purposes and nonrestrictiveness of specifications apply to all
16 specifications, including those prepared by architects, engineers,
17 designers, and other professionals.

18 (d) In this section, "specification" means a description of the
19 physical or functional characteristics, or of the nature of a supply,
20 service, professional service, or construction project; it may include
21 requirements for inspecting, testing, and delivery.

22 Sec. 36.30.070. SUPPLY MANAGEMENT. The commissioner shall adopt
23 regulations governing the

24 (1) management of supplies during their entire life cycle;
25 (2) sale, lease, or disposal of surplus supplies by public
26 auction, competitive sealed bidding, or other appropriate method
27 designated by regulation;

28 (3) purchase of surplus supplies by an employee of the
29 using or disposing agency; and

1 (4) transfer of excess supplies.

2 Sec. 36.30.080. LEASES. (a) The department shall lease space
3 for the use of the state or an agency wherever it is necessary and
4 feasible, subject to compliance with the requirements of this chapter.
5 A lease may not provide for a period of occupancy greater than 40
6 years. An agency requiring office, warehouse, or other space shall
7 lease the space through the department.

8 (b) The department may enter into lease-financing agreements,
9 including lease-purchase agreements and agreements related to the
10 issuance of certificates of participation. A lease-financing agree-
11 ment must provide that lease payments are subject to annual appropria-
12 tion.

13 (c) If the department intends to enter into a lease or lease-
14 financing agreement with an annual rent to the state anticipated to
15 exceed \$1,000,000, the department shall provide notice to the legisla-
16 ture. The notice must include the anticipated annual lease obligation
17 amount and the anticipated total construction, acquisition, or other
18 costs of the project. The department may not enter into an agreement
19 under this subsection unless the project has been approved by the
20 legislature by law. An appropriation for the project does not consti-
21 tute approval of the project for purposes of this subsection.

22 ARTICLE 2. COMPETITIVE SEALED BIDDING.

23 Sec. 36.30.100. GENERAL POLICY. (a) Except as otherwise pro-
24 vided in this chapter, or unless specifically exempted by law, an
25 agency contract shall be awarded by competitive sealed bidding.

26 (b) Competitive sealed bidding is not required

27 (1) when the commissioner determines in writing that food,
28 clothing, or medical supplies, or materials for use in laboratory or
29 medical studies may be purchased otherwise to the best advantage of

1 the state;

2 (2) when rates are fixed by law or ordinance;

3 (3) for the purchase of products or services manufactured
4 or provided by a sheltered workshop;

5 (4) for the purchase of products or services provided by
6 the correctional industries program established under AS 33.32;

7 (5) for professional services; or

8 (6) for concessions operated on state property.

9 (c) In this section "sheltered workshop" means a place where
10 manufacture or handiwork is carried on, and that is operated for the
11 primary purpose of providing remunerative employment to individuals
12 with physical or mental disabilities that constitute substantial
13 handicaps to employment.

14 Sec. 36.30.110. INVITATION TO BID. (a) When competitive sealed
15 bidding is used, the procurement officer shall issue an invitation to
16 bid. It must include a time, place and date by which the bid must be
17 received, purchase description, and all contractual terms and
18 conditions applicable to the procurement.

19 (b) The invitation to bid shall require the bidder to list
20 subcontractors the bidder proposes to use in the performance of the
21 contract. When responding to the invitation, the bidder shall also
22 supply evidence of the bidder's valid Alaska business license and
23 evidence of a valid Alaska business license for each listed
24 subcontractor. A bidder for a construction contract shall also submit
25 evidence of the bidder's registration under AS 08.18 and evidence of
26 registration for each listed subcontractor.

27 Sec. 36.30.120. BID SECURITY. (a) Bid security shall be re-
28 quired for all competitive sealed bidding for construction contracts
29 when the price is estimated by the procurement officer to exceed an

1 amount established by regulation of the commissioner. Bid security on
2 construction contracts under the amount set by the commissioner may be
3 required when the circumstances warrant. Bid security may be required
4 for competitive sealed bidding for contracts for supplies, services,
5 or professional services in accordance with regulations of the
6 commissioner when needed for the protection of the state.

7 (b) Bid security must be a bond provided by a surety company
8 authorized to do business in the state or otherwise supplied in a form
9 satisfactory to the commissioner. Bid security must be in an amount
10 equal to at least

11 (1) 10 percent of the amount of the bid if the bid does not
12 exceed \$100,000; or

13 (2) 10 percent of the first \$100,000 and five percent of
14 the amount of the bid over \$100,000 if the bid exceeds \$100,000 up to
15 a maximum of \$200,000 in security.

16 (c) When the invitation to bid requires security, the procure-
17 ment officer shall reject a bid that does not comply with the bid
18 security requirement unless, in accordance with regulations, the
19 officer determines that the bid fails to comply in a nonsubstantial
20 manner with the security requirements.

21 Sec. 36.30.130. PUBLIC NOTICE OF INVITATION TO BID. (a) The
22 procurement officer shall give adequate public notice of the invita-
23 tion to bid at least 21 days before the date for the opening of bids.
24 If a determination is made in writing that a shorter notice period is
25 necessary for a particular bid, the 21-day period may be shortened.
26 The determination shall be made by the chief procurement officer for
27 bids for supplies, services, or professional services. The
28 determination shall be made by the commissioner of transportation and
29 public facilities for bids for construction or acquisition of property

1 for the state equipment fleet. Notice shall be published in the
2 Alaska Administrative Journal. The time and manner of notice must be
3 in accordance with regulations adopted by the commissioner of
4 administration. When practicable, notice may include

5 (1) publication in a newspaper calculated to reach prospec-
6 tive bidders;

7 (2) notices posted in public places within the area where
8 the work is to be performed or the material furnished; and

9 (3) notices mailed to all active prospective contractors on
10 the appropriate list maintained under AS 36.30.050.

11 (b) Failure to comply with the notice requirements of this
12 section does not invalidate a bid or the award of a contract. The
13 state is not liable for damages caused by failure to comply with this
14 section.

15 Sec. 36.30.140. BID OPENING. (a) The procurement officer shall
16 open bids publicly in the presence of one or more witnesses at the
17 time and place designated in the invitation to bid. The amount of
18 each bid and other relevant information that is specified by regula-
19 tion of the commissioner, together with the name of each bidder, shall
20 be recorded.

21 (b) The information recorded under (a) of this section is open
22 to public inspection as soon as practicable before the notice of
23 intent to award a contract is given under AS 36.30.365. The bids are
24 not open for public inspection until after a contract is awarded. To
25 the extent the bidder designates and the procurement officer concurs,
26 trade secrets and other proprietary data contained in a bid document
27 are confidential.

28 Sec. 36.30.150. BID ACCEPTANCE AND BID EVALUATION. Bids shall
29 be unconditionally accepted without alteration or correction, except

1 as authorized in AS 36.30.160. The procurement officer shall evaluate
2 bids based on the requirements set out in the invitation to bid, which
3 may include criteria to determine acceptability such as inspection,
4 testing, quality, delivery, and suitability for a particular purpose.
5 The criteria that will affect the bid price and be considered in
6 evaluation for award must be objectively measurable, such as dis-
7 counts, transportation costs, and total or life cycle costs. The
8 invitation to bid must set out the evaluation criteria to be used.
9 Criteria may not be used in bid evaluation if they are not set out in
10 the invitation to bid.

11 Sec. 36.30.160. LATE BIDS; CORRECTION OR WITHDRAWAL OF BIDS;
12 CANCELLATION OF AWARDS. (a) Bids received after the bid due date and
13 time indicated on the invitation to bid may not be accepted unless the
14 delay was due to an error of the contracting agency.

15 (b) Correction or withdrawal of inadvertently erroneous bids
16 before or after bid opening, or cancellation of awards or contracts
17 based on bid mistakes may be permitted in accordance with regulations
18 adopted by the commissioner. After bid opening, changes in bid prices
19 or other provisions of bids prejudicial to the interest of the state
20 or fair competition may not be permitted. Except as otherwise
21 provided by regulation, a decision to permit the correction or with-
22 drawal of a bid, or to cancel an award or contract based on a bid
23 mistake, shall be supported by a written determination made by the
24 procurement officer. If a bidder is permitted to withdraw a bid
25 before award, an action may not be maintained against the bidder or
26 the bid security.

27 Sec. 36.30.170. CONTRACT AWARD AFTER BIDS. (a) Except as
28 provided in (b) of this section, the procurement officer shall award a
29 contract based on the solicited bids with reasonable promptness by

1 written notice to the lowest responsible and responsive bidder whose
2 bid conforms in all material respects to the requirements and criteria
3 set out in the invitation to bid.

4 (b) The procurement officer shall award a contract based on
5 solicited bids to the lowest responsible and responsive Alaska bidder
6 if the bid is not more than five percent higher than the lowest non-
7 resident bidder's. In this subsection, "Alaska bidder" means a person
8 who

9 (1) holds a current Alaska business license;

10 (2) submits a bid for goods, services, or construction
11 under the name as appearing on the person's current Alaska business
12 license;

13 (3) has maintained a place of business within the state for
14 a period of six months immediately preceding the date of the bid; and

15 (4) if a joint venture, is composed entirely of ventures
16 that qualify under (1) - (3) of this subsection.

17 (c) The provisions of (b) of this section do not apply to con-
18 struction contracts for highways and public works if the construction
19 contract exceeds \$5,000.

20 Sec. 36.30.190. MULTI-STEP SEALED BIDDING. When it is con-
21 sidered impractical to initially prepare a definitive purchase de-
22 scription to support an award based on price, the procurement officer
23 may issue an invitation to bid requesting the submission of unpriced
24 technical offers to be followed by an invitation to bid limited to the
25 bidders whose offers are determined to be technical, qualified under
26 the criteria set out in the first solicitation.

27 ARTICLE 3. COMPETITIVE SEALED PROPOSALS.

28 Sec. 36.30.200. CONDITIONS FOR USE. (a) Except as otherwise
29 provided in this chapter, or unless specifically exempted by law, an

1 agency contract shall be awarded by competitive sealed proposals if it
2 is not awarded by competitive sealed bidding.

3 (b) The commissioner may provide by regulation that it is either
4 not practicable or not advantageous to the state to procure specified
5 types of supplies, services, or construction by competitive sealed
6 bidding that would otherwise be procured by that method. When the
7 chief procurement officer, or for construction contracts or
8 procurements for the state equipment fleet, the commissioner of
9 transportation and public facilities, determines in writing that the
10 use of competitive sealed bidding is either not practicable or not
11 advantageous to the state, a contract may be entered into by
12 competitive sealed proposals in accordance with the regulations. When
13 it is determined that it is practicable but not advantageous to use
14 competitive sealed bidding, the chief procurement officer or
15 commissioner of transportation and public facilities shall specify
16 with particularity the basis for the determination.

17 Sec. 36.30.210. REQUEST FOR PROPOSALS. (a) A request for
18 competitive sealed proposals must contain the date by which the pro-
19 posal must be received, a description of the supplies, construction,
20 services, or professional services to be provided under the contract,
21 and the terms under which the supplies, construction, services, or
22 professional services are to be provided. The request shall require
23 the offeror to list subcontractors the offeror proposes to use in the
24 performance of the contract. The offeror must also supply evidence of
25 the offeror's valid Alaska business license together with evidence of
26 a valid Alaska business license for each listed subcontractor. An
27 offeror for a construction contract shall also submit evidence of the
28 offeror's registration under AS 08.18 and evidence of registration for
29 each listed subcontractor.

1 (b) A request for proposals must contain that information
2 necessary for an offeror to submit a proposal or contain references to
3 any information that cannot reasonably be included with the request.
4 The request must provide a description of the factors that will be
5 considered by the procurement officer when evaluating the proposals
6 received, including the relative importance of price and other
7 evaluation factors.

8 (c) Notice of a request for proposals shall be given in accor-
9 dance with procedures under AS 36.30.130. The procurement officer may
10 use additional means considered appropriate to notify prospective
11 offerors of the intent to enter into a contract through competitive
12 sealed proposals.

13 Sec. 36.30.220. STANDARD OVERHEAD RATE. (a) An agency that
14 provides services to another agency under a contract covered by this
15 chapter shall establish a standard overhead rate. If an agency
16 submits a proposal in response to a request for competitive sealed
17 proposals, the agency must include its standard overhead rate within
18 its proposal.

19 (b) In this section, "standard overhead rate" means a charge
20 established for services and professional services from an agency that
21 is designed to compensate the agency for administration and support
22 services incidentally provided with the services contracted for.

23 Sec. 36.30.230. TREATMENT OF PROPOSALS. The procurement officer
24 shall open proposals so as to avoid disclosure of contents to compet-
25 ing offerors during the process of negotiation. A register of pro-
26 posals containing the name and address of each offeror shall be pre-
27 pared in accordance with regulations adopted by the commissioner. The
28 register and the proposals are open for public inspection after the
29 contract is awarded. To the extent that the offeror designates and

1 the procurement officer concurs, trade secrets and other proprietary
2 data contained in the proposal documents are confidential.

3 Sec. 36.30.240. DISCUSSION WITH RESPONSIBLE OFFERORS AND REVI-
4 SIONS TO PROPOSALS. As provided in the request for proposals, and
5 under regulations adopted by the commissioner, discussions may be
6 conducted with responsible offerors who submit proposals determined to
7 be reasonably susceptible of being selected for award for the purpose
8 of clarification to assure full understanding of, and responsiveness
9 to, the solicitation requirements. Offerors reasonably susceptible of
10 being selected for award shall be accorded fair and equal treatment
11 with respect to any opportunity for discussion and revision of
12 proposals, and revisions may be permitted after submissions and before
13 the award of the contract for the purpose of obtaining best and final
14 offers. In conducting discussions, the procurement officer may not
15 disclose information derived from proposals submitted by competing
16 offerors.

17 Sec. 36.30.250. AWARD OF CONTRACT. The procurement officer
18 shall award a contract under competitive sealed proposals to the
19 responsible and responsive offeror whose proposal is determined in
20 writing to be the most advantageous to the state taking into
21 consideration price and the evaluation factors set out in the request
22 for proposals. Other factors and criteria may not be used in the
23 evaluation. The contract file must contain the basis on which the
24 award is made.

25 Sec. 36.30.260. CONTRACT EXECUTION. A contract awarded under
26 competitive sealed proposals must contain

- 27 (1) the amount of the contract stated on its first page;
28 (2) the date for the supplies to be delivered or the dates
29 for construction, services, or professional services to begin and be

1 completed;

2 (3) a description of the supplies, construction, services,
3 or professional services to be provided; and

4 (4) certification by the project director for the contract-
5 ing agency, the head of the contracting agency, or a designee that
6 sufficient funds are available in an appropriation to be encumbered
7 for the amount of the contract.

8 Sec. 36.30.270. REVIEW AND APPROVAL BY DEPARTMENT OF LAW. If a
9 contract contains a term that is in conflict with a state standard
10 form contract term or if a standard term is deleted or modified by a
11 term that is not standard, the contract must be reviewed by the De-
12 partment of Law and approved as to form.

13 ARTICLE 4. OTHER PROCUREMENT METHODS.

14 Sec. 36.30.300. SOLE SOURCE PROCUREMENTS. (a) A contract may
15 be awarded for supplies, services, professional services, or
16 construction without competitive sealed bidding, competitive sealed
17 proposals, or other competition in accordance with regulations adopted
18 by the commissioner of administration. A contract may be awarded
19 under this section only when the chief procurement officer or, for
20 construction contracts or procurements for the state equipment fleet,
21 the commissioner of transportation and public facilities determines in
22 writing that there is only one source for the required procurement or
23 construction. A sole source procurement may not be awarded if a rea-
24 sonable alternative source exists. The written determination must
25 include findings of fact that support by clear and convincing evidence
26 the determination that only one source exists. The authority to make
27 the determination required by this subsection may not be delegated.

28 (b) The using agency shall submit written evidence to support a
29 sole source determination. The commissioner of administration or the

1 commissioner of transportation and public facilities, as appropriate,
2 may also require the submission of cost or pricing data in connection
3 with an award under this section.

4 (c) The procurement officer shall negotiate with the single
5 supplier, to the extent practicable, to obtain a contract advantageous
6 to the state.

7 Sec. 36.30.310. EMERGENCY PROCUREMENTS. Procurements may be
8 made under emergency conditions as defined in regulations adopted by
9 the commissioner when there exists a threat to public health, welfare,
10 or safety, when a situation exists that makes a procurement through
11 competitive sealed bidding or competitive sealed proposals
12 impracticable or contrary to the public interest, or to protect public
13 or private property. An emergency procurement need not be made
14 through competitive sealed bidding or competitive sealed proposals but
15 shall be made with competition that is practicable under the
16 circumstances. A written determination by the procurement officer of
17 the basis for the emergency and for the selection of the particular
18 contractor shall be included in the contract file. The written deter-
19 mination must include findings of fact that support the determination.

20 Sec. 36.30.320. SMALL PROCUREMENTS. (a) A procurement for
21 supplies, services, or construction that does not exceed an aggregate
22 dollar amount of \$5,000 may be made in accordance with regulations
23 adopted by the commissioner for small procurements.

24 (b) A contract for professional services that does not exceed
25 \$25,000 may be made under regulations adopted by the commissioner for
26 small procurements, except that an agency may not contract for the
27 services of legal counsel without the approval of the attorney
28 general.

29 (c) Small procurements need not be made through competitive

1 sealed bidding or competitive sealed proposals but shall be made with
2 competition that is practicable under the circumstances.

3 (d) Procurement requirements may not be artificially divided or
4 fragmented so as to constitute a purchase under this section or to
5 circumvent the source selection procedures required by AS 36.30.100 -
6 36.30.270.

7 (e) The procurement officer shall give adequate public notice of
8 intent to make a procurement under this section in accordance with
9 regulations adopted by the commissioner. Notices shall be mailed to
10 those active prospective contractors on the appropriate list
11 maintained under AS 36.30.050 designated by the commissioner.

12 ARTICLE 5. CONTRACT FORMATION AND MODIFICATION.

13 Sec. 36.30.350. BID CANCELLATION, REJECTION. An invitation to
14 bid, a request for proposals, or other solicitation may be cancelled
15 or any or all bids or proposals may be rejected in whole or in part or
16 the date for opening bids or proposals may be delayed when it is in
17 the best interests of the state in accordance with regulations adopted
18 by the commissioner. The reasons for cancellation, rejection, or
19 delay in opening bids or proposals shall be made part of the contract
20 file.

21 Sec. 36.30.360. DETERMINATION OF RESPONSIBILITY. (a) A written
22 determination of responsibility of a bidder or offeror shall be made
23 by the procurement officer in accordance with regulations adopted by
24 the commissioner. The unreasonable failure of a bidder or offeror to
25 promptly supply information in connection with an inquiry with respect
26 to responsibility is grounds for a determination of nonresponsibility
27 with respect to the bidder or offeror.

28 (b) Information furnished by a bidder or offeror under (a) of
29 this section is confidential and may not be disclosed without prior

1 written consent by the bidder or offeror.

2 Sec. 36.30.365. NOTICE OF INTENT TO AWARD A CONTRACT. At least
3 10 days before the formal award of a contract under this chapter the
4 procurement officer shall provide to each bidder or offeror notice of
5 intent to award a contract. The notice shall conform to regulations
6 adopted by the commissioner.

7 Sec. 36.30.370. TYPES OF CONTRACTS. Subject to limitations of
8 this section, any type of contract that will promote the best inter-
9 ests of the state may be used, except that the use of a cost-plus-
10 a-percentage-of-cost contract is prohibited. A cost-reimbursement
11 contract may be used only when a determination is made in writing by
12 the procurement officer that a cost-reimbursement contract is likely
13 to be less costly to the state than any other type or that it is
14 impracticable to obtain the supplies, services, professional services,
15 or construction required except under a cost-reimbursement contract.

16 Sec. 36.30.380. APPROVAL OF ACCOUNTING SYSTEM. Except for a
17 contract awarded through competitive sealed bidding or a firm fixed-
18 price contract, a contract type may not be used unless it has been
19 determined in writing by the procurement officer that the proposed
20 contractor's accounting system

21 (1) will permit timely development of all necessary cost
22 data in the form required by the specific contract type contemplated;
23 and

24 (2) is adequate to allocate costs in accordance with gen-
25 erally accepted accounting principles.

26 Sec. 36.30.390. MULTI-TERM CONTRACTS. (2) Unless otherwise
27 provided by law, a contract for supplies, services, or professional
28 services may be entered into for any period of time considered to be
29 in the best interests of the state provided the term of the contract

1 and conditions of renewal or extension, if any, are included in the
2 solicitation and funds are available for the first fiscal period at
3 the time of contracting. Payment and performance obligations for
4 succeeding fiscal periods shall be subject to the availability and
5 appropriation of funds for them.

6 (b) Before using a multi-term contract, the procurement officer
7 shall determine in writing that

8 (1) estimated requirements cover the period of the contract
9 and are reasonably firm and continuing; and

10 (2) the contract will serve the best interests of the state
11 by encouraging effective competition or otherwise promoting economies
12 in state procurement.

13 (c) When funds are not appropriated or otherwise made available
14 to support continuation of performance in a subsequent fiscal period,
15 the contract shall be cancelled. The contractor may only be reim-
16 bursed for the reasonable value of any nonrecurring costs incurred but
17 not amortized in the price of the supplies, services, or professional
18 services delivered under the contract that are not otherwise
19 recoverable. The cost of cancellation may be paid from any appropria-
20 tions available for these purposes.

21 Sec. 36.30.400. COST OR PRICING DATA. (a) Before an award of a
22 contract or a change order or contract modification, the contractor or
23 prospective contractor shall submit cost and pricing data. The con-
24 tractor or prospective contractor shall certify that, to the best of
25 the contractor's or prospective contractor's knowledge and belief, the
26 data submitted is accurate, complete, and current as of a mutually
27 determined specified date and will continue to be accurate and com-
28 plete during the performance of the contract.

29 (b) When a contractor becomes aware of a situation that may form

1 the basis of a claim for compensation that exceeds the amount
2 designated as the base amount of the contract and before performing
3 additional work or supplying additional materials, the contractor
4 shall submit cost and pricing data on the additional work or
5 materials. The contractor shall certify that, to the best of the
6 contractor's knowledge and belief, the data submitted is accurate,
7 complete, and current and is the actual cost to the contractor of
8 performing the additional work or supplying the additional materials.

9 (c) A contract, change order, or contract modification under
10 which a certificate is required under (a) or (b) of this section must
11 contain a provision that the price to the state, including the con-
12 tractor's profit or fee, will be adjusted to exclude any significant
13 sums by which the state finds that the price is increased because the
14 cost or pricing data furnished by the contractor or prospective
15 contractor is inaccurate, incomplete, or not current as of the date
16 agreed upon by the parties.

17 (d) The requirements of (a) of this section do not apply when

18 (1) the contract price is based on adequate price competi-
19 tion;

20 (2) the contract price is set by law or regulation; or

21 (3) it is determined by the procurement officer in writing
22 and in accordance with regulations adopted by the commissioner that
23 the requirements of (a) of this section may be waived, and the reasons
24 for waiver are stated.

25 Sec. 36.30.410. RIGHT TO INSPECT PLANT. The state may, at
26 reasonable times, inspect the part of the plant or place of business
27 of a contractor or subcontractor that is related to the performance of
28 a contract awarded or to be awarded by an agency.

29 Sec. 36.30.420. RIGHT TO AUDIT RECORDS. (a) The state may, at

1 reasonable times and places, audit the books and records of a person
2 who has submitted cost or pricing data under AS 36.30.400 to the
3 extent that the books and records relate to the cost or pricing data.
4 A person who receives a contract, change order, or contract modifica-
5 tion for which cost or pricing data is required, shall maintain books
6 and records that relate to the cost or pricing data for three years
7 after the date of final payment under the contract, unless a shorter
8 period is authorized in writing by the commissioner.

9 (b) The state may audit the books and records of a contractor or
10 a subcontractor to the extent that the books and records relate to the
11 performance of the contract or subcontract. Books and records shall
12 be maintained by the contractor for a period of three years after the
13 date of final payment under the prime contract and by the subcontrac-
14 tor for a period of three years after the date of final payment under
15 the subcontract, unless a shorter period is authorized in writing by
16 the commissioner.

17 Sec. 36.30.430. STANDARD MODIFICATION CLAUSES FOR CONTRACTS.

18 (a) The commissioner shall adopt regulations permitting the inclusion
19 of clauses providing for adjustments in prices, time of performance,
20 or other contract provisions as appropriate.

21 (b) The commissioner shall adopt regulations permitting or
22 requiring the inclusion in state contracts of clauses providing for
23 appropriate remedies and covering the following subjects:

- 24 (1) liquidated damages;
25 (2) specified excuses for delay or nonperformance;
26 (3) termination of the contract for default; and
27 (4) termination of the contract in whole or in part for the
28 convenience of the state.

29 Sec. 36.30.460. MODIFICATION OF STANDARD CLAUSES. The

1 procurement officer or the head of a contracting agency may vary the
2 clauses adopted under AS 36.30.430 for inclusion in a particular state
3 contract if the

4 (1) variations are supported by a written determination
5 that states the circumstances justifying the variation; and

6 (2) approval required by AS 36.30.270 is obtained.

7 Sec. 36.30.470. FISCAL RESPONSIBILITY. A contract modification,
8 change order, or contract price adjustment under a construction con-
9 tract in excess of an amount established by regulation of the commis-
10 sioner is subject to prior written certification by the fiscal officer
11 of the agency responsible for funding the project or the contract, or
12 other official responsible for monitoring and reporting upon the
13 status of the costs of the total project budget or contract budget, as
14 to the effect of the contract modification, change order, or adjust-
15 ment in contract price on the total project budget or the total con-
16 tract budget. If the certification of the fiscal officer or other
17 responsible official discloses a resulting increase in the total
18 project budget or the total contract budget, the procurement officer
19 may not approve the contract modification, change order, or adjustment
20 in contract price unless sufficient funds are available, or the scope
21 of the project or contract is adjusted to permit the degree of
22 completion that is feasible within the total project budget or total
23 contract budget as it existed before the contract modification, change
24 order, or adjustment in contract price under consideration. A
25 contract modification change order, or adjustment in contract that is
26 signed by both parties and has been reasonably relied on by a
27 contractor, is presumed to be valid even if the provisions of this
28 section have not been met.

29 Sec. 36.30.480. COST PRINCIPLE REGULATIONS. The commissioner

1 shall adopt regulations setting out cost principles that shall be used
2 to determine the allowability of incurred costs for the purpose of
3 reimbursing costs under contract provisions that provide for the
4 reimbursement of costs. If a written determination is approved at a
5 level above the procurement officer, the cost principles may be
6 modified by contract.

7 ARTICLE 6. PROCUREMENT RECORDS AND REPORTS.

8 Sec. 36.30.500. RETENTION OF PROCUREMENT RECORDS. Procurement
9 records shall be retained and disposed of in accordance with records
10 retention guidelines and schedules approved by the state archivist.
11 Retained documents shall be made available to the attorney general or
12 a designee upon request and proper receipt.

13 Sec. 36.30.510. RECORDS OF CONTRACTS AWARDED UNDER COMPETITIVE
14 SEALED PROPOSALS. A contract file open for public inspection shall be
15 kept by the commissioner and the contracting agency for each contract
16 awarded under competitive sealed proposals. The file kept by the
17 commissioner shall contain a summary of the information in the file of
18 the contracting agency. The file kept by the contracting agency must
19 contain

- 20 (1) a copy of the contract;
21 (2) the register of proposals prepared under AS 36.30.230
22 and a copy of each proposal submitted; and
23 (3) the written determination to award the contract pre-
24 pared under AS 36.30.250.

25 Sec. 36.30.520. RECORDS OF SOLE SOURCE AND EMERGENCY PROCURE-
26 MENTS. (a) The commissioner shall maintain for a minimum of five
27 years a record listing all sole source procurement contracts made
28 under AS 36.30.300 and emergency procurements made under AS 36.30.310.
29 The record must contain

- 1 (1) each contractor's name;
2 (2) the amount and type of each contract; and
3 (3) a listing of the supplies, services, professional
4 services, or construction procured under each contract.

5 (b) The Department of Transportation and Public Facilities and
6 any agency to whom the commissioner of administration or the
7 commissioner of transportation and public facilities has delegated
8 procurement authority under AS 36.30.015 shall, by October 1 of each
9 year, submit to the commissioner of administration records of the type
10 specified in (a) of this section. The commissioner of administration
11 shall maintain these records as required by (a) of this section.

12 Sec. 36.30.530. PUBLIC ACCESS TO PROCUREMENT INFORMATION.
13 Procurement information is public except as otherwise provided by law.

14 Sec. 36.30.540. REPORT TO LEGISLATURE. Beginning with Decem-
15 ber 1, 1989, the commissioner shall biennially report to the legisla-
16 ture concerning procurements by agencies. The report must include

17 (1) the records maintained by the commissioner under
18 AS 36.30.510 and the records maintained under AS 36.30.520(a) for the
19 previous two fiscal years;

20 (2) recommendations for changes in this chapter or other
21 laws based on implementation of this chapter in the previous two
22 fiscal years;

23 (3) a description of any matters that involved litigation
24 concerning this chapter in the previous two fiscal years;

25 (4) a list of procurements made under this chapter from
26 out-of-state sources during the previous two fiscal years together
27 with the total number of procurement contracts entered into during
28 that period with out-of-state contractors and the total value of these
29 contracts; and

1 (5) a list of procurements made under this chapter from
2 state sources during the previous two fiscal years together with the
3 total number of procurement contracts entered into during that period
4 with state contractors and the total value of these contracts.

5 ARTICLE 7. LEGAL AND CONTRACTUAL REMEDIES.

6 Sec. 36.30.560. FILING OF A PROTEST. An interested party may
7 protest the award of a contract, the proposed award of a contract, or
8 a solicitation for supplies, services, professional services, or
9 construction by an agency. The protest shall be filed with the
10 procurement officer of the contracting agency in writing and include
11 the following information:

12 (1) the name, address, and telephone number of the pro-
13 tester;

14 (2) the signature of the protester or the protester's
15 representative;

16 (3) identification of the contracting agency and the solici-
17 tation or contract at issue;

18 (4) a detailed statement of the legal and factual grounds
19 of the protest, including copies of relevant documents; and

20 (5) the form of relief requested.

21 Sec. 36.30.565. TIME FOR FILING A PROTEST. (a) A protest based
22 upon alleged improprieties in a solicitation involving competitive
23 sealed bidding that are apparent before the bid opening shall be filed
24 before the bid opening. A protest based on alleged improprieties in a
25 solicitation involving competitive sealed proposals that are apparent

26 (1) before the due date for receipt of initial proposals
27 shall be filed before that due date;

28 (2) after the due date for receipt of initial proposals
29 shall be filed before the next due date for receipt of adjusted

1 proposals that occurs after the improprieties are apparent.

2 (b) In situations not covered under (a) of this section, pro-
3 tests shall be filed within 10 days after a notice of intent to award
4 the contract is issued by the procurement officer.

5 (c) If the protester shows good cause, the procurement officer
6 of the contracting agency may consider a filed protest that is not
7 timely.

8 Sec. 36.30.570. NOTICE OF A PROTEST. The procurement officer
9 shall immediately give notice of a protest filed under AS 36.30.565 to
10 the contractor if a contract has been awarded or, if no award has been
11 made, to all interested parties.

12 Sec. 36.30.575. STAY OF AWARD. If a protest is filed the award
13 may be made unless the procurement officer of the contracting agency
14 determines in writing that a

15 (1) reasonable probability exists that the protest will be
16 sustained; or

17 (2) stay of the award is not contrary to the best interests
18 of the state.

19 Sec. 36.30.580. DECISION BY THE PROCUREMENT OFFICER. (a) The
20 procurement officer of the contracting agency shall issue a written
21 decision containing the basis of the decision within 14 days after a
22 protest has been filed. A copy of the decision shall be furnished to
23 the protester by certified mail or other method that provides evidence
24 of receipt.

25 (b) The time for a decision may be extended up to 26 days for
26 good cause by the commissioner of administration, or for protests
27 involving construction or procurements for the state equipment fleet,
28 the commissioner of transportation and public facilities. If an
29 extension is granted, the procurement officer shall notify the

1 protester in writing of the date the decision is due.

2 (c) If a decision is not made by the date it is due, the pro-
3 tester may proceed as if the procurement officer had issued a decision
4 adverse to the protester.

5 Sec. 36.30.585. PROTEST REMEDIES. (a) If the procurement
6 officer sustains a protest in whole or in part, the procurement offi-
7 cer shall implement an appropriate remedy.

8 (b) In determining an appropriate remedy, the procurement offi-
9 cer shall consider the circumstances surrounding the solicitation or
10 procurement including the seriousness of the procurement deficiencies,
11 the degree of prejudice to other interested parties or to the
12 integrity of the procurement system, the good faith of the parties,
13 the extent the procurement has been accomplished, costs to the agency
14 and other impacts on the agency of a proposed remedy, and the urgency
15 of the procurement to the welfare of the state.

16 Sec. 36.30.590. APPEAL ON A PROTEST. (a) An appeal from a
17 decision of a procurement officer on a protest may be filed by the
18 protester with the commissioner of administration, or for protests
19 involving construction or procurements for the state equipment fleet,
20 the commissioner of transportation and public facilities. An appeal
21 shall be filed within five days after the decision is received by the
22 protester. The protester shall file a copy of the appeal with the
23 procurement officer.

24 (b) An appeal must contain the information required under
25 AS 36.30.560. In addition, the appeal must include

26 (1) a copy of the decision being appealed; and

27 (2) identification of the factual or legal errors in the
28 decision that form the basis for the appeal.

29 Sec. 36.30.595. NOTICE OF A PROTEST APPEAL. (a) The

1 procurement officer shall immediately give notice of an appeal filed
2 under AS 36.30.590 to the contractor if a contract has been awarded
3 or, if no award has been made, to all interested parties.

4 (b) The commissioner of administration or the commissioner of
5 transportation and public facilities, as appropriate, shall, on
6 request, furnish a copy of the appeal to a person notified under (a)
7 of this section, except that confidential material shall be deleted
8 from the copy.

9 Sec. 36.30.600. STAY OF AWARD DURING PROTEST APPEAL. If a
10 protest appeal is filed before a contract is awarded and the award was
11 stayed under AS 36.30.575, the filing of the appeal automatically
12 continues the stay until the commissioner of administration or the
13 commissioner of transportation and public facilities, as appropriate,
14 makes a written determination that the award of the contract without
15 further delay is necessary to protect substantial interests of the
16 state.

17 Sec. 36.30.605. PROTEST REPORT. (a) The procurement officer of
18 the contracting agency shall file a complete report on the protest and
19 decision with the commissioner of administration or the commissioner
20 of transportation and public facilities, as appropriate, within seven
21 days after a protest appeal is filed. The procurement officer shall
22 furnish a copy of the report to the protester and to interested par-
23 ties that have requested a copy of the appeal under AS 36.30.595(b).

24 (b) The procurement officer may request an extension of time to
25 prepare the protest report. The request must be in writing listing
26 the reasons for the request. The commissioner of administration or
27 the commissioner of transportation and public facilities, as
28 appropriate, shall respond to the request in writing. If an extension
29 is granted, the commissioner shall list the reasons for granting the

1 extension and indicate the date the protest report is due. The com-
2 missioner shall notify the protester in writing that the time for
3 submission of the report has been extended and the date the report is
4 due.

5 (c) The protester may file comments on the protest report with
6 the commissioner of administration or the commissioner of
7 transportation and public facilities, as appropriate, within seven
8 days after the report is received. The protester shall provide copies
9 of the comments to the procurement officer and to interested parties
10 that have requested a copy of the appeal under AS 36.30.595(b).

11 (d) The protester may request an extension of time to prepare
12 the comments on the protest report. The request must be in writing
13 listing the reasons for the request. The commissioner of
14 administration or the commissioner of transportation and public
15 facilities, as appropriate, shall respond to the request in writing.
16 If an extension is granted, the commissioner shall list the reasons
17 for granting the extension and indicate the date the comments are due.
18 The commissioner shall notify the procurement officer in writing that
19 the time for submission of the comments has been extended and the date
20 the comments are due.

21 Sec. 36.30.610. DECISION WITHOUT HEARING. (a) The commissioner
22 of administration or the commissioner of transportation and public
23 facilities, as appropriate, shall dismiss a protest appeal before a
24 hearing is held if it is determined in writing that the appeal is
25 untimely under AS 36.30.590(a).

26 (b) The commissioner of administration or the commissioner of
27 transportation and public facilities, as appropriate, may issue a
28 decision on an appeal without a hearing if the appeal involves ques-
29 tions of law without genuine issues of fact.

1 Sec. 36.30.615. HEARING ON PROTEST APPEAL. A hearing on a
2 protest appeal shall be conducted in accordance with AS 36.30.670 and
3 regulations adopted by the commissioner.

4 Sec. 36.30.620. CONTRACT CONTROVERSIES. (a) A contractor shall
5 file a claim concerning a contract awarded under this chapter with the
6 procurement officer. The contractor shall certify that the claim is
7 made in good faith, that the supporting data are accurate and complete
8 to the best of the contractor's knowledge and belief, and that the
9 amount requested accurately reflects the contract adjustment for which
10 the contractor believes the state is liable.

11 (b) If a controversy asserted by a contractor concerning a
12 contract awarded under this chapter cannot be resolved by agreement,
13 the procurement officer shall, after receiving a written request by
14 the contractor for a decision, issue a written decision. The decision
15 shall be made no more than 90 days after receipt by the procurement
16 officer of all necessary information from the contractor. Failure of
17 the contractor to furnish necessary information to the procurement
18 officer constitutes a waiver of the claim. Before issuing the
19 decision the procurement officer shall review the facts relating to
20 the controversy and obtain necessary assistance from legal, fiscal,
21 and other advisors.

22 (c) The time for issuing a decision under (b) of this section
23 may be extended for good cause by the commissioner of administration,
24 or for a controversy involving a construction contract or procurement
25 for the state equipment fleet, the commissioner of transportation and
26 public facilities, if the controversy concerns an amount in excess of
27 \$50,000. The procurement officer shall notify the contractor in
28 writing that the time for the issuance of a decision has been extended
29 and of the date by which a decision shall be issued.

1 (d) The procurement officer shall furnish a copy of the decision
2 to the contractor by certified mail or other method that provides
3 evidence of receipt. The decision shall include a

- 4 (1) description of the controversy;
5 (2) reference to the pertinent contract provisions;
6 (3) statement of the agreed upon and disputed facts;
7 (4) statement of reasons supporting the decision; and
8 (5) statement substantially as follows:

9 "This is the final decision of the procurement officer.
10 This decision may be appealed to the commissioner of
11 _____ (administration/transportation
12 and public facilities). If you appeal, you must file
13 a written notice of appeal with the commissioner within
14 14 days after you receive this decision."

15 (e) If a decision is not made by the date it is due, the con-
16 tractor may proceed as if the procurement officer had issued a deci-
17 sion adverse to the contractor.

18 (f) If a controversy asserted by the state concerning a contract
19 awarded under this chapter cannot be resolved by agreement the matter
20 shall be immediately referred to the commissioner of administration or
21 the commissioner of transportation and public facilities, as
22 appropriate.

23 Sec. 36.30.625. APPEAL ON A CONTRACT CONTROVERSY. (a) An
24 appeal from a decision of the procurement officer on a contract con-
25 troversy may be filed by the contractor with the commissioner of
26 administration, or for a controversy involving a construction contract
27 or procurement for the state equipment fleet, the commissioner of
28 transportation and public facilities. The appeal shall be filed
29 within 14 days after the decision is received by the contractor. The

1 contractor shall file a copy of the appeal with the procurement offi-
2 cer.

3 (b) An appeal shall contain a copy of the decision being ap-
4 pealed and identification of the factual or legal errors in the deci-
5 sion that form the basis for the appeal.

6 Sec. 36.30.630. HEARING ON A CONTRACT CONTROVERSY. (a) Except
7 as provided in (b) of this section, a hearing shall be conducted
8 according to AS 36.30.670 and regulations adopted by the commissioner
9 of administration on a contract controversy appealed to the commis-
10 sioner of administration or the commissioner of transportation and
11 public facilities or referred to either commissioner under
12 AS 36.30.620(f).

13 (b) Within 15 days after receipt of an appeal on a contract
14 controversy the commissioner of administration or the commissioner of
15 transportation and public facilities, as appropriate, may adopt the
16 decision of the procurement officer as the final decision without a
17 hearing.

18 Sec. 36.30.632. DELEGATION. The commissioner of administration
19 and the commissioner of transportation and public facilities may
20 delegate responsibilities under AS 36.30.590 and 36.30.630 to the head
21 of the contracting agency.

22 Sec. 36.30.635. AUTHORITY TO DEBAR OR SUSPEND. (a) After
23 consultation with the using agency and the attorney general and after
24 a hearing conducted according to AS 36.30.670 and regulations adopted
25 by the commissioner of administration, the commissioner of administra-
26 tion or the commissioner of transportation and public facilities may
27 debar a person for cause from consideration for award of contracts.
28 Notice of a debarment hearing shall be provided in writing at least
29 seven days before the hearing. The debarment may not be for a period

1 of more than three years.

2 (b) The commissioner of administration or the commissioner of
3 transportation and public facilities, after consultation with the
4 using agency and the attorney general, may suspend a person from
5 consideration for award of contracts if there is probable cause for
6 debarment and compelling reasons require suspension to protect state
7 interests. The suspension may not be for a period exceeding three
8 months.

9 (c) The authority to debar or suspend shall be exercised in
10 accordance with regulations adopted by the commissioner of adminis-
11 tration.

12 Sec. 36.30.640. CAUSES FOR DEBARMENT OR SUSPENSION. The causes
13 for debarment or suspension include the following:

14 (1) conviction for commission of a criminal offense as an
15 incident to obtaining or attempting to obtain a public or private
16 contract or subcontract, or in the performance of the contract or
17 subcontract;

18 (2) conviction under state or federal statutes of embezzle-
19 ment, theft, forgery, bribery, falsification or destruction of re-
20 cords, receiving stolen property, or other offense indicating a lack
21 of business integrity or business honesty that currently and seriously
22 affects responsibility as a state contractor;

23 (3) conviction or civil judgment finding a violation under
24 state or federal antitrust statutes;

25 (4) violation of contract provisions of a character that is
26 regarded by the commissioner to be so serious as to justify debarment
27 action, such as

28 (A) knowing failure without good cause to perform in
29 accordance with the specifications or within the time limit

1 provided in the contract; or

2 (B) failure to perform or unsatisfactory performance
3 in accordance with the terms of one or more contracts, except
4 that failure to perform or unsatisfactory performance caused by
5 acts beyond the control of the contractor may not be considered
6 to be a basis for debarment;

7 (5) for violation of the ethical standards set out in law
8 or regulation;

9 (6) for a violation of this chapter punishable under
10 AS 36.30.930(2); and

11 (7) any other cause listed in regulations of the
12 commissioner determined to be so serious and compelling as to affect
13 responsibility as a state contractor, including debarment by another
14 governmental entity for a cause listed in the regulations.

15 Sec. 36.30.645. WRITTEN DETERMINATIONS. (a) The commissioner
16 of administration or the commissioner of transportation and public
17 facilities shall issue a written decision to debar or suspend. The
18 decision must

19 (1) state the reasons for the action taken; and

20 (2) inform the debarred person of rights to judicial appeal
21 or inform the suspended person of rights to administrative and judi-
22 cial appeal.

23 (b) A copy of the decision under (a) of this section shall be
24 mailed or otherwise furnished immediately to the debarred or suspended
25 person and any other intervening party.

26 Sec. 36.30.650. HEARING ON A SUSPENSION. (a) A person suspend-
27 ed under AS 36.30.635 is entitled to a hearing conducted according to
28 AS 36.30.670 and regulations adopted by the commissioner of adminis-
29 tration if the person files a written request for a hearing with the

1 commissioner of administration or the commissioner of transportation
2 and public facilities, as appropriate, within seven days after receipt
3 of the notice of suspension under AS 36.30.645.

4 (b) If a suspended person requests a hearing the commissioner of
5 administration or the commissioner of transportation and public
6 facilities, as appropriate, shall schedule a prompt hearing unless the
7 attorney general determines that a hearing at the proposed time is
8 likely to jeopardize an investigation. A hearing may not be delayed
9 longer than six months after notice of the suspension is provided
10 under AS 36.30.645.

11 Sec. 36.30.655. LIST OF PERSONS DEBARRED OR SUSPENDED. The
12 commissioner shall maintain a list of all persons debarred or suspend-
13 ed from consideration for award of contracts.

14 Sec. 36.30.660. REINSTATEMENT. (a) The commissioner of
15 administration or the commissioner of transportation and public
16 facilities may at any time after a final decision to debar a person
17 from consideration for award of contracts reinstate the person after
18 determining that the cause for which the person was debarred no longer
19 exists or has been substantially mitigated.

20 (b) A debarred person may request reinstatement by submitting a
21 petition to the commissioner of administration or the commissioner of
22 transportation and public facilities supported by evidence showing
23 that the cause for debarment no longer exists or has been substantial-
24 ly mitigated.

25 (c) The commissioner of administration or the commissioner of
26 transportation and public facilities may require a hearing on a
27 reinstatement petition. A decision on reinstatement shall be made in
28 writing within seven days after a reinstatement petition is submitted.
29 The decision shall specify the factors on which it is based. A

1 decision under this section is not subject to judicial appeal.

2 Sec. 36.30.665. LIMITED PARTICIPATION. The commissioner of
3 administration or the commissioner of transportation and public
4 facilities may permit a debarred person to participate in a contract
5 on a limited basis during the debarment period if the commissioner
6 determines in writing that the participation is advantageous to the
7 state. The determination shall specify the factors on which it is
8 based and the limits imposed on the debarred person.

9 Sec. 36.30.670. HEARING PROCEDURES. (a) The commissioner of
10 administration or the commissioner of transportation and public
11 facilities shall act as a hearing officer or appoint a hearing officer
12 for a hearing conducted under this chapter. The hearing officer shall
13 arrange for a prompt hearing and notify the parties in writing of the
14 time and place of the hearing. The hearing shall be conducted in an
15 informal manner. The provisions of AS 44.62 (Administrative Procedure
16 Act) do not apply to a hearing conducted under this chapter.

17 (b) The hearing officer may

18 (1) hold prehearing conferences to settle, simplify, or
19 identify the issues in a proceeding, or to consider other matters that
20 may aid in the expeditious disposition of the proceeding;

21 (2) require parties to state their positions concerning the
22 various issues in the proceeding;

23 (3) require parties to produce for examination those rele-
24 vant witnesses and documents under their control;

25 (4) rule on motions and other procedural matters;

26 (5) regulate the course of the hearing and conduct of the
27 participants;

28 (6) establish time limits for submission of motions or
29 memoranda;

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(7) impose appropriate sanctions against a person who fails to obey an order of the hearing officer, including

(A) prohibiting the person from asserting or opposing designated claims or defenses or introducing designated matters into evidence;

(B) excluding all testimony of an unresponsive or evasive witness; and

(C) excluding a person from further participation in the hearing;

(8) take official notice of a material fact not appearing in evidence, if the fact is among the traditional matters subject to judicial notice;

(9) administer oaths or affirmations.

(c) A transcribed record of the hearing shall be made available at cost to a party that requests it.

Sec. 36.30.675. RECOMMENDATION BY THE HEARING OFFICER. (a) If the commissioner of administration or the commissioner of transportation and public facilities is not acting as hearing officer, the hearing officer shall recommend a decision to the commissioner based on the evidence presented. The recommendation shall include findings of fact and conclusions of law.

(b) The commissioner of administration or the commissioner of transportation and public facilities may affirm, modify, or reject the hearing officer's recommendation in whole or in part, may remand the matter to the hearing officer with instructions, or take other appropriate action.

Sec. 36.30.680. FINAL DECISION BY THE COMMISSIONER. A decision by the commissioner of administration or the commissioner of transportation and public facilities after a hearing under this

1 chapter is final. A decision shall be sent within 20 days after the
2 hearing to all parties by personal service or certified mail, except
3 that a decision by the commissioner of transportation and public
4 facilities involving procurement of construction shall be sent within
5 90 days after the hearing to all parties by personal service or
6 certified mail.

7 Sec. 36.30.685. JUDICIAL APPEAL. (a) A final decision of the
8 commissioner of administration or the commissioner of transportation
9 and public facilities under AS 36.30.610, 36.30.635(a), 36.30.650, or
10 36.30.680 may be appealed to the superior court in accordance with the
11 Alaska Rules of Appellate Procedure.

12 (b) A final decision of the commissioner of administration or
13 the commissioner of transportation and public facilities under
14 AS 36.30.630(b) may be appealed to the superior court for a trial de
15 novo.

16 Sec. 36.30.687. MISREPRESENTATIONS AND FRAUDULENT CLAIMS. (a)
17 A person who makes or uses in support of a contract claim under this
18 chapter, a misrepresentation, or who practices or attempts to practice
19 a fraud, at any stage of proceedings relating to a procurement or
20 contract controversy under this chapter:

21 (1) forfeits all claims relating to that procurement or
22 contract; and

23 (2) is liable to the state for reimbursement of all sums
24 paid on the claim, for all costs attributable to review of the claim,
25 and for a civil penalty equal to the amount by which the claim is
26 misrepresented.

27 (b) The procurement officer, commissioner or court shall make
28 specific findings of misrepresentation, attempted fraud or fraud
29 before declaring a forfeiture under (a)(1) of this section.

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(c) Suits to recover costs and penalties under (a)(2) of this section must be commenced within six years after the discovery of the misrepresentation, fraud, or attempted fraud.

(d) A person who in a matter relating to a procurement or a contract controversy or claim under this chapter makes a misrepresentation to the state through a trick, scheme, or device is guilty of a class C felony.

(e) In this section, "misrepresentation" means a false or misleading statement of material fact, or conduct intended to deceive or mislead concerning material fact, whether it succeeds in deceiving or misleading.

Sec. 36.30.690. EXCLUSIVE REMEDY. Notwithstanding AS 44.77 or other law to the contrary, AS 36.30.560 - 36.30.699 and regulations adopted under those sections provide the exclusive procedure for asserting a claim against an agency arising in relation to a procurement under this chapter.

Sec. 36.30.695. OTHER RULES OF PROCEDURE. The commissioner may adopt by regulation additional rules of procedure providing for the expeditious administrative review of all contract claims or controversies, both before the contracting agency and through an appeal heard de novo.

Sec. 36.30.699. DEFINITION. In AS 36.30.560 - 36.30.695, "interested party" means an actual or prospective bidder or offeror whose economic interest may be affected substantially and directly by the issuance of a contract solicitation, the award of a contract, or the failure to award a contract; whether an actual or prospective bidder or offeror has an economic interest depends on the circumstances.

ARTICLE 8. INTERGOVERNMENTAL RELATIONS.

1 Sec. 36.30.700. COOPERATIVE PURCHASING AUTHORIZED. A public
 2 procurement unit may either participate in, sponsor, conduct, or
 3 administer a cooperative purchasing agreement for the procurement of
 4 supplies, services, professional services, or construction with one or
 5 more public procurement units or external procurement activities in
 6 accordance with an agreement entered into between the participants.
 7 Cooperative purchasing may include joint or multi-party contracts
 8 between public procurement units and open-ended state public procure-
 9 ment unit contracts that are made available to local public procure-
 10 ment units.

11 Sec. 36.30.710. SALE, ACQUISITION, OR USE OF SUPPLIES BY A
 12 PUBLIC PROCUREMENT UNIT. (a) A public procurement unit may sell to,
 13 acquire from, or use any supplies belonging to another public procure-
 14 ment unit or external procurement activity independent of the require-
 15 ments of AS 36.30.070 and 36.30.100 - 36.30.280.

16 (b) A public procurement unit may enter into an agreement,
 17 independent of the requirements of AS 36.30.060 and 36.30.100 - 36.-
 18 30.280, with another public procurement unit or external procurement
 19 activity for the cooperative use of supplies or services under the
 20 terms agreed upon between the parties.

21 Sec. 36.30.720. JOINT USE OF FACILITIES. A public procurement
 22 unit may enter into agreements for the common use or lease of ware-
 23 housing facilities, capital equipment, and other facilities with
 24 another public procurement unit or an external procurement activity
 25 under the terms agreed upon between the parties.

26 Sec. 36.30.730. SUPPLY OF PERSONNEL, INFORMATION, AND TECHNICAL
 27 SERVICES. (a) A public procurement unit may, upon written request
 28 from another public procurement unit or external procurement activity,
 29 provide personnel to the requesting public procurement unit or

1 external procurement activity. The public procurement unit or
2 external procurement activity making the request shall pay the public
3 procurement unit providing the personnel the direct and indirect cost
4 of furnishing the personnel, in accordance with an agreement between
5 the parties.

6 (b) The informational, technical, and other services of a public
7 procurement unit may be made available to another public procurement
8 unit or external procurement activity except that the requirements of
9 the public procurement unit tendering the services has precedence over
10 the requesting public procurement unit or external procurement activi-
11 ty. The requesting public procurement unit or external procurement
12 activity shall pay for the expenses of the services so provided, in
13 accordance with an agreement between the parties.

14 (c) Upon request, the commissioner may make available to public
15 procurement units or external procurement activities the following
16 services, among others:

- 17 (1) standard forms;
- 18 (2) printed manuals;
- 19 (3) product specifications and standards;
- 20 (4) quality assurance testing services and methods;
- 21 (5) qualified products lists;
- 22 (6) source information;
- 23 (7) common use commodities listings;
- 24 (8) supplier performance ratings;
- 25 (9) lists of persons debarred or suspended from considera-
26 tion for award of state contracts;
- 27 (10) forms for invitations for bids, requests for proposals,
28 instructions to bidders, general contract provisions, and other con-
29 tract forms; and

1 (11) contracts or published summaries of them, including
2 price and time of delivery information.

3 (d) The commissioner may provide the following technical ser-
4 vices, among others:

5 (1) development of product specifications;

6 (2) development of quality assurance test methods, includ-
7 ing receiving, inspection, and acceptance procedures;

8 (3) use of product testing and inspection facilities; and

9 (4) use of personnel training programs.

10 (e) The commissioner may enter into contractual arrangements and
11 publish a schedule of fees for the services provided under (c) and (d)
12 of this section.

13 Sec. 36.30.735. RESTRICTION ON CONTRACTING WITH OR EMPLOYING
14 EXPERTS ON RADIATION HAZARDS. (a) Except for the Department of
15 Health and Social Services, the Department of Labor, the Department of
16 Environmental Conservation, and the Department of Military and Veter-
17 ans' Affairs, a state agency may not

18 (1) contract, other than with the Department of Health and
19 Social Services, to have services performed that require expertise in
20 determining or reducing the hazards of radiation; or

21 (2) employ a person whose duties require expertise in
22 determining or reducing the hazards of radiation.

23 (b) In this section, "state agency" means a state department or
24 agency, whether in the legislative, judicial, or executive branch,
25 including such entities as the Alaska State Housing Authority, but not
26 including the University of Alaska, a municipality, or an agency of a
27 municipality.

28 (c) In this section, "radiation" does not include radiation
29 emitted from a Federal Communications Commission licensed facility

1 emitting radiation of a wave length longer than one centimeter and an
2 average power output not exceeding two kilowatts.

3 Sec. 36.30.740. REVIEW OF PROCUREMENT REQUIREMENTS. To the
4 extent possible, the commissioner may collect information concerning
5 the type, cost, quality, and quantity of commonly used supplies,
6 equipment for the state fleet, services, or construction being
7 procured or used by state public procurement units. The commissioner
8 may also collect this information from local public procurement units.
9 The commissioner may make this information available to a public
10 procurement unit upon request.

11 Sec. 36.30.750. CONTRACT CONTROVERSIES. (a) Under a coopera-
12 tive purchasing agreement, controversies arising between an adminis-
13 tering public procurement unit and its bidders, offerors, or contrac-
14 tors shall be resolved in accordance with AS 36.30.560 - 36.30.699.

15 (b) A local public procurement unit that is not subject to
16 AS 36.30.560 - 36.30.699 may enter into an agreement with another
17 local public procurement unit or external procurement activity to
18 establish procedures or use that unit's or activity's existing proce-
19 dures to resolve controversies with contractors, whether or not the
20 controversy arose under a cooperative purchasing agreement.

21 Sec. 36.30.790. DEFINITIONS. In AS 36.30.700 - 36.30.790

22 (1) "cooperative purchasing" means procurement conducted
23 by, or on behalf of, more than one public procurement unit, or by a
24 public procurement unit with an external procurement activity;

25 (2) "external procurement activity" means a buying orga-
26 nization not located in this state that, if located in this state,
27 would qualify as a public procurement unit; an agency of the United
28 States is an external procurement activity;

29 (3) "local public procurement unit" means a municipality or

1 other subdivision of the state or other entity that expends public
2 funds for the procurement of supplies, services, professional ser-
3 vices, and construction, and any nonprofit corporation operating a
4 charitable hospital;

5 (4) "public procurement unit" means either a local public
6 procurement unit or a state public procurement unit;

7 (5) "state public procurement unit" means the Department of
8 Administration and any other contracting agency of the state.

9 ARTICLE 9. GENERAL PROVISIONS.

10 Sec. 36.30.850. APPLICATION OF THIS CHAPTER. (a) This chapter
11 applies only to contracts solicited or entered into after January 1,
12 1987, unless the parties agree to its application to a contract solic-
13 ited or entered into before that date.

14 (b) This chapter applies to the disposal of state supplies and
15 every expenditure of state funds irrespective of their sources, in-
16 cluding federal assistance except as otherwise specified in AS 36.-
17 30.890, by the state, acting through an agency, under a contract,
18 except that this chapter does not apply to

19 (1) grants;

20 (2) contracts for professional witnesses to provide for
21 professional services or testimony relating to existing or probable
22 lawsuits in which the state is or may become a party;

23 (3) contracts of the University of Alaska where the work is
24 to be performed substantially by students enrolled in the university;

25 (4) contracts for medical doctors and dentists;

26 (5) acquisitions or disposals of real property or interest
27 in real property, except as provided in AS 36.30.080;

28 (6) disposals under AS 38.05;

29 (7) contracts for the preparation of ballots under

1 AS 15.15.030;

2 (8) acquisitions or disposals of property and other con-
3 tracts relating to airports under AS 02.15.070, 02.15.090, and 02.15.-
4 091;

5 (9) disposals of obsolete property under AS 19.05.060;

6 (10) disposals of obsolete material or equipment under
7 AS 35.20.060;

8 (11) agreements with providers of services under AS 47.07;
9 AS 47.08; AS 47.10; AS 47.17; AS 47.24; AS 47.25.195, and 47.25.310.

10 (c) Except for AS 36.30.700 - 36.30.790, this chapter does not
11 apply to contracts between two or more agencies, the state and its
12 political subdivisions, or the state and other governments.

13 (d) Nothing in this chapter or in regulations adopted under this
14 chapter prevents an agency or political subdivision from complying
15 with the terms and conditions of a grant, gift, bequest, or coopera-
16 tive agreement.

17 Sec. 36.30.860. SUPPLEMENTARY GENERAL PRINCIPLES OF LAW APPLIC-
18 ABLE. Unless displaced by the particular provisions of this chapter,
19 the principles of law and equity, including the Uniform Commercial
20 Code (AS 45.01 - AS 45.09), the law merchant, and law relative to
21 capacity to contract, agency, fraud, misrepresentation, duress, coer-
22 cion, mistake, or bankruptcy shall supplement the provisions of this
23 chapter.

24 Sec. 36.30.870. ADOPTION OF REGULATIONS. (a) Regulations under
25 this chapter shall be adopted in accordance the Administrative
26 Procedure Act (AS 44.62).

27 (b) Regulations under this chapter applicable to procurements of
28 construction or procurements for or disposal of property of the state
29 equipment fleet shall be adopted by the commissioner of administration

1 only after consultation with the commissioner of transportation and
2 public facilities.

3 Sec. 36.30.880. REQUIREMENT OF GOOD FAITH. All parties involved
4 in the negotiation, performance, or administration of state contracts
5 shall act in good faith.

6 Sec. 36.30.890. FEDERAL ASSISTANCE. If a procurement involves
7 the expenditure of federal funds or federal assistance and there is a
8 conflict between a provision of this chapter or a regulation adopted
9 under a provision of this chapter and a federal statute or regulation
10 the federal statute or regulation shall prevail.

11 Sec. 36.30.900. PREFERENCE FOR ALASKA PRODUCTS. This chapter
12 does not modify, amend, or alter AS 36.15.010 and 36.15.020 regarding
13 preference for Alaska forest products, or AS 36.20.010 regarding
14 preference to producers or dealers in Alaska except as provided in
15 AS 36.30.170(b).

16 Sec. 36.30.910. PURCHASES THROUGH GENERAL SERVICES ADMINISTRATION.
17 This chapter does not prevent purchasing through the general
18 services administration as provided by law.

19 Sec. 36.30.920. REPORTING OF ANTICOMPETITIVE PRACTICES. When
20 for any reason collusion or other anticompetitive practices are sus-
21 pected among bidders or offerors, a notice of the relevant facts shall
22 be transmitted to the attorney general by the person who suspects the
23 collusion or other anticompetitive practices.

24 Sec. 36.30.930. CIVIL AND CRIMINAL PENALTIES. The following
25 penalties apply to violations of this chapter:

26 (1) a person who contracts for or purchases supplies,
27 equipment for the state fleet, services, professional services, or
28 construction in a manner contrary to the requirements of this chapter
29 or the regulations adopted under this chapter is personally liable for

1 the recovery of all state money paid plus 20 percent of that amount,
2 legal interest from the date of payment, and all costs and damages
3 arising out of the violation;

4 (2) a person who intentionally or knowingly contracts for
5 or purchases supplies, equipment for the state fleet, services,
6 professional services, or construction under a scheme or artifice to
7 avoid the requirements of this chapter is guilty of a class C felony.

8 Sec. 36.30.940. ENFORCEMENT. The attorney general on behalf of
9 the state shall enforce the provisions of this chapter.

10 Sec. 36.30.990. DEFINITIONS. In this chapter, unless the con-
11 text in which a term is used clearly requires a different meaning or a
12 different definition is prescribed for a particular provision,

13 (1) "agency" means a department, institution, board, com-
14 mission, division, authority, public corporation, the Alaska Pioneers'
15 Home, or other administrative unit of the executive branch of state
16 government, including the University of Alaska; it does not include
17 the Alaska Railroad Corporation, a regional Native housing authority
18 created under AS 18.55.996, or a regional electrical authority created
19 under AS 18.57.020;

20 (2) "change order" means a written order signed by the
21 procurement officer, directing the contractor to make changes that the
22 changes clause of the contract authorizes the procurement officer to
23 order without the consent of the contractor;

24 (3) "commissioner" means the commissioner of the Department
25 of Administration;

26 (4) "competitive sealed bidding" means the procedure under
27 AS 36.30.100 - 36.30.190;

28 (5) "competitive sealed proposals" means the procedure
29 under AS 36.30.200 - 36.30.270;

1 (6) "construction" means the process of building, altering,
2 repairing, maintaining, improving, or demolishing a public highway,
3 structure, building, or other public improvement of any kind to real
4 property other than privately owned real property leased for the use
5 of agencies; it includes services and professional services relating
6 to planning and design required for the construction; it does not
7 include the routine operation of a public improvement to real
8 property;

9 (7) "contract" means all types of state agreements, regard-
10 less of what they may be called, for the procurement or disposal of
11 supplies, equipment for the state fleet, services, professional
12 services, or construction;

13 (8) "contract modification" means a written alteration in
14 specifications, delivery point, rate of delivery, period of perfor-
15 mance, price, quantity, or other provisions of a contract accomplished
16 by mutual action of the parties to the contract;

17 (9) "department" means the Department of Administration;

18 (10) "grant" means the furnishing by the state of assis-
19 tance, whether financial or otherwise, to a person to support a pro-
20 gram authorized by law; it does not include an award whose primary
21 purpose is to procure an end product for a state agency, whether in
22 the form of supplies, services, professional services, or
23 construction; a contract resulting from such an award is not a grant
24 but a procurement contract;

25 (11) "person" means a business, individual, union, commit-
26 tee, club, other organization, or group of individuals;

27 (12) "procurement" means buying, purchasing, renting, leas-
28 ing, or otherwise acquiring supplies, equipment for the state fleet,
29 services, or construction; it also includes functions that pertain to

1 the obtaining of a supply, equipment for the state fleet, service, or
2 construction, including description of requirements, selection and
3 solicitation of sources, preparation and award of contract, and all
4 phases of contract administration;

5 (13) "procurement officer" means a person authorized to
6 enter into and administer contracts for an agency and make written
7 determinations with respect to them; it also includes an authorized
8 representative of a procurement officer acting within the limits of
9 authority;

10 (14) "professional services" means professional, technical,
11 or consultant's services that are predominantly intellectual in char-
12 acter, result in the production of a report or the completion of a
13 task, and include analysis, evaluation, prediction, planning, or
14 recommendation;

15 (15) "services" means the furnishing of labor, time, or
16 effort by a contractor, not involving the delivery of a specific end
17 product other than reports that are merely incidental to the required
18 performance; it does not include employment agreements or collective
19 bargaining agreements;

20 (16) "supplies" means all property of an agency, including
21 equipment, materials, and insurance; it includes privately owned real
22 property leased for the use of agencies, such as office space, but
23 does not include the acquisition or disposition of other interests in
24 land.

25 Sec. 36.30.995. SHORT TITLE. This chapter may be cited as the
26 State Procurement Code.

27 * Sec. 3. AS 03.22.030 is amended to read:

28 Sec. 03.22.030. CENTER SITE, BUILDINGS AND EQUIPMENT. The
29 department shall obtain a site, either by donation, lease, or

1 purchase, and erect suitable buildings on the site, if they are needed
2 for the use of the plant materials center. The department shall also
3 acquire the agricultural land, scientific instruments and equipment
4 necessary to carry on the work of the center. Acquisition of scien-
5 tific instruments and equipment under this section is governed by
6 AS 36.30 (State Procurement Code).

7 * Sec. 4. AS 05.20.040 is amended to read:

8 Sec. 05.20.040. PERSONNEL TO INSPECT DEVICES. The department
9 shall designate a person qualified in experience and training as the
10 inspector of devices. The department may employ additional employees
11 as are necessary to administer this chapter. The inspector and the
12 employees may be hired on a temporary basis or borrowed from other
13 state departments or political subdivisions of the state, or the
14 department may contract with individuals or firms for the inspecting
15 service on an independent basis. The department shall prescribe the
16 salary or other remuneration for this service. Contracting under this
17 section is governed by AS 36.30 (State Procurement Code).

18 * Sec. 5. AS 09.50.250 is amended to read:

19 Sec. 09.50.250. ACTIONABLE CLAIMS AGAINST THE STATE. A person
20 or corporation having a contract, quasi-contract, or tort claim
21 against the state may bring an action against the state in the superi-
22 or court. A person who may present the claim under AS 44.77 may not
23 bring an action under this section except as set out in AS 44.77.-
24 040(c). A person who may bring an action under AS 36.30.560 - 36.30.-
25 695 may not bring an action under this section except as set out in
26 AS 36.30.685. However, no action may be brought under this section if
27 the claim

28 (1) is an action for tort, and is based upon an act or
29 omission of an employee of the state, exercising due care, in the

1 execution of a statute or regulation, whether or not the statute or
2 regulation is valid; or is an action for tort, and based upon the
3 exercise or performance or the failure to exercise or perform a dis-
4 cretionary function or duty on the part of a state agency or an em-
5 ployee of the state, whether or not the discretion involved is abused;

6 (2) is for damages caused by the imposition or establish-
7 ment of a quarantine by the state;

8 (3) arises out of assault, battery, false imprisonment,
9 false arrest, malicious prosecution, abuse of process, libel, slander,
10 misrepresentation, deceit, or interference with contract rights.

11 * Sec. 6. AS 14.08.101 is amended to read:

12 Sec. 14.08.101. POWERS. A regional school board may

13 (1) sue and be sued;

14 (2) contract with the department, the Bureau of Indian
15 Affairs, or any other school district, agency, or regional board for
16 the provision of services, facilities, supplies or utilities;

17 (3) determine its own fiscal procedures including but not
18 limited to policies and procedures for the purchase of supplies and
19 equipment; the regional school boards are exempt from the Fiscal
20 Procedures Act (AS 37.05) and the State Procurement Code (AS 36.30);

21 (4) appoint, compensate and otherwise control all school
22 employees in accordance with this title; these employees are not
23 subject to the State Personnel Act (AS 39.25);

24 (5) adopt regulations governing organization, policies and
25 procedures for the operation of the schools;

26 (6) establish, maintain, operate, discontinue and combine
27 schools subject to the approval of the commissioner;

28 (7) recommend to the department projects for construction,
29 rehabilitation, and improvement of schools and education-related

1 facilities as specified in AS 14.11.010(a), and plan, design, and
2 construct the project when the responsibility for it is assumed under
3 AS 14.11.020;

4 (8) exercise those other functions that may be necessary
5 for the proper performance of its responsibilities;

6 (9) by resolution adopted by a majority of all the members
7 of the board and provided to the commissioner of the department,
8 assume ownership of all land and buildings used in relation to the
9 schools in the regional educational attendance area;

10 (10) provide housing for rental to teachers, by leasing
11 existing housing from a local agency or individual, or by entering
12 into contractual arrangements with a local agency or individual to
13 lease housing that will be constructed by the local agency or indi-
14 vidual for that purpose.

15 * Sec. 7. AS 16.05.050 is amended to read:

16 Sec. 16.05.050. POWERS AND DUTIES OF COMMISSIONER. The commis-
17 sioner has, but not by way of limitation, the following powers and
18 duties:

19 (1) assist the United States Fish and Wildlife Service in
20 the enforcement of federal laws and regulations pertaining to fish and
21 game;

22 (2) through the appropriate state agency and under the
23 provisions of AS 36.30 (State Procurement Code), acquire by gift,
24 purchase, or lease, or other lawful means, land, buildings, water,
25 rights-of-way, or other necessary or proper real or personal property
26 when the acquisition is in the interest of furthering an objective or
27 purpose of the department and the state;

28 (3) under the provisions of AS 36.30, design and construct
29 hatcheries, pipelines, rearing ponds, fishways, and other projects

1 beneficial for the fish and game resources of the state;

2 (4) accept money from any person under conditions requiring
3 the use of the money for specific purposes in the furtherance of the
4 protection, rehabilitation, propagation, preservation, or investiga-
5 tion of the fish and game resources of the state or in settlement of
6 claims for damages to fish or game resources;

7 (5) collect, classify, and disseminate statistics, data and
8 information that, in the commissioner's discretion, will tend to
9 promote the purposes of this title except AS 16.51 and AS 16.52;

10 (6) capture, propagate, transport, buy, sell, or exchange
11 fish or game or eggs for propagating, scientific or stocking purposes;

12 (7) under the provisions of AS 36.30, provide public facil-
13 ities where necessary or proper to facilitate the taking of fish or
14 game, and enter into cooperative agreements with any person to effect
15 them;

16 (8) exercise administrative, budgeting, and fiscal powers;

17 (9) under the provisions of AS 36.30, construct, operate,
18 supervise, and maintain vessels used by the Department of Fish and
19 Game;

20 (10) authorize the holder of an interim-use permit under
21 AS 16.43 to engage on an experimental basis in commercial taking of a
22 fishery resource with vessel, gear, and techniques not presently
23 qualifying for licensing under this chapter in conformity with stand-
24 ards established by the Alaska Commercial Fisheries Entry Commission;

25 (11) not later than January 31 of each year, provide to the
26 commissioner of revenue the names of those fish and shellfish species
27 which the commissioner of fish and game designates as developing
28 commercial fish species for that calendar year; a fish or shellfish
29 species is a developing commercial fish species if, within a specified

1 geographical region,

2 (A) the optimum yield from the harvest of the species
3 has not been reached;

4 (B) a substantial portion of the allowable harvest of
5 the species has been allocated to fishing vessels of a foreign
6 nation; or

7 (C) a commercial harvest of the fish species has
8 recently developed;

9 (12) initiate or conduct research necessary or advisable to
10 carry out the purposes of this title except AS 16.51 and AS 16.52;

11 (13) enter into cooperative agreements with agencies of the
12 federal government, educational institutions, or other agencies or
13 organizations, when in the public interest, to carry out the purposes
14 of this title except AS 16.51 and AS 16.52.

15 * Sec. 8. AS 16.05.826(c) is amended to read:

16 (c) The department may contract to others the performance of the
17 department's responsibilities under this section. Contracting under
18 this subsection is governed by AS 36.30 (State Procurement Code),
19 except that a [A] contract may include provisions for advance payment
20 or reimbursement for services performed under the contract. All costs
21 incurred under this section may be paid from the fish and game fund.

22 * Sec. 9. AS 18.15.120 is amended to read:

23 Sec. 18.15.120. TUBERCULOSIS CONTROL PROGRAM AUTHORIZED. The
24 department may establish a comprehensive program for the control of
25 tuberculosis in the state, and may

26 (1) arrange means by which persons in the state may be
27 X-rayed to determine the presence of tuberculosis;

28 (2) establish necessary out-patient clinics for the care of
29 tuberculosis;

1 (3) encourage and promote the establishment of adequate
2 sanatorium facilities within the state to care for persons suffering
3 from tuberculosis and allied conditions;

4 (4) under the provisions of AS 36.30 (State Procurement
5 Code), obtain, by purchase or donation from surplus federal property
6 or otherwise, medical supplies and equipment useful in carrying out
7 this program and to allot or resell these supplies and equipment to
8 private institutions engaged by the department to carry out this
9 program;

10 (5) under the provisions of AS 36.30, contract with hos-
11 pitals, associations, or sanatoria qualified and equipped to give
12 adequate care inside or outside the state;

13 (6) employ necessary and trained personnel to carry out the
14 purposes of AS 18.15.120 - 18.15.140;

15 (7) pay the costs of care and incidental expenses for
16 residents of the state, in whole or in part, depending on the ability
17 of each patient to pay, and the temporary costs of care and transpor-
18 tation for nonresidents on the same basis until they can be trans-
19 ferred to their residence;

20 (8) enlist the cooperation of state and federal agencies
21 operating in the state for the furtherance of this program;

22 (9) establish standards in accordance with department
23 procedure for the care of tuberculars receiving treatment under
24 AS 18.15.120 - 18.15.140.

25 * Sec. 10. AS 18.55.100 is amended by adding a new subsection to read:

26 (d) The authority's power to contract, lease, rent, construct,
27 acquire, procure, and provide for services under this section is
28 governed by AS 36.30.

29 * Sec. 11. AS 19.05.020 is amended to read:

1 Sec. 19.05.020. REGULATIONS. The department shall adopt regu-
2 lations necessary to carry out the purpose of AS 19.05 - AS 19.25.
3 The regulations may not conflict with AS 36.30 (State Procurement
4 Code) or regulations adopted by the Department of Administration to
5 implement that chapter.

6 * Sec. 12. AS 19.05.080 is amended to read:

7 Sec. 19.05.080. ACQUISITION OF LAND, RIGHTS-OF-WAY, AND MATE-
8 RIALS BY PURCHASE OR EMINENT DOMAIN. The department on behalf of the
9 state and as part of the cost of constructing or maintaining a highway
10 may purchase in the open market, acquire, take over, or condemn under
11 the right and power of eminent domain land in fee simple or easements
12 which it considers necessary for present public use, either temporary
13 or permanent, or which it considers necessary and reasonable for the
14 public use. By the same means, the department may obtain material,
15 including clay, gravel, sand, or rock, or the land necessary to obtain
16 material, including access to it. The department may acquire the land
17 or materials notwithstanding the fact that title to it is vested in
18 the state or a department, agency, commission or institution of the
19 state. Acquisition of materials by purchase in the open market under
20 this section is governed by AS 36.30 (State Procurement Code).

21 * Sec. 13. AS 19.10.160 is amended to read:

22 Sec. 19.10.160. STANDARD PLANS AND SPECIFICATIONS. The depart-
23 ment shall prepare and adopt uniform standard plans and specifications
24 for the establishment, construction and maintenance of highways in the
25 state. The department may amend the plans and specifications as it
26 considers advisable. The standards shall conform as closely as
27 practicable to those adopted by the American Association of State
28 Highway and Transportation Officials.

29 * Sec. 14. AS 19.10.170(a) is amended to read:

1 (a) Except as provided in [AS 36.98 AND] AS 44.33.300, it is
2 [SHALL BE] the general policy of the state [DEPARTMENT] to require the
3 construction of all highways under bid contract in accordance with
4 AS 36.30 (State Procurement Code). However, subject to the provisions
5 of (b) of this section, when the estimated cost of a construction
6 project is less than \$100,000 or when it appears to be in the best
7 interests of the state, the department may perform the work notwith-
8 standing any other provisions of law.

9 * Sec. 15. AS 19.10.180 is repealed and reenacted to read:

10 Sec. 19.10.180. REQUEST FOR PUBLIC BIDS. Requests for public
11 bids are governed by AS 36.30 (State Procurement Code). The request
12 for public bids may require the contractor to furnish equipment,
13 labor, materials, and supplies for the project, or it may state that
14 the department will furnish the materials and supplies. If the de-
15 partment elects to provide materials and supplies for a project, it
16 shall do so at the time it adopts the construction program. The
17 department shall acquire these materials and supplies under AS 36.30
18 by requesting bids for them according to the class, type, and nature
19 of the materials and supplies. The contract for materials and sup-
20 plies may be awarded either upon the basis of delivery to the con-
21 struction project directly or to a central storehouse or storehouses
22 maintained by the department. Those materials and supplies so pur-
23 chased by the department may be delivered to the project site without
24 expense to the contractor, or it may sell them to the contractor at
25 cost and make the materials and supplies a part of the construction
26 cost.

27 * Sec. 16. AS 19.10.200 is repealed and reenacted to read:

28 Sec. 19.10.200. PROCEDURES FOR THE AWARD OF CONTRACTS. The
29 award of a contract for highway construction work is governed by

1 AS 36.30 (State Procurement Code), AS 19.05 - AS 19.25, and regula-
2 tions adopted under those laws.

3 * Sec. 17. AS 19.30.070 is amended to read:

4 Sec. 19.30.070. CONTRACTS FOR CONSTRUCTION OF ROADS. The
5 director of the division of lands may contract with private persons
6 for the construction of roads to and on state lands programmed for
7 surface disposal which are not more than six miles from existing roads
8 or highways. Contracts under this section are governed by AS 36.30
9 (State Procurement Code).

10 * Sec. 18. AS 19.30.080 is amended to read:

11 Sec. 19.30.080. CONSTRUCTION STANDARDS AND MAINTENANCE. An
12 access road constructed under AS 19.30.060 - 19.30.100 shall be of low
13 standard, not necessarily suitable for all weather use. The state is
14 not under obligation to maintain an access road constructed under AS
15 19.30.060 - 19.30.100. If an access road is constructed outside a
16 municipality that has zoning ordinances, the right-of-way width for
17 the road shall be determined by the division of lands and the Depart-
18 ment of Transportation and Public Facilities. If an access road is
19 constructed within the boundaries of a municipality that has zoning
20 ordinances, the right-of-way width shall conform to the subdivision
21 control ordinances of the municipality. Contracts for the work on an
22 access road are governed by AS 36.30 (State Procurement Code) [SHALL
23 BE AWARDED TO THE LOWEST RESPONSIBLE BIDDER QUALIFIED TO CONTRACT WITH
24 THE STATE].

25 * Sec. 19. AS 19.40.020(a) is amended to read:

26 (a) Subject to (b) of this section, the department may contract
27 in accordance with AS 36.30 for the construction of a secondary
28 highway from the Yukon River to the Arctic Ocean. [THE DEPARTMENT MAY
29 REQUEST BIDS AND AWARD CONTRACTS FOR THE CONSTRUCTION OF THE HIGHWAY,

1 OR IT MAY ELECT TO DIRECTLY NEGOTIATE CONTRACTS FOR THE CONSTRUCTION
2 OF THE HIGHWAY IF IT APPEARS TO BE IN THE BEST INTERESTS OF THE
3 STATE.] The provisions of AS 36.10 govern in employment practices on
4 all work authorized by this chapter.

5 * Sec. 20. AS 19.60.010 is amended to read:

6 Sec. 19.60.010. ACQUISITION AND MAINTENANCE OF FERRY TERMINAL
7 FACILITIES. The department shall construct, purchase or lease ferry
8 terminal facilities at locations it selects for the loading and un-
9 loading of passengers and vehicles under their own power, on and off
10 ferries. The department shall repair and maintain these facilities.
11 Construction and purchasing under this section are governed by
12 AS 36.30 (State Procurement Code).

13 * Sec. 21. AS 23.15.611(a) is amended to read:

14 (a) The department may [IS AUTHORIZED TO] participate in pro-
15 grams of manpower training if it finds they are necessary to meet the
16 occupational needs of the state. This authorization includes authori-
17 ty to execute on behalf of the state agreements or contracts which may
18 be necessary or desirable to enable the state to participate in a
19 program, to receive and expend all appropriate funds made available
20 for programs by the state or from other sources, to supervise the
21 expenditure of the funds and conduct of the programs by other public
22 and private agencies of the state, and to make the reports and certif-
23 icates which are called for, and in cooperative arrangements with the
24 Department of Education. Contracts with private entities under this
25 subsection are governed by AS 36.30 (State Procurement Code).

26 * Sec. 22. AS 23.20.075(a) is amended to read:

27 (a) The department may acquire in the name of the state by term
28 purchase agreements based on competitive bids in accordance with
29 AS 36.30 (State Procurement Code) land and buildings upon terms and

1 conditions that [WHICH] are approved by the Bureau of Employment
2 Security of the United States, or its successor, for the purpose of
3 providing office space for the department at a place which the depart-
4 ment finds necessary and suitable.

5 * Sec. 23. AS 23.35.110 is amended to read:

6 Sec. 23.35.110. CONTRACTS FOR CARE. In carrying out this
7 chapter, the department may enter into contracts or other arrangements
8 with hospitals and doctors in the state for furnishing care on an
9 annual basis to persons entitled to benefits. Contracting under this
10 section is governed by AS 36.30 (State Procurement Code).

11 * Sec. 24. AS 24.55.275 is amended to read:

12 Sec. 24.55.275. CONTRACT PROCEDURES. The ombudsman shall adopt
13 by regulation procedures consistent with AS 36.30 [AS 24.23] to be
14 followed by the office of the ombudsman in contracting for services.
15 However, the procedure for requests for proposals does not apply to
16 contracts for investigations under AS 24.55.100.

17 * Sec. 25. AS 24.60.040(a) is amended to read:

18 (a) A person to whom this chapter applies may not be a party to
19 or have an interest in a state contract or lease unless the contract
20 or lease is let under the competitive bid procedure in AS 36.30 (State
21 Procurement Code) [AS 37.05.230] or the total annual amount of the
22 state contract or lease is \$1,000 or less, or is a standardized con-
23 tract or lease which was developed under publicly established guide-
24 lines and is generally available to the public at large, members of a
25 profession, occupation or group. A person has an interest in a state
26 contract or lease under this section if the person receives direct or
27 indirect financial benefits.

28 * Sec. 26. AS 26.05.230(a) is amended to read:

29 (a) Buildings and sites for armory purposes may be leased or

1 constructed, based upon location and size of units to be organized,
2 and shall be financed through state and federal appropriations or
3 both. These facilities may be made available by local communities or
4 by the cooperative arrangement between the state and the federal
5 government and any local community. Leasing and construction under
6 this subsection are governed by AS 36.30 (State Procurement Code).

7 * Sec. 27. AS 26.05.280 is amended to read:

8 Sec. 26.05.280. TRANSPORTATION, SUBSISTENCE, AND SUPPLIES.
9 There shall be provided by the state, transportation and subsistence
10 for all officers and enlisted persons who are ordered into active
11 service by the state for encampment, field duty, or other duty. Neces-
12 sary transportation, stores and subsistence for troops when ordered on
13 duty shall be contracted by the proper officers and paid for as other
14 military bills. Contracting under this section is governed by AS 36.-
15 30 (State Procurement Code).

16 * Sec. 28. AS 27.21.030 is amended to read:

17 Sec. 27.21.030. GENERAL POWERS. To accomplish the purposes of
18 this chapter, the commissioner may

19 (1) in accordance with the Administrative Procedure Act
20 (AS 44.62) adopt, amend, and enforce regulations pertaining to surface
21 coal mining and reclamation operations;

22 (2) issue permits;

23 (3) conduct hearings and conferences;

24 (4) issue orders requiring an operator to take the actions
25 necessary to comply with this chapter and the regulations adopted
26 under this chapter;

27 (5) issue orders modifying previous orders;

28 (6) after opportunity for a due process hearing, issue a
29 final order revoking the permit of an operator who has failed to

1 comply with an order of the commissioner to take action required by
2 this chapter or regulations adopted under this chapter;

3 (7) order the immediate cessation of all or part of a
4 surface coal mining and reclamation operation if the commissioner
5 finds that the operation or part of the operation creates an imminent
6 danger to the health or safety of the public or is causing or can
7 reasonably be expected to cause significant imminent harm to land,
8 air, or water resources, and, to the extent reasonably necessary to
9 eliminate or alleviate those conditions, take other action or make
10 changes in a permit, as provided in this chapter;

11 (8) hire and authorize the hiring of employees and private
12 contractors, subject to the conflict of interest provisions of this
13 chapter and subject to AS 36.30 (State Procurement Code), to assist in
14 carrying out the requirements of this chapter;

15 (9) enter and inspect a surface coal mining operation that
16 is subject to the provisions of this chapter to assure that the opera-
17 tion is in compliance with this chapter;

18 (10) conduct, encourage, request, and participate in
19 studies, surveys, investigations, research, experiments, training, and
20 demonstrations;

21 (11) prepare reports and require permittees to prepare
22 reports;

23 (12) accept, receive, and administer grants, gifts, or other
24 money made available for the purposes of this chapter regardless of
25 the source of the grants, gifts, or money;

26 (13) take the steps necessary to allow the state to partici-
27 pate to the fullest extent practicable in the abandoned mine land
28 program provided in Title IV of the Surface Mining Control and Recla-
29 mation Act of 1977, including engaged in any work and adopting,

1 amending and enforcing regulations;

2 (14) take the actions necessary to establish and maintain
3 exclusive jurisdiction over surface coal mining and reclamation opera-
4 tions in the state under the provisions of the Surface Mining Control
5 and Reclamation Act of 1977, including making recommendations for
6 legislation to clarify or amend this chapter to conform with the terms
7 of the Surface Mining Control and Reclamation Act of 1977;

8 (15) contract with state agencies to obtain the professional
9 and technical services necessary to carry out the provisions of this
10 chapter;

11 (16) coordinate the review of applications and issuance of
12 permits for surface coal mining and reclamation operations with other
13 federal or state permit processes applicable to those operations;

14 (17) enter into cooperative agreements with the Secretary of
15 the United States Department of the Interior for the regulation of
16 surface coal mining operations on federal land in accordance with the
17 Surface Mining Control and Reclamation Act of 1977; and

18 (18) perform other duties required by this chapter.

19 * Sec. 29. AS 33.30.050 is amended to read:

20 Sec. 33.30.050. COMMISSIONER TO PROVIDE MEDICAL SERVICES. The
21 commissioner shall detail physicians, nurses, and psychiatrists, or
22 their aides, and laboratory technicians, employed by the department to
23 any prison facility where state prisoners are detained or confined,
24 for the purpose of furnishing necessary medical services, including
25 examinations for communicable and infectious diseases. However, if
26 medical services cannot be furnished by physicians, nurses, psychia-
27 trists, or their aides, and laboratory technicians, regularly employed
28 by the department, the commissioner may contract with private practi-
29 tioners located in the area of a prison facility to furnish these

1 services. The cost of contracted services shall be paid out of appro-
2 priations made to the department. Contracting for services under this
3 section is governed by AS 36.30 (State Procurement Code).

4 * Sec. 30. AS 33.30.062(a) is amended to read:

5 (a) The commissioner may enter into an agreement with a private-
6 ly operated correctional facility, but only if the facility is located
7 in the state and if the purpose of the agreement is to involve prison-
8 ers in a work or rehabilitation furlough program established under
9 this chapter, to provide necessary facilities under AS 33.30.282 -
10 33.30.288, or to confine prisoners convicted of a misdemeanor. An
11 [NOTWITHSTANDING AS 37.05.230(1)(B), AN] agreement awarded under this
12 subsection is governed by AS 36.30 (State Procurement Code) [SHALL BE
13 BASED ON COMPETITIVE BIDS].

14 * Sec. 31. AS 33.32.015(b) is amended to read:

15 (b) The commissioner of corrections may

16 (1) subject to AS 36.30 (State Procurement Code) [THE
17 FISCAL PROCEDURES ACT (AS 37.05)], use, purchase, lease, equip, and
18 maintain buildings, machinery, and other equipment, and may purchase
19 materials and enter into contracts, which may be necessary for the
20 correctional industries program;

21 (2) provide for prisoners to be employed in rendering
22 services and producing articles, materials, and supplies needed by a
23 state agency, a political subdivision of the state, an agency of the
24 federal government, other states or their political subdivisions, or
25 for use by nonprofit organizations;

26 (3) if the Correctional Industries Commission established
27 in AS 33.32.070 approves, employ prisoners to provide services or
28 products as needed by private industry if the services or products
29 have potential for contributing to the economy of the state and will

1 have minimal negative impact on an existing private industry or labor
 2 force in the state.

3 * Sec. 32. AS 35.05.010 is amended to read:

4 Sec. 35.05.010. PLANNING AND CONSTRUCTION. The department is
 5 responsible for the planning and construction of public works except
 6 as provided for court facilities in AS 22.05.025. Contracts for
 7 planning and construction of public works are governed by AS 36.30
 8 (State Procurement Code).

9 * Sec. 33. AS 35.05.020 is amended to read:

10 Sec. 35.05.020. RULES AND REGULATIONS. The department shall
 11 adopt [RULES AND] regulations that [WHICH] it considers necessary to
 12 carry out the purpose of this title. The regulations may not conflict
 13 with AS 36.30 (State Procurement Code) or the regulations adopted by
 14 the Department of Administration under that chapter.

15 * Sec. 34. AS 35 is amended by adding a new section to read:

16 Sec. 35.10.195. CONFORMANCE WITH AS 36.30. The contractual
 17 techniques for the procurement of labor, materials, and contractual
 18 services under the policies developed under this chapter must conform
 19 to the requirements of AS 36.30 (State Procurement Code).

20 * Sec. 35. AS 35.15.010(a) is amended to read:

21 (a) Except as provided in [AS 36.98 AND] AS 44.33.300, it is
 22 [SHALL BE] the general policy of the state [DEPARTMENT] to require the
 23 construction of all public works under bid contract in accordance with
 24 AS 36.30 (State Procurement Code). However, when the estimated cost
 25 of a construction project is less than \$100,000, or when it appears to
 26 be in the best interests of the state, the department may perform the
 27 work, notwithstanding any other provisions of law. A complete record
 28 shall be kept by the commissioner or the commissioner's designee of
 29 all transactions entered into under this section including names of

1 employees involved in the transactions.

2 * Sec. 36. AS 35.15.020 is repealed and reenacted to read:

3 Sec. 35.15.020. REQUEST FOR PUBLIC BIDS. The solicitation of
4 bids for construction of public works is governed by AS 36.30 (State
5 Procurement Code). The request for bids may require the contractor to
6 furnish equipment, labor, materials, and supplies for the project, or
7 it may state that the department will furnish the materials and sup-
8 plies. If the department elects to provide materials and supplies for
9 a project, it shall make the election at the time it adopts the con-
10 struction program. The department shall acquire these materials and
11 supplies under AS 36.30 by requesting bids for them according to the
12 class, type, and nature of the materials and supplies. The contract
13 may be awarded either upon the basis of delivery to the construction
14 project directly or to a central storehouse or storehouses maintained
15 by the department. Those materials and supplies so purchased by the
16 department may be delivered to the project site without expense to the
17 contractor, or it may sell them to the contractor at cost and make the
18 materials and supplies a part of the construction cost.

19 * Sec. 37. AS 35.15.040 is repealed and reenacted to read:

20 Sec. 35.15.040. PROCEDURES FOR THE AWARD OF CONTRACTS. Award of
21 a contract for the construction of a public work shall comply with
22 this title, AS 36.30 (State Procurement Code), and the regulations
23 adopted under those laws.

24 * Sec. 38. AS 35.20.010 is amended to read:

25 Sec. 35.20.010. ACQUISITION OF LAND, RIGHTS-OF-WAY, AND MATE-
26 RIALS BY PURCHASE OR EMINENT DOMAIN. The department, on behalf of the
27 state and as part of the cost of constructing or maintaining a public
28 work, may purchase in the open market, acquire, take over, or condemn
29 under the right and power of eminent domain land in fee simple or

1 easements which it considers necessary for present public use, either
2 temporary or permanent, or which it considers necessary and reasonable
3 for the public use. By the same means, the department may obtain
4 material including clay, gravel, sand, or rock, or the land necessary
5 to obtain the material, and the necessary land or easements to provide
6 access to it. The department may acquire the land or material
7 notwithstanding the fact that the title to it is in the state or a
8 department, agency, commission or institution of the state.
9 Acquisition of material in the open market under this section is
10 governed by AS 36.30 (State Procurement Code).

11 * Sec. 39. AS 37.05 is amended by adding a new section to read:

12 Sec. 37.05.232. PETTY CASH ACCOUNTS. The department shall
13 determine the amount of the petty cash accounts needed by each state
14 agency and inspect the petty cash accounts at least once each year to
15 determine that the total plus amounts of receipts for unreplenished
16 disbursements is equal to the fixed sum of cash set aside. Shortages
17 in petty cash accounts are a personal liability of the responsible
18 head of the agency to whom the account is set aside. The department
19 shall adopt necessary regulations governing use and replenishment of
20 petty cash funds.

21 * Sec. 40. AS 37.05.316 is amended to read:

22 Sec. 37.05.316. GRANTS TO NAMED RECIPIENTS. When an amount is
23 appropriated or allocated to a department as a grant for a named
24 recipient which is not a municipality, the department to which the
25 appropriation or allocation is made shall promptly notify the named
26 recipient of the availability of the grant and request the named
27 recipient to submit a proposal to provide the goods or services speci-
28 fied in the appropriation act, or both, for which the appropriation or
29 allocation is made. At the same time, the department may issue a

1 request for proposals from other qualified persons to provide the same
2 goods or services, or both, in the same area. The department shall
3 contract with the named recipient unless the Office of the Governor,
4 with due regard for any local expertise or experience among those
5 making proposals, determines that an award of the contract to a dif-
6 ferent party would better serve the public interest. If the contract
7 is awarded to another party than that named by the legislature, the
8 basis of that action shall be stated in writing at the time the grant
9 is issued and a copy of the written statement shall be sent to the
10 Legislative Budget and Audit Committee. A contract shall be executed
11 within 60 days after the effective date of the appropriation or allo-
12 cation. The purchase of the goods or services, or both, shall be in
13 accordance with AS 36.30.100(b)(1) [AS 37.05.230(1)(B)].

14 * Sec. 41. AS 41.21.020(a) is amended to read:

15 (a) The Department of Natural Resources shall

16 (1) develop a continuing plan for the conservation and
17 maximum use in the public interest of the scenic, historic, archaeo-
18 logic, scientific, biological, and recreational resources of the
19 state;

20 (2) plan for and develop a system of state parks and recre-
21 ational facilities, to be established as the legislature authorizes
22 and directs;

23 (3) acquire by gift, purchase, or transfer from state or
24 federal agencies, or from individuals, corporations, partnerships or
25 associations, land necessary, suitable and proper for roadside, pic-
26 nic, recreational or park purposes;

27 (4) control, develop and maintain state parks and recrea-
28 tional areas;

29 (5) provide for the acquisition, care, control,

1 supervision, improvement, development, extension and maintenance of
2 public recreational land, and make necessary arrangements, contracts
3 or commitments for the improvement and development of land acquired
4 under AS 41.21.010 - 41.21.040; contracting for improvement and
5 development under this paragraph is governed by AS 36.30 (State
6 Procurement Code);

7 (6) adopt, in accordance with this section and the Adminis-
8 trative Procedure Act (AS 44.62), regulations governing the use and
9 designating incompatible uses within the boundaries of state park and
10 recreational areas to protect the property and to preserve the peace;

11 (7) cooperate with the United States and its agencies and
12 local subdivisions of the state to secure the effective supervision,
13 improvement, development, extension, and maintenance of state parks,
14 state monuments, state historical areas, and state recreational areas,
15 and secure agreements or contracts for the purpose of AS 41.21.010 -
16 41.21.040;

17 (8) encourage the organization of state public park and
18 recreational activities in the local political subdivisions of the
19 state;

20 (9) provide for consulting service designed to develop
21 local park and recreation facilities and programs;

22 (10) provide clearing-house services for other state agen-
23 cies concerned with park and recreation matters; and

24 (11) perform other duties as are prescribed by executive
25 order or by law;

26 (12) maintain memorials to Alaska veterans located in state
27 parks;

28 (13) adopt, in accordance with the Administrative Procedure
29 Act (AS 44.62), regulations governing the use of the Chena River State

1 Recreation Area and designating incompatible uses within the bound-
 2 aries of the Chena River State Recreation Area in accordance with
 3 AS 41.21.490.

4 * Sec. 42. AS 42.40.920(b) is amended to read:

5 (b) Unless specifically provided otherwise in this chapter, the
 6 following laws do not apply to the operations of the corporation:

7 (1) AS 19;

8 (2) AS 30.15;

9 (3) AS 35;

10 (4) AS 36.30, except as specifically provided in AS 36.30

11 (State Procurement Code);

12 (5) AS 37.05;

13 (6) [(5)] AS 37.07;

14 (7) [(6)] AS 37.10.010 - 37.10.060;

15 (8) [(7)] AS 37.10.085;

16 (9) [(8)] AS 37.20;

17 (10) [(9)] AS 37.25;

18 (11) [(10)] AS 38;

19 (12) [(11)] AS 44.62.040 - 44.62.320.

20 * Sec. 43. AS 44.21.310(a) is amended to read:

21 (a) The telecommunications divisions, as directed by the deputy
 22 commissioner, shall

23 (1) advise the governor on matters of policy and comprehen-
 24 sive state planning for telecommunications services;

25 (2) make an annual report to the governor and to the legis-
 26 lature on the activities of the telecommunications divisions;

27 (3) coordinate, manage, and supervise state programs in
 28 telecommunications, including the management of those telecommunica-
 29 tion services for the state obtained from common carriers and from the

1 communications industry;

2 (4) when requested, provide technical and consulting assis-
3 tance to the executive, judicial, and legislative branches of state
4 government, to the University of Alaska, and to private noncommercial
5 entities which request that assistance in facility procurement and
6 leasing and in identifying long-range goals and objectives for the
7 state and its political subdivisions in all aspects of telecommunica-
8 tions, including public, educational, and instructional telecommunica-
9 tions;

10 (5) prepare and maintain a state comprehensive telecommu-
11 nications development plan to further state telecommunications devel-
12 opment and to meet state telecommunications needs and prepare and
13 maintain a comprehensive inventory of all state communications facili-
14 ties;

15 (6) whenever feasible, procure services from private enter-
16 prise or certified and franchised utilities and contract for the
17 construction, management, operation and maintenance of telecommunica-
18 tions systems, and develop a procurement policy consistent with
19 AS 36.30 (State Procurement Code) [UNDER AS 37.05.010 - 37.05.410];
20 the procurement policy must seek to achieve the maximum benefit to the
21 public, and methods of procurement, including lease, purchase, rental,
22 or combinations of lease, purchase, and rental, must be selected on
23 the basis of factors such as the ratio of long-range costs versus
24 benefits, life cycle costing, and the costs to the communications
25 industry to the extent that these costs may affect local and long
26 distance basic telephone rates; procurement, contracting, construc-
27 tion, and maintenance under this paragraph is governed by AS 36.30;

28 (7) provide information and assistance to state agencies to
29 promote governmental coordination and unity in the preparation of

1 (2) act for the state in the initiation, investigation,
2 evaluation of or participation in any program relative to the stated
3 purpose of AS 44.19.141 - 44.19.152 which may involve more than one
4 government or governmental unit;

5 (3) on behalf of the state, accept and expend any gifts or
6 grants made to the state with the approval of the governor where such
7 gifts or grants were made for the purposes of furthering the objec-
8 tives of the office.

9 * Sec. 45. AS 44.33.300 is amended to read:

10 Sec. 44.33.300. WAIVER OF CERTAIN PROVISIONS. When the gover-
11 nor has by proclamation declared an area impacted by an economic
12 disaster, the following provisions regarding public contracts may be
13 waived to the extent specified in the proclamation:

14 (1) the requirement of a contractor's bond as prescribed in
15 AS 36.25.010 may be waived if the contract amount does not exceed
16 \$100,000;

17 (2) the public bid requirements as contained in AS 19.10.-
18 170, AS [19.10.190,] 19.30.191(b), AS 35.15.010 - 35.15.020, and
19 AS 36.30 (State Procurement Code) [AND AS 35.15.010 - 35.15.030] may
20 be waived if the contract is to be performed by a contractor whose
21 principal office is in the designated area and the contract amount
22 does not exceed \$50,000;

23 (3) the general policy to require all construction to be
24 under bid contract as contained in AS 19.10.170, AS 35.15.010, and
25 AS 36.30 (State Procurement Code) may be waived if the contract is to
26 be performed by the state, another governmental entity, or a nonprofit
27 entity.

28 * Sec. 46. AS 44.47.250 is amended by adding a new subsection to read:

29 (c) Contracts with persons or nongovernmental entities under

1 this section are governed by AS 36.30.

2 * Sec. 47. AS 44.47.490(a) is amended to read:

3 (a) The director may establish field offices under this chapter,
4 may hire one or more lending officers, and, under AS 36.30 (State
5 Procurement Code), may contract for the services of

6 (1) real property appraisers who are familiar with rural
7 construction; and

8 (2) engineers who are familiar with engineering problems in
9 arctic and subarctic regions.

10 * Sec. 48. AS 44.47.730(a) is amended to read:

11 (a) The commissioner shall contract for a study of the
12 feasibility of establishing a borough in the unorganized borough by
13 following the procedures under AS 36.30 (State Procurement Code) [SET
14 OUT IN AS 36.98]. The commissioner shall include terms in the
15 contract that provide for

16 (1) public participation in the preparation of the study;

17 (2) completion of the study not later than June 30 of the
18 third year after the year the contract is executed.

19 * Sec. 49. AS 44.62.175(a) is amended to read:

20 (a) The lieutenant governor shall publish or contract for the
21 publication of the Alaska Administrative Journal. The journal shall
22 be published weekly. The journal must include

23 (1) notices of proposed actions given under AS 44.62.-
24 190(a);

25 (2) notices of state agency meetings required under
26 AS 44.62.310(e), even if the meeting has been held;

27 (3) notices of solicitations to bid issued under
28 AS 36.30.130 [AS 37.05.230];

29 (4) notices of state agency requests for proposals issued

1 under AS 18.55.255, 18.55.320; [AS 19.10.190; AS 19.40.020; AS 35.15.-
2 030; AS 36.98.030; AS 37.05.230,] AS 37.05.315(d); AS 38.05.120; and
3 AS 43.40.010;

4 (5) executive orders and administrative orders issued by
5 the governor;

6 (6) written delegations of authority made by the governor
7 or the head of a principal department under AS 44.17.010;

8 (7) the text or a summary of the text of a regulation or
9 order of repeal of a regulation for which notice is given under AS
10 44.62.190(a), including an emergency regulation or repeal whether or
11 not it has taken effect;

12 (8) a summary of the text of recently issued formal
13 opinions and memoranda of advice of the attorney general; and

14 (9) a list of vacancies on boards, commissions, and other
15 bodies whose members are appointed by the governor.

16 * Sec. 50. AS 44.71.010 is amended to read:

17 Sec. 44.71.010. DISPOSITION OF OBSOLETE OR SURPLUS STATE PROP-
18 ERTY. The Department of Administration shall take possession of
19 obsolete or surplus property of the state for which there is no imme-
20 diate or prospective use, except abandoned or obsolete school build-
21 ings and other school property. It shall also take possession of
22 property remaining in the control of a commission or board of the
23 state government after the commission or board stops functioning. The
24 Department of Administration shall sell, lease, license, or dispose of
25 the property on the terms it considers for the best interests of the
26 state in conformance with regulations adopted under AS 36.30 (State
27 Procurement Code).

28 * Sec. 51. AS 44.77.010(a) is amended to read:

29 (a) Except as provided in (d) of this section, every [EVERY]

1 claim for reimbursement for money expended, or for compensation for
2 labor, materials, or supplies furnished, or services given to or for
3 the state, whether based on a contract or on a ratification, shall be
4 promptly presented to the appropriate administrative or executive
5 officer for approval and payment.

6 * Sec. 52. AS 44.77.010 is amended by adding a new subsection to read:

7 (d) A claim that is governed by AS 36.30.560 - 36.30.699 is not
8 governed by this chapter.

9 * Sec. 53. AS 44.85.120 is amended to read:

10 Sec. 44.85.120. CARE AND CUSTODY OF BONDS. The bond bank
11 authority, in accordance with AS 36.30 (State Procurement Code), may
12 enter into agreements or contracts with a bank, trust company, banking
13 or financial institution inside or outside the state as may be neces-
14 sary, desirable or convenient, in the opinion of the bond bank author-
15 ity, for rendering services in connection with the care, custody or
16 safekeeping of municipal bonds or other investments held or owned by
17 the bond bank authority, for rendering services in connection with the
18 payment or collection of amounts payable as to principal or interest,
19 and for rendering services in connection with the delivery to the bond
20 bank authority of municipal bonds or other investments purchased by it
21 or sold by it, and to pay the cost of those services. The bond bank
22 authority may also, in connection with any of the services to be
23 rendered by a bank, trust company or banking or financial institution
24 as to the custody and safekeeping of its municipal bonds or invest-
25 ments, require security in the form of collateral bonds, surety agree-
26 ments or security agreements in such form and amount as, in the opin-
27 ion of the bond bank authority, is necessary or desirable.

28 * Sec. 54. AS 44.99.001 is amended to read:

29 Sec. 44.99.001. ADMINISTRATION OF HIGHWAY SAFETY PROGRAM. The

1 governor may contract and do all other things necessary on behalf of
2 this state under 23 U.S.C. 401-404 (Highway Safety Act of 1966), and
3 may cooperate with interested persons and agencies to effectuate the
4 purposes of that Act. Contracting under this section is governed by
5 AS 36.30 (State Procurement Code). The governor may designate a
6 person to serve as the governor's highway safety representative;
7 however, the governor is the official in this state having the ulti-
8 mate responsibility for dealing with the federal government with
9 respect to programs and activities under the Federal Highway Safety
10 Act of 1966. The governor shall coordinate the activities relating to
11 highway safety of state departments, agencies and subdivisions and of
12 the Governor's Commission on Transportation Safety established in
13 AS 44.19.190.

14 * Sec. 55. AS 46.04.090(a) is amended to read:

15 (a) The department, when feasible, shall enter into contracts
16 with persons or private organizations to provide the personnel, equip-
17 ment, or other services or supplies which may be required to carry out
18 this chapter. Contracts under this section are governed by AS 36.30
19 (State Procurement Code). When private contracting is not feasible,
20 the department may establish and maintain at ports, harbors, or other
21 locations in the state, the cleanup personnel, equipment, and supplies
22 which, in its judgment, are necessary to carry out this chapter.

23 * Sec. 56. AS 46.07.040(a) is amended to read:

24 (a) The commissioner shall provide for the construction of
25 facilities under this chapter, and is authorized to provide for the
26 construction by contract or through grants to public agencies or
27 private nonprofit organizations, or otherwise. A [NO] contribution
28 toward the cost of the construction of a facility may not be required
29 from its users. Construction under this section by contract is

1 governed by AS 36.30 (State Procurement Code).

2 * Sec. 57. AS 46.15.020(a) is amended to read:

3 (a) The commissioner shall exercise all those powers and do all
4 those acts necessary to carry out the provisions and objectives of
5 this chapter. The commissioner may

6 (1) subject to AS 36.30 (State Procurement Code), enter
7 into contractual agreements necessary to carry out the provisions of
8 this chapter including agreements with federal, state and local agen-
9 cies;

10 (2) apply for, accept, administer and expend grants, gifts,
11 and loans from the federal government and any other public or private
12 sources for the purposes of this chapter, and adopt procedures and do
13 acts not otherwise restricted by law which are necessary to qualify
14 the state to receive grants, gifts and loans;

15 (3) establish a division of water in the Department of
16 Natural Resources and assign to that division the responsibility for
17 carrying out the provisions of this chapter.

18 * Sec. 58. AS 47.05.015(c) is amended to read:

19 (c) A contract authorized under this section is exempt from the
20 competitive bid requirements of AS 36.30 (State Procurement Code)
21 [AS 37.05.230]. In awarding a contract under this section the depart-
22 ment shall [PUBLISH A] request [FOR] proposals in accordance with
23 regulations of the Department of Administration under AS 36.30 (State
24 Procurement Code) [DEPARTMENT].

25 * Sec. 59. AS 47.30.350(a) is amended to read:

26 (a) The department shall

27 (1) develop and submit to the Surgeon General of the United
28 States Public Health Service a comprehensive program for the con-
29 structing and equipping of hospitals and other facilities for the

1 examination, observation, care, and treatment of the mentally ill;

2 (2) develop and submit to the Surgeon General plans and
3 specifications for the constructing and equipping of the hospitals and
4 other facilities;

5 (3) construct and equip the hospitals and other facilities
6 in accordance with the program, plans, and specifications approved by
7 the Surgeon General; construction and equipping under this paragraph
8 is governed by AS 36.30 (State Procurement Code);

9 (4) cooperate, coordinate, and contract, wherever indicated
10 and desirable, with other state boards, departments and agencies, and
11 agencies of the United States in the construction program, and hire
12 necessary personnel and enter into contracts with private individuals
13 and companies, to the end that the hospitals and other facilities are
14 constructed in the most economical and expeditious manner; contracting
15 and construction under this section are governed by AS 36.30 (State
16 Procurement Code).

17 * Sec. 60. AS 47.30.660 is amended to read:

18 Sec. 47.30.660. POWERS AND DUTIES OF DEPARTMENT. The depart-
19 ment is the mental health authority of the state and shall

20 (1) administer a comprehensive program for the prevention
21 of mental illness and the care and treatment of the mentally ill,
22 including inpatient and outpatient care and treatment and the procure-
23 ment of services of specialists or other persons on a contractual or
24 other basis;

25 (2) take the actions and undertake the obligations which
26 are necessary to participate in federal grants-in-aid programs and
27 accept federal or other financial aid from whatever sources for the
28 study, examination, care, and treatment of the mentally ill;

29 (3) administer AS 47.30.660 - 47.30.915;

1 (4) designate, operate, and maintain treatment facilities
2 equipped and qualified to provide inpatient and outpatient care and
3 treatment for the mentally ill;

4 (5) provide for the placement of mentally ill patients in
5 designated treatment facilities;

6 (6) enter into arrangements with governmental agencies for
7 the care or treatment of the mentally ill in facilities of the govern-
8 mental agencies in the state or in another state;

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

12 (8) enter contracts which incorporate safeguards
13 consistent with AS 47.30.660 - 47.30.915 and the preservation of the
14 civil rights of the patients with another state for the custody and
15 care or treatment of patients previously committed from this state
16 under 48 U.S.C., sec. 46 et seq., and P.L. 830, 84th Congress, 2nd
17 Session, 70 Stat. 709;

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

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

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

25 (12) investigate complaints made by a patient or an inter-
26 ested party on behalf of a patient;

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

1 AS 47.30.660 - 47.30.915; and

2 (14) adopt regulations to implement the provisions of
3 AS 47.30.660 - 47.30.915.

4 * Sec. 61. AS 47.35.010(a) is amended to read:

5 (a) The department may

6 (1) license and supervise boarding homes, foster homes,
7 group homes, nurseries, institutions caring for children and foster
8 homes, group homes and institutions caring for dependent adults;

9 (2) investigate and supervise licensees;

10 (3) enforce the standards established by it;

11 (4) contract with private or municipal agencies to investi-
12 gate and make recommendations to the department for the licensing and
13 supervision of boarding homes, foster homes, group homes, nurseries,
14 institutions caring for children and foster homes, group homes and
15 institutions caring for dependent adults under procedures and stan-
16 dards of operation established by the department; contracts with
17 private agencies under this paragraph are governed by AS 36.30 (State
18 Procurement Code).

19 * Sec. 62. AS 47.37.030 is amended to read:

20 Sec. 47.37.030. POWERS OF OFFICE. The office may

21 (1) plan, establish, and maintain treatment programs as
22 appropriate;

23 (2) make contracts and award grants necessary or incidental
24 to the performance of its duties and the execution of its powers,
25 including contracts with and grants to public and private agencies,
26 organizations, and individuals, to pay them for services rendered or
27 furnished to alcoholics or intoxicated persons; to the maximum extent
28 possible, contracts and grants shall be for a period of two years;
29 contracts under this paragraph are governed by AS 36.30 (State

1 Procurement Code);

2 (3) solicit and accept for use a gift of money or property
3 or a grant of money, services, or property from the federal govern-
4 ment, the state, or a political subdivision of it or a private source,
5 and do all things necessary to cooperate with the federal government
6 or any of its agencies in making an application for a grant;

7 (4) administer or supervise the administration of the
8 provisions relating to alcoholics and intoxicated persons of any state
9 plan submitted for federal funding under federal health, welfare, or
10 treatment legislation;

11 (5) coordinate its activities and cooperate with alcoholism
12 programs in this and other states, and make contracts and other joint
13 or cooperative arrangements with state, local, or private agencies for
14 the treatment of alcoholics and intoxicated persons and for the common
15 advancement of alcoholism programs in this and other states;

16 (6) keep records and engage in research and the gathering
17 of relevant statistics;

18 (7) do other acts necessary to implement the authority
19 expressly granted to it;

20 (8) acquire, hold, or dispose of real property or any
21 interest in it, and construct, lease, or otherwise provide treatment
22 facilities for alcoholics and intoxicated persons; however, the office
23 shall encourage local initiative, involvement and financial participa-
24 tion under grants-in-aid whenever possible in preference to the con-
25 struction or operation of facilities directly by the office; contract-
26 ing and construction under this paragraph are governed by AS 36.30
27 (State Procurement Code).

28 * Sec. 63. AS 47.37.130(g) is amended to read:

29 (g) The office may contract for the use of any facility as an

1 approved public treatment facility if the coordinator, subject to the
2 regulations of the department, considers this an effective and econom-
3 ical course to follow. Contracting under this subsection is governed
4 by AS 36.30 (State Procurement Code).

5 * Sec. 64. AS 47.40.041(b) is amended to read:

6 (b) Notices published by the department concerning the opening
7 of the application process for a grant award shall specify the geo-
8 graphical area in which services are needed, the type of services, the
9 number of beds anticipated to be needed, the maximum number of days of
10 care, and any other requirements established by the department.
11 Grants authorized under this section are exempt from the competitive
12 bid requirements of AS 36.30 [AS 37.05.230].

13 * Sec. 65. AS 47.90.010(a) is amended to read:

14 (a) The commissioner, in consultation with state and local
15 government agencies, community groups, and groups concerned with
16 displaced homemakers, may

17 (1) contract with eligible private profit and nonprofit
18 corporations for multipurpose service centers for displaced home-
19 makers; contracting under this paragraph is governed by AS 36.30
20 (State Procurement Code); and

21 (2) coordinate existing state programs for displaced home-
22 makers.

23 * Sec. 66. AS 47.40.041(b) is amended to read:

24 (b) Notices published by the department concerning the opening
25 of th application process for a grant award shall specify the geo-
26 graph. l area in which services are needed, the type of services, the
27 number of beds anticipated to be needed, the maximum number of days of
28 care, and any other requirements established by the department.
29 Grants authorized under this section are exempt from AS 36.30 (State

1 Procurement Code) [THE COMPETITIVE BID REQUIREMENTS OF AS 37.05.230].

2 * Sec. 67. REPORT. By December 1, 1987, the commissioner of adminis-
3 tration and the commissioner of transportation and public facilities shall
4 report to the legislature concerning procurements by state agencies during
5 the first six months of 1987. The report must include

6 (1) the records prepared under AS 36.30.510(4);

7 (2) recommendations for changes in AS 36.30 or other laws based
8 on implementation of AS 36.30 in those six months; and

9 (3) a description of any matters that involved litigation con-
10 cerning AS 36.30 during those six months.

11 * Sec. 68. REGULATIONS DEADLINE. The regulations required under
12 AS 36.30 as added by sec. 2 of this Act, shall be adopted by January 1,
13 1987 and shall be effective on that date. Regulations adopted under laws
14 repealed in sec. 69 of this Act become ineffective January 1, 1987.

15 * Sec. 69. REPEALER. The following laws are repealed: AS 14.40.340;
16 AS 19.10.190, 19.10.210; AS 24.23; AS 35.15.030, 35.15.050; AS 36.98;
17 AS 37.05.220, 37.05.230, 37.05.231, 37.05.240, 37.05.250, 37.05.260, 37.-
18 05.270, 37.05.280, 37.05.290, 37.05.400(2) and (3); AS 44.65; AS 44.77.-
19 010(c); and AS 47.90.010(c).

20 * Sec. 70. Section 68 of this Act takes effect immediately in accor-
21 dance with AS 01.10.070(c).

22 * Sec. 71. Except as provided in sec. 70, this Act takes effect Janu-
23 ary 1, 1987.

Cook
2/27/86 ✓

Original sponsor: Rules Committee
By Request

1 IN THE SENATE BY THE JUDICIARY COMMITTEE
2 CS FOR SENATE BILL NO. 341 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state procurement practices and
7 procedures; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. PURPOSE. This Act shall be construed and applied to
10 promote its underlying purposes and policies. The underlying purposes and
11 policies of this Act are to

12 (1) simplify, clarify, and modernize the law governing pro-
13 curement by the state;

14 (2) make as consistent as possible the procurement practices
15 among the executive branch, the legislative branch, and the judicial branch
16 of state government;

17 (3) provide for increased public confidence in the procedures
18 followed in state procurement;

19 (4) ensure the fair and equitable treatment of all persons who
20 deal with the procurement system of the state;

21 (5) provide increased economy in state procurement activities
22 and maximize to the fullest extent practicable the purchasing value of
23 state funds;

24 (6) foster effective broad-based competition within the free
25 enterprise system;

26 (7) provide safeguards for the maintenance of a procurement
27 system of quality and integrity;

28 (8) permit the continued development of state procurement prac-
29 tices and policies; and