



# LAWS OF ALASKA

2009

**Source**  
CSHB 152(JUD)

**Chapter No.**  
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## AN ACT

Making corrective amendments to the Alaska Statutes as recommended by the revisor of statutes; providing for an effective date by repealing the effective date of sec. 33, ch. 122, SLA 1977; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1



**AN ACT**

1 Making corrective amendments to the Alaska Statutes as recommended by the revisor of  
2 statutes; providing for an effective date by repealing the effective date of sec. 33, ch. 122,  
3 SLA 1977; and providing for an effective date.

4 \_\_\_\_\_

5 \* **Section 1.** AS 03.09.020(a) is amended to read:

6 (a) The director of the division of **the department with responsibility for**  
7 agriculture [OF THE DEPARTMENT] shall serve as the director of the Board of  
8 Agriculture and Conservation. The director may employ staff and, as directed by the  
9 board, is responsible for the daily operations of the agricultural revolving loan fund  
10 (AS 03.10.040).

11 \* **Sec. 2.** AS 03.22.010 is amended to read:

12 **Sec. 03.22.010. Establishment of plant materials center.** The Department of  
13 Natural Resources, in cooperation with the **college or department of the University**  
14 **of Alaska responsible for the Agricultural and Forestry Experiment Station**

1 [INSTITUTE OF AGRICULTURAL SCIENCES], shall establish and maintain a  
2 plant materials center.

3 \* **Sec. 3.** AS 03.22.020 is amended to read:

4 **Sec. 03.22.020. Purpose of center.** The objectives of the plant materials  
5 center, in cooperation with the college or department of the University of Alaska  
6 responsible for the Agricultural and Forestry Experiment Station [INSTITUTE  
7 OF AGRICULTURAL SCIENCES], are to

8 (1) assemble, evaluate, select, and increase plant materials needed in  
9 soil and water conservation, agriculture, and industry, and maintain genetic purity of  
10 these materials;

11 (2) increase promising plant materials for field scale testing;

12 (3) test the promising materials in field plantings on sites that represent  
13 soil and climatic conditions not found at the center;

14 (4) maintain and provide for increase of basic seed stocks of plant  
15 materials for agricultural and conservation interests;

16 (5) make seed and plant materials available, for a fee if necessary, in  
17 such a manner as to avoid monopolistic control of basic stocks of these materials and  
18 encourage the development of a seed industry;

19 (6) support but not duplicate activities carried on by state or federally  
20 funded research programs in the state;

21 (7) prepare, publish, and disseminate a summary report on all studies  
22 as they are completed.

23 \* **Sec. 4.** AS 03.22.040 is amended to read:

24 **Sec. 03.22.040. Personnel.** The department shall ensure that competent  
25 professional, secretarial, and subprofessional personnel necessary to carry on the work  
26 of the center are employed. The administrator of the plant materials center is a joint  
27 appointment between the Department of Natural Resources and the college or  
28 department of the University of Alaska responsible for the Agricultural and  
29 Forestry Experiment Station.

30 \* **Sec. 5.** AS 03.22.050 is amended to read:

31 **Sec. 03.22.050. Department to cooperate.** The department shall cooperate

1 with the college or department of the University of Alaska responsible for the  
2 Agricultural and Forestry Experiment Station [INSTITUTE OF  
3 AGRICULTURAL SCIENCES] and the United States Soil Conservation Service by a  
4 formal memorandum of understanding and may cooperate with any department or  
5 agency of federal, state, or local government, research organization, or other  
6 organization concerned with conservation or agriculture.

7 \* **Sec. 6.** AS 03.47.040(2) is amended to read:

8 (2) "division" means the division of the department with  
9 responsibility for agriculture [, DEPARTMENT OF NATURAL RESOURCES];

10 \* **Sec. 7.** AS 08.36.246(a) is amended to read:

11 (a) An applicant for a specialty license shall

12 (1) meet all of the requirements under AS 08.36.110(1) and (3);

13 (2) have completed as many academic years of advanced education in  
14 the specialty as are required by the appropriate specialty board in a program accredited  
15 by the Commission on Accreditation of the American Dental Association or its  
16 successor agency;

17 (3) be a diplomate or the equivalent of the appropriate specialty board,  
18 or be eligible to be examined for diplomate status as documented by an organization  
19 recognized by the American Dental Association; and

20 (4) satisfy one of the following:

21 (A) pass an examination approved by the board; **or**

22 (B) [PASS A SPECIALTY EXAMINATION GIVEN BY THE  
23 CENTRAL REGIONAL EXAMINING BOARD; OR

24 (C)] be board certified by a specialty certification board  
25 recognized by the American Dental Association.

26 \* **Sec. 8.** AS 11.56.762(a) is amended to read:

27 (a) A person commits the crime of unlawful use of DNA samples if the person  
28 knowingly, without authorization under AS 44.41.035, possesses or allows another  
29 person access to

30 (1) a blood, oral, or tissue sample collected for inclusion in the  
31 deoxyribonucleic **acid** identification registration system under AS 44.41.035; [,] or

1 (2) identification data or records derived from those samples.

2 \* **Sec. 9.** AS 12.55.125(b) is amended to read:

3 (b) A defendant convicted of attempted murder in the first degree, solicitation  
4 to commit murder in the first degree, conspiracy to commit murder in the first degree,  
5 kidnapping, or misconduct involving a controlled substance in the first degree shall be  
6 sentenced to a definite term of imprisonment of at least five years but not more than  
7 99 years. A defendant convicted of murder in the second degree or murder of an  
8 unborn child under AS 11.41.150(a)(2) - (4) shall be sentenced to a definite term of  
9 imprisonment of at least 10 years but not more than 99 years. A defendant convicted  
10 of murder in the second degree shall be sentenced to a definite term of imprisonment  
11 of at least 20 years but not more than 99 years when the defendant is convicted of the  
12 murder of a child under 16 years of age and the court finds by clear and convincing  
13 evidence that the defendant (1) was a natural parent, a stepparent, an **adoptive**  
14 [ADOPTED] parent, a legal guardian, or a person occupying a position of authority in  
15 relation to the child; or (2) caused the death of the child by committing a crime against  
16 a person under AS 11.41.200 - 11.41.530. In this subsection, "legal guardian" and  
17 "position of authority" have the meanings given in AS 11.41.470.

18 \* **Sec. 10.** AS 12.61.020(a) is amended to read:

19 (a) Every person contracting with an offender with respect to the reenactment  
20 of the offender's crime by way of a movie, book, magazine article, radio or television  
21 presentation, **or** live entertainment of any kind, or **to** [FROM] the expression of the  
22 offender's thoughts, feelings, opinions, or emotions regarding the crime, shall pay to  
23 the state any money that would otherwise be owing to the offender.

24 \* **Sec. 11.** AS 12.61.020(c) is amended to read:

25 (c) Notwithstanding other statutory limitations, a civil action by a victim  
26 against an offender for damages resulting from the commission of the crime [,] must  
27 be commenced within 10 years of the date of the crime [,] or the date of the discovery  
28 of the perpetrator of the crime if the perpetrator is unknown on the date of the  
29 commission of the crime.

30 \* **Sec. 12.** AS 12.62.160(a) is amended to read:

31 (a) Criminal justice information and the identity of recipients of criminal

1 justice information **are** [IS] confidential and exempt from disclosure under AS 40.25.  
2 The existence or nonexistence of criminal justice information may not be released to  
3 or confirmed to any person except as provided in this section and AS 12.62.180(d).

4 \* **Sec. 13.** AS 13.06.050(21) is amended to read:

5 (21) **"heir,"** ["HEIRS,"] except as controlled by AS 13.12.711, means  
6 a person, including the surviving spouse and the state, who is entitled under the  
7 statutes of intestate succession to the property of a decedent;

8 \* **Sec. 14.** AS 14.03.075(g)(2) is amended to read:

9 (2) "individualized education program team" **means a group of**  
10 **people that translates child assessment information regarding a child into a**  
11 **practical plan for specially designed instruction and delivery of services for the**  
12 **child, consisting of the persons necessary to qualify the team under appropriate**  
13 **federal regulations applicable to a child with a disability who is eligible for**  
14 **special education services under AS 14.30** [HAS THE MEANING GIVEN IN  
15 AS 14.30.350].

16 \* **Sec. 15.** AS 14.17.600 is amended to read:

17 **Sec. 14.17.600. Student count [COUNTING] periods.** (a) Within two weeks  
18 after the end of the 20-school-day period ending the fourth Friday in October, each  
19 district shall transmit a report to the department that, under regulations adopted by the  
20 department, reports its ADM for that **count** [COUNTING] period and other student  
21 count information that will aid the department in making a determination of its state  
22 aid under the public school funding program. For centralized correspondence study,  
23 the October report shall be based on the period from July 1 through the fourth Friday  
24 in October. The department may make necessary corrections in the report submitted  
25 and shall notify the district of changes made. The commissioner shall notify the  
26 governor of additional appropriations the commissioner estimates to be necessary to  
27 fully finance the public school funding program for the current fiscal year.

28 (b) Upon written request and for good cause shown, the commissioner may  
29 permit a district to use a 20-school-day **count** [COUNTING] period other than the  
30 period set out in (a) of this section. However, a **count** [COUNTING] period approved  
31 under this subsection must be 20 consecutive school days unless one or more alternate

1           count [COUNTING] periods are necessary to permit a district to implement flexible  
2           scheduling that meets the district's needs and goals without jeopardizing the state aid  
3           for which the district would ordinarily be eligible under this chapter.

4           \* **Sec. 16.** AS 14.17.990(5) is amended to read:

5                           (5) "eligible federal impact aid" means the amount of federal impact  
6           aid received by a district as of March 1 of the fiscal year as a result of an application  
7           submitted in the preceding fiscal year, including advance payments and adjustments  
8           received since March 1 of the preceding fiscal year from prior year applications, under  
9           20 U.S.C. 7701 - 7714, except payments received under **former** 20 U.S.C.  
10          7703(f)(2)(B), to the extent the state may consider that aid as local resources under  
11          federal law;

12          \* **Sec. 17.** AS 14.20.149(a) is amended to read:

13                           (a) A school board shall adopt [BY JULY 1, 1997,] a certificated employee  
14          evaluation system for evaluation and improvement of the performance of the district's  
15          teachers and administrators. The evaluation system applies to all the district's  
16          certificated employees except the district's superintendent. A school board shall  
17          consider information from students, parents, community members, classroom teachers,  
18          affected collective bargaining units, and administrators in the design and periodic  
19          review of the district's certificated employee evaluation system. An evaluation of a  
20          certificated employee under this section must be based on observation of the employee  
21          in the employee's workplace.

22          \* **Sec. 18.** AS 14.35.025 is amended to read:

23                           **Sec. 14.35.025. Duties of the Department of Education and Early**  
24          **Development.** When required by any of the Acts described in AS 14.35.010, the  
25          department shall

26                           (1) cooperate with the **appropriate federal agency** [UNITED  
27          STATES DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE] in the  
28          administration of the Act;

29                           (2) do everything necessary to entitle the state to receive money  
30          available according to the Act;

31                           (3) represent the state in all matters related to the administration of the

1 Act;

2 (4) expend and disburse money received according to the Act;

3 (5) designate the districts, schools, departments, or classes to  
4 participate in the benefits of money received according to the Act.

5 \* **Sec. 19.** AS 14.40.826(a) is amended to read:

6 (a) The powers and responsibilities of the corporation are vested in the board  
7 of directors. The board of directors of the corporation consists of nine members  
8 appointed by the governor as follows:

9 (1) three state residents who have a significant high level of experience  
10 in the private business sector, specializing in financing or economic development or  
11 marketing; two of the state residents appointed under this paragraph shall be residents  
12 of the borough where the launch activities of the corporation occur if qualified  
13 candidates residing in the borough are available;

14 (2) the president or the designee of the president of the University of  
15 Alaska;

16 (3) the director or designee of the Geophysical Institute of the  
17 University of Alaska;

18 (4) the commissioner of commerce, community, and economic  
19 development or the commissioner's designee;

20 (5) two members who have held or currently hold positions in the  
21 aerospace or commercial space industry, **have** [OR] special experience regarding  
22 federal regulatory procedures and policies involving space, or **have** operational  
23 experience; members with aerospace experience may not exceed one; and

24 (6) a public school educator or a public member.

25 \* **Sec. 20.** AS 14.50.010 is amended to read:

26 **Sec. 14.50.010. Acceptance of federal funds.** The legislature assents to  
27 federal aid under **former 20 U.S.C. 401 - 602** [PUBLIC LAW 85-864, 72 STAT.  
28 1580, 85TH CONGRESS (20 U.S.C. 401-602)] on behalf of the state. The  
29 commissioner of education and early development may do all things necessary to  
30 cooperate with the United States government to participate under **former 20 U.S.C.**  
31 **401 - 602** [THE ACT] and **under** any Act [AMENDING OR] supplementing **the**

1 **provisions of former 20 U.S.C. 401 - 602** [IT], subject to prior concurrence of the  
2 governor.

3 \* **Sec. 21.** AS 14.57.199(1) is amended to read:

4 (1) "director" means the director of the division **of the department**  
5 **that has responsibility for** [OF] state libraries, archives, and museums;

6 \* **Sec. 22.** AS 15.45.160 is amended to read:

7 **Sec. 15.45.160. Bases for determining the petition was improperly filed.**

8 The lieutenant governor shall notify the committee that the petition was improperly  
9 filed upon determining that

10 (1) there is an insufficient number of qualified subscribers; [OR]

11 (2) the subscribers were not resident in at least **three-fourths** [TWO-  
12 THIRDS] of the house districts of the state; **or**

13 **(3) there is an insufficient number of qualified subscribers from**  
14 **each of the house districts described in (2) of this section.**

15 \* **Sec. 23.** AS 15.45.390 is amended to read:

16 **Sec. 15.45.390. Bases for determining the petition was improperly filed.**

17 The lieutenant governor shall notify the committee that the petition was improperly  
18 filed upon determining that

19 (1) there is an insufficient number of qualified subscribers;

20 (2) the subscribers were not resident in at least **three-fourths** [TWO-  
21 THIRDS] of the house districts of the state; [OR]

22 (3) **there is an insufficient number of qualified subscribers from**  
23 **each of the house districts described in (2) of this section; or**

24 **(4)** the petition was not filed within 90 days after the adjournment of  
25 the legislative session at which the act was passed.

26 \* **Sec. 24.** AS 17.37.070(6) is amended to read:

27 (6) "facility monitored by the department or the Department of  
28 Administration" means an institution, building, office, or home operated by the  
29 department or the Department of Administration, funded by the department or the  
30 Department of Administration, under contract with the department or the Department  
31 of Administration, inspected by the department or the Department of Administration,

1 designated by the department or the Department of Administration, or licensed by the  
2 department or the Department of Administration, for the care of

3 (A) juveniles; for the purposes of this subparagraph,  
4 "institution" includes a foster home and a group home, and a juvenile detention  
5 facility, a juvenile detention home, a juvenile work camp, and a treatment  
6 facility, as those terms are defined in AS 47.12.990 [AS 47.14.990];

7 (B) the elderly; for the purposes of this subparagraph,  
8 "institution" includes

9 (i) an assisted living home as defined in AS 47.33.990;

10 and

11 (ii) the Alaska Pioneers' Home or the Alaska Veterans'  
12 Home, operated under AS 47.55;

13 (C) the mentally ill; for the purposes of this subparagraph,  
14 "institution" includes a designated treatment facility and an evaluation facility,  
15 as those terms are defined in AS 47.30.915;

16 \* **Sec. 25.** AS 19.15.025(a) is amended to read:

17 (a) The [BEFORE OCTOBER 1, 2006, THE DEPARTMENT MAY  
18 ANNUALLY ALLOCATE UP TO FOUR PERCENT OF NONRESTRICTED  
19 FEDERAL-AID HIGHWAY APPORTIONMENTS TO PROJECTS CLASSIFIED  
20 UNDER THE TRAILS AND RECREATIONAL ACCESS FOR ALASKA  
21 PROGRAM UNDER A STATEWIDE TRANSPORTATION IMPROVEMENT  
22 PROGRAM. ON OR AFTER OCTOBER 1, 2006, THE] department may allocate up  
23 to two percent of nonrestricted federal-aid highway apportionments to projects  
24 classified under the trails and recreational access for Alaska program under a  
25 statewide transportation improvement program.

26 \* **Sec. 26.** AS 19.15.025(b) is amended to read:

27 (b) The [BEFORE OCTOBER 1, 2006, THE DEPARTMENT SHALL  
28 ANNUALLY ALLOCATE AT LEAST 37 PERCENT OF NONRESTRICTED  
29 FEDERAL-AID HIGHWAY APPORTIONMENTS TO PROJECTS CLASSIFIED  
30 UNDER THE COMMUNITY TRANSPORTATION PROGRAM UNDER A  
31 STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM. ON OR AFTER

1           OCTOBER 1, 2006, THE] department shall annually allocate at least 39 percent of  
2           nonrestricted federal-aid highway apportionments to projects classified under the  
3           community transportation program under a statewide transportation improvement  
4           program.

5           \* **Sec. 27.** AS 21.54.120(a) is amended to read:

6                   (a) A health care insurer that offers, issues for delivery, delivers, or renews in  
7                   this state a health care insurance plan in the group market shall count a period of  
8                   creditable coverage based on

9                           (1) the standard method authorized by 42 U.S.C. 300gg (Health  
10                           **Insurance** [CARE] Portability and Accountability Act of 1996) for determining  
11                           creditable coverage without regard to the specific benefits covered during the period;  
12                           or

13                           (2) an alternative method based on coverage of benefits within each of  
14                           several classes or categories of benefits specified in federal regulation if

15                                   (A) made on a uniform basis for all participants and  
16                                   beneficiaries; and

17                                   (B) the insurer counts a period of creditable coverage with  
18                                   respect to any class or category of benefits if any level of benefits is covered  
19                                   within the class or category.

20           \* **Sec. 28.** AS 21.54.500(11) is amended to read:

21                   (11) "federal continuation provision" means a "COBRA continuation  
22                   provision" as defined in 42 U.S.C. 300gg-91(d) (Health **Insurance** [CARE]  
23                   Portability and Accountability Act of 1996);

24           \* **Sec. 29.** AS 21.54.500(17) is amended to read:

25                   (17) "health care insurer" means a person transacting the business of  
26                   health care insurance, including an insurance company licensed under AS 21.09, a  
27                   hospital or medical service corporation licensed under AS 21.87, a fraternal benefit  
28                   society licensed under AS 21.84, a health maintenance organization licensed under  
29                   AS 21.86, a multiple employer welfare arrangement, a church plan, and a  
30                   governmental plan, except for a nonfederal governmental plan that elects to be  
31                   excluded under 42 U.S.C. 300gg-21(b)(2) (Health **Insurance** [CARE] Portability and

1 Accountability Act of 1996);

2 \* **Sec. 30.** AS 23.05.060 is amended to read:

3 **Sec. 23.05.060. Powers of the department.** The department may

4 (1) enforce all state labor laws;

5 (2) act as mediator and appoint deputy commissioners of conciliation  
6 in labor disputes whenever it considers the interest of industrial peace requires it;

7 (3) make investigations **and** [,] collect and compile statistical  
8 information concerning the conditions of labor generally and upon all matters relating  
9 to the enforcement of this chapter;

10 (4) institute court proceedings against an employer of labor without  
11 cost to the employee when it is satisfied that the employer has failed to pay an  
12 employee an amount due by contract;

13 (5) issue cease and desist orders and other orders and regulations  
14 necessary for the enforcement of state labor laws;

15 (6) in accordance with AS 37.07 (the Executive Budget Act), receive  
16 and spend money derived from agreements with local governments, nongovernmental  
17 organizations, or other persons.

18 \* **Sec. 31.** AS 23.05.067(a) is amended to read:

19 (a) Each insurer providing workers' compensation insurance and each  
20 employer who is self-insured or uninsured for purposes of AS 23.30 in this state shall  
21 pay an annual service fee to the department for the administrative expenses of the state  
22 for workers' safety programs under AS 18.60 and the workers' compensation program  
23 under AS 23.30 as follows:

24 (1) for each employer,

25 (A) except as provided in (b) of this section, the service fee  
26 shall be paid each year to the department at the time that the annual report is  
27 required to be filed under AS 23.30.155(m) or (n); and

28 (B) the service fee is 2.9 percent of all payments reported to the  
29 **division of workers' compensation in the department** [ALASKA  
30 WORKERS' COMPENSATION BOARD] under AS 23.30.155(m) or (n),  
31 except second injury fund payments; and

1 (2) for each insurer, the director of the division of insurance shall,  
2 under (e) of this section, deposit from funds received from the insurer under  
3 AS 21.09.210 a service fee of 1.82 percent of the direct premium income for workers'  
4 compensation insurance received by the insurer during the year ending on the  
5 preceding December 31, subject to all the deductions specified in AS 21.09.210(b).

6 \* **Sec. 32.** AS 23.20.175(c) is amended to read:

7 (c) For the purposes of AS 23.20.165 and 23.20.170, [AFTER DECEMBER  
8 31, 1982,] wages do not include that part of remuneration paid during any calendar  
9 year to an individual by an employer or by a predecessor of the employer that exceeds  
10 75 percent of the average annual wage, as defined in AS 23.20.520, in Alaska for the  
11 preceding 12-month period ending June 30 computed to the nearest multiple of \$100.

12 \* **Sec. 33.** AS 23.20.276(b) is amended to read:

13 (b) A nonprofit organization described in this section that [WHICH], under  
14 AS 23.20.525(a)(4) [AS 23.20.525(a)(6)], is, or becomes, subject to this chapter [ON  
15 OR AFTER JANUARY 1, 1972,] shall pay contributions under the provisions of  
16 AS 23.20.165, unless it elects, in accordance with this section, to pay to the  
17 department for the unemployment compensation fund an amount equal to the amount  
18 of regular benefits and of one-half of the extended benefits paid, that is attributable to  
19 service in the employ of the nonprofit organization, to individuals for weeks of  
20 unemployment that [WHICH] begin during the effective period of the election.

21 \* **Sec. 34.** AS 23.20.277(c) is amended to read:

22 (c) Each nonprofit organization that has elected payments in place of  
23 contributions may request permission to make payments as provided in this  
24 subsection. This method of payment becomes effective upon approval by the  
25 department. At the end of each calendar quarter or at the end of any other period as  
26 determined by the department, the department shall bill each nonprofit organization  
27 for an amount representing one of the following:

28 (1) [FOR 1972, .25 PERCENT OF ITS TOTAL PAYROLL FOR  
29 1971;

30 (2) FOR YEARS AFTER 1972,] that percentage of its total payroll for  
31 the immediately preceding calendar year as the department determines; the

1 determination shall be based each year on the average benefit costs attributable to  
2 service in the employ of nonprofit organizations during the preceding calendar year;

3 (2) [(3)] for any organization **that** [WHICH] did not pay wages  
4 throughout the four calendar quarters of the preceding calendar year, that percentage  
5 of its payroll during the year as the department determines.

6 \* **Sec. 35.** AS 23.20.278 is amended to read:

7 **Sec. 23.20.278. Financing benefits paid to employees of the state and its**  
8 **political subdivisions.** A political subdivision or a department, division, or other  
9 agency of the state subject to this chapter, under AS 23.20.525(a)(12)  
10 [AS 23.20.525(a)(4) AND (14)], shall pay contributions under the provisions of  
11 AS 23.20.165, unless it elects to reimburse the department for the unemployment  
12 compensation fund according to the provisions applicable to nonprofit organizations  
13 under AS 23.20.276 and 23.20.277.

14 \* **Sec. 36.** AS 23.20.401(b) is amended to read:

15 (b) The department shall, unless the obligor and obligee agree otherwise,  
16 deduct and withhold from unemployment compensation payable to an individual who  
17 owes child support obligations as defined in (h) of this section

18 (1) the amount specified by the individual to the department to be  
19 deducted and withheld under this subsection, if neither (2) nor (3) of this subsection is  
20 applicable;

21 (2) the amount specified in an agreement submitted to the department  
22 under 42 U.S.C. 654(19)(B)(i) (sec. 454(19)(B)(i), Social Security Act) [SECTION  
23 42 U.S.C. 654(20)(B)(i) (SEC. 454 (20)(B)(i), SOCIAL SECURITY ACT)], by the  
24 child support services agency of the Department of Revenue, unless (3) of this  
25 subsection is applicable; or

26 (3) any amount required to be deducted and withheld through legal  
27 process, as defined in 42 U.S.C. 662(e) (Sec. 462(e), Social Security Act), properly  
28 served upon the department.

29 \* **Sec. 37.** AS 23.20.408(h) is amended to read:

30 (h) In (f) [AND (g)] of this section, "rate of insured unemployment" means the  
31 percentage derived by dividing (1) the average weekly number of individuals filing

1 claims for regular compensation in this state for weeks of unemployment with respect  
2 to the most recent 13 consecutive week period, as determined by the department on the  
3 basis of its reports to the United States Secretary of Labor, by (2) the average monthly  
4 employment covered under this chapter for the first four of the most recent six  
5 completed calendar quarters ending before the close of that 13-week period.  
6 Computations required by this subsection shall be made by the department in  
7 accordance with regulations prescribed by the United States Secretary of Labor.

8 \* **Sec. 38.** AS 23.20.525 is amended to read:

9 **Sec. 23.20.525. "Employment" defined.** (a) In this chapter, unless the context  
10 otherwise requires, "employment" means

11 (1) service performed by an individual for wages or by an officer of a  
12 corporation, including service in interstate commerce;

13 (2) service performed by an individual who, under **(8)** [(10)] of this  
14 subsection, has the status of an employee;

15 (3) service performed by an individual other than an individual who is  
16 an employee under (1) or (2) of this subsection who performs services for  
17 remuneration for any person

18 (A) as an agent-driver or commission-driver engaged in  
19 distributing meat products, vegetable products, fruit products, bakery products,  
20 beverages, or laundry or dry-cleaning services, for the individual's principal; or

21 (B) as a traveling or city salesman, other than as an agent-  
22 driver or commission-driver, engaged upon a full-time basis in the solicitation  
23 on behalf of, and the transmission to, the individual's principal of orders from  
24 wholesalers, retailers, contractors, or operators of hotels, restaurants, or other  
25 similar establishments for merchandise for resale or supplies for use in their  
26 business operations; however, for all purposes of this paragraph, the term  
27 "employment" includes services described in this subparagraph and (A) of this  
28 paragraph [, PERFORMED AFTER DECEMBER 31, 1971,] only if

29 (i) the contract of service contemplates that  
30 substantially all of the services are to be performed personally by the  
31 individual;

1 (ii) the individual does not have a substantial  
2 investment in facilities used in connection with the performance of the  
3 services, other than in facilities for transportation; and

4 (iii) the services are not in the nature of a single  
5 transaction that is not part of a continuing relationship with the person  
6 for whom the services are performed;

7 (4) [SERVICE PERFORMED AFTER DECEMBER 31, 1971 AND  
8 THROUGH DECEMBER 31, 1977 BY AN INDIVIDUAL IN THE EMPLOY OF  
9 THIS STATE OR ANY INSTRUMENTALITY OF THIS STATE, OR IN THE  
10 EMPLOY OF THIS STATE AND ONE OR MORE STATES OR THEIR  
11 INSTRUMENTALITIES, FOR A HOSPITAL OR INSTITUTION OF HIGHER  
12 EDUCATION IN THIS STATE EXCEPT SERVICE DESCRIBED IN  
13 AS 23.20.526(d) IF THE SERVICE IS EXCLUDED FROM THE TERM  
14 "EMPLOYMENT" SOLELY BY REASON OF 26 U.S.C. 3306(c)(7) (FEDERAL  
15 UNEMPLOYMENT TAX ACT, INTERNAL REVENUE CODE);

16 (5) SERVICE PERFORMED BEFORE JANUARY 1, 1978, IN THE  
17 EMPLOY OF A POLITICAL SUBDIVISION OF THIS STATE OR A WHOLLY  
18 OWNED INSTRUMENTALITY OF A POLITICAL SUBDIVISION OF THIS  
19 STATE, IF COVERAGE WAS ELECTED UNDER AS 23.20.325;

20 (6) service performed by an individual in a calendar quarter [AFTER  
21 JUNE 30, 1962,] in the employ of an organization exempt from income tax under 26  
22 U.S.C. 501(a) (Internal Revenue Code), other than an organization described in 26  
23 U.S.C. 401(a), or under 26 U.S.C. 521, if the remuneration for the service is \$250 or  
24 more; notwithstanding the provisions of this paragraph, services performed [AFTER  
25 DECEMBER 31, 1971,] by an individual in the employ of a religious, charitable,  
26 educational, or other organization described in 26 U.S.C. 501(c)(3) (Internal Revenue  
27 Code) that is exempt from income tax under 26 U.S.C. 501(a), constitutes employment  
28 for the purposes of this chapter even though remuneration for the services is less than  
29 \$250 in a calendar quarter, but only if the organization had four or more individuals in  
30 employment for some portion of a day in each of 20 different weeks, whether or not  
31 the weeks were consecutive, within either the current or preceding calendar year,

1 regardless of whether the individuals were employed at the same moment of time;

2 (5) [(7)] service of an individual who is a citizen of the United States,  
3 performed outside the United States, except in Canada, [AFTER DECEMBER 31,  
4 1971,] in the employ of an American employer, or of this state or of any of its  
5 instrumentalities or any of its political subdivisions, other than service that [WHICH]  
6 is considered "employment" under the provisions of (9) or (10) [(11) OR (12)] of this  
7 subsection or the parallel provisions of the law of another state, if

8 (A) the employer's principal place of business in the United  
9 States is located in this state; or

10 (B) the employer has no place of business in the United States,  
11 but

12 (i) the employer is an individual who is a resident of  
13 this state; or

14 (ii) the employer is a corporation that [WHICH] is  
15 organized under the laws of this state; or

16 (iii) the employer is a partnership or a trust and the  
17 number of the partners or trustees who are residents of this state is  
18 greater than the number who are residents of any one other state; or

19 (C) none of the criteria in (A) and (B) of this paragraph is met  
20 but the employer has elected coverage in this state or, the employer having  
21 failed to elect coverage in any state, the individual has filed a claim for  
22 benefits, based on service described in this paragraph, under the law of this  
23 state;

24 (6) [(8)] notwithstanding the provisions of (9) [(11)] of this subsection,  
25 all service performed by an officer or member of the crew of an American vessel or in  
26 connection with the vessel, if the operating office, from which the operations of  
27 vessels operating on navigable waters inside, or inside and outside the United States  
28 are ordinarily and regularly supervised, managed, directed, and controlled, is inside  
29 this state;

30 (7) [(9)] notwithstanding any other provisions of this section, service  
31 with respect to which tax is required to be paid under any federal law imposing a tax

1 against which credit may be taken for contributions required to be paid into a state  
2 unemployment fund or which as a condition for full tax credit against the tax imposed  
3 by the Federal Unemployment Tax Act is required to be covered under this chapter;

4 **(8)** [(10)] service performed by an individual whether or not the  
5 common-law relationship of master and servant exists, unless and until it is shown to  
6 the satisfaction of the department that

7 (A) the individual has been and will continue to be free from  
8 control and direction in connection with the performance of the service, both  
9 under the individual's contract for the performance of service and in fact;

10 (B) the service is performed either outside the usual course of  
11 the business for which the service is performed or is performed outside of all  
12 the places of business of the enterprise for which the service is performed; and

13 (C) the individual is customarily engaged in an independently  
14 established trade, occupation, profession, or business of the same nature as that  
15 involved in the service performed;

16 **(9)** [(11)] an individual's entire service performed inside or both inside  
17 and outside this state if the service is localized in this state; service is considered to be  
18 localized inside a state or territory if

19 (A) the service is performed entirely inside the state or  
20 territory; or

21 (B) the service is performed both inside and outside the state or  
22 territory but the service performed outside the state or territory is incidental to  
23 the individual's service inside the state or territory; for example, where it is  
24 temporary or transitory in nature or consists of isolated transactions;

25 **(10)** [(12)] an individual's entire service performed inside or both  
26 inside and outside this state if the service is not localized in a state or territory but  
27 some of the service is performed in this state and

28 (A) the individual's base of operations is in this state; [OR]

29 (B) if there is no base of operations, then the place from which  
30 the service is directed or controlled is in this state; or

31 (C) the individual's base of operations or place from which the

1 service is directed or controlled is not in a state or territory in which some part  
2 of the service is performed, but the individual's residence is in this state;

3 **(11)** [(13)] service covered by an election under AS 23.20.325, and  
4 service covered by an election approved by the commissioner in accordance with an  
5 arrangement under AS 23.20.090(a) during the effective period of the election;

6 **(12)** [(14)] service [PERFORMED AFTER DECEMBER 31, 1977,] in  
7 the employ of this state or any of its instrumentalities or any political subdivision of  
8 this state or any of its instrumentalities or any instrumentality of any of the foregoing  
9 and one or more other states or political subdivisions, if that service is excluded from  
10 "employment" under 26 U.S.C. 3306(c)(7) (Federal Unemployment Tax Act, Internal  
11 Revenue Code) and is not excluded from "employment" under AS 23.20.526(d)(8);

12 **(13)** [(15)] domestic services [PERFORMED AFTER DECEMBER  
13 31, 1977,] for an employer who paid wages of \$1,000 or more in any calendar quarter  
14 in the current or preceding calendar year for those services;

15 **(14)** [(16)] service [PERFORMED AFTER DECEMBER 31, 1977,]  
16 by an individual in agricultural labor when that service is performed for a person who

17 (A) during any calendar quarter in either the current or the  
18 preceding year, paid remuneration in cash of \$20,000 or more to individuals  
19 employed in agricultural labor; or

20 (B) employed in agricultural labor 10 or more individuals for  
21 some portion of the day in each of at least 20 different calendar weeks in either  
22 the current or the preceding calendar year, whether or not the weeks were  
23 consecutive, and regardless of whether the individuals were employed at the  
24 same moment of time;

25 (C) for the purposes of this paragraph, any individual who is a  
26 member of a crew furnished by a crew leader to perform service in agricultural  
27 labor for any other person shall be treated as an employee of that crew leader

28 (i) if that crew leader holds a valid certificate of  
29 registration under the Farm Labor Contractor Registration Act of 1963,  
30 or substantially all the members of that crew operate or maintain  
31 tractors, mechanized harvesting or cropdusting equipment, or any other

1 mechanized equipment, which is provided by that crew leader; and

2 (ii) if that individual is not an employee of that other  
3 person within the meaning of **(8)** [(10)] of this subsection;

4 (D) for the purposes of this paragraph, in the case of an  
5 individual who is furnished by a crew leader to perform service in agricultural  
6 labor for any other person and who is not treated as an employee of that crew  
7 leader under (C) of this paragraph,

8 (i) that other person and not the crew leader shall be  
9 treated as the employer of that individual; and

10 (ii) that other person shall be treated as having paid cash  
11 remuneration to that individual in an amount equal to the amount of  
12 cash remuneration paid to that individual by the crew leader, either on  
13 behalf of the crew leader or on behalf of that other person, for the  
14 service in agricultural labor performed for that other person;

15 (E) for the purposes of this paragraph, the term "crew leader"  
16 means an individual who

17 (i) furnishes individuals to perform service in  
18 agricultural labor for any other person;

19 (ii) pays, either on behalf of the crew leader or on  
20 behalf of that other person, the individuals furnished by the crew leader  
21 for the service in agricultural labor performed by the individuals; and

22 (iii) has not entered into a written agreement with that  
23 farm operator under which the agricultural worker is designated as an  
24 employee of that farm operator.

25 (b) In **(a)(5)** [(a)(7)] of this section, "American employer" means a person  
26 who is

27 (1) an individual who is a resident of the United States;

28 (2) a partnership if two-thirds or more of the partners are residents of  
29 the United States;

30 (3) a trust, if all of the trustees are residents of the United States; or

31 (4) a corporation organized under the laws of the United States or of

1 any state.

2 \* **Sec. 39.** AS 23.20.526(a) is amended to read:

3 (a) In this chapter, unless the context otherwise requires, "employment" does  
4 not include

5 (1) domestic service in a private home, except as provided in  
6 **AS 23.20.525(a)(13)** [AS 23.20.525(a)(15)];

7 (2) **service performed by an individual under 18 years of age**  
8 [NEWSBOYS' SERVICES] in selling or distributing newspapers on the street or from  
9 house to house;

10 (3) service not in the course of the employing unit's trade or business  
11 performed in a calendar quarter by an individual, unless the cash remuneration paid  
12 for the service is \$50 or more and the service is performed by an individual who is  
13 regularly employed by the employing unit to perform the service; an individual is here  
14 considered to be regularly employed to perform service not in the course of an  
15 employing unit's trade or business during a calendar quarter only if the individual  
16 performs the service for some portion of the day on each of [SOME] 24 days during  
17 the quarter or during the preceding calendar quarter;

18 (4) service performed by an individual in the employ of the  
19 individual's

20 (A) son, daughter, or spouse;

21 (B) parent or legal guardian if the individual was under the age  
22 of 21 years and a full-time student during eight of the last 12 months and  
23 intends to resume full-time student status within the next four months; and

24 (C) mother or father if the service is performed by a child under  
25 the age of 18;

26 (5) service with respect to which unemployment insurance is payable  
27 under an unemployment insurance program established by an Act of Congress;

28 (6) service performed in the employ of a foreign government including  
29 service as a consular or other officer or employee or a nondiplomatic representative;

30 (7) service performed in the employ of an instrumentality wholly  
31 owned by a foreign government if

1 (A) the service is of a character similar to that performed in  
2 foreign countries by employees of the United States government or its  
3 instrumentalities; and

4 (B) the department finds that the United States Secretary of  
5 State has certified to the United States Secretary of the Treasury that the  
6 foreign government, with respect to whose instrumentality exemption is  
7 claimed, grants an equivalent exemption with respect to similar service  
8 performed in the foreign country by employees of the United States  
9 government and its instrumentalities;

10 (8) service performed by an insurance agent, insurance solicitor, [A]  
11 real estate broker, [A] real estate salesperson, or [A] securities **salesperson**  
12 [SALESMAN] to the extent the person is compensated by commission, unless the  
13 service is required to be covered under the Federal Unemployment Tax Act, as  
14 amended;

15 (9) notwithstanding **AS 23.20.525(a)(9)** [AS 23.20.525(a)(11)], service  
16 performed by an officer or member of the crew of an American vessel on or in  
17 connection with the vessel, if the operating office, from which the operations of the  
18 vessel operating on navigable waters inside or inside and outside the United States are  
19 ordinarily and regularly supervised, managed, directed, and controlled, is outside this  
20 state;

21 (10) service performed on or in connection with a vessel not an  
22 American vessel by an individual if the individual performed service on and in  
23 connection with the vessel when outside the United States;

24 (11) service performed in the employ of the United States government  
25 or an instrumentality of the United States exempt under the Constitution of the United  
26 States from the contributions imposed by this chapter, except that to the extent that the  
27 Congress of the United States permits states to require an instrumentality of the United  
28 States to make payments into an unemployment fund under a state employment  
29 security law, all of the provisions of this chapter apply to the instrumentalities, and to  
30 service performed for the instrumentalities in the same manner, to the same extent, and  
31 on the same terms as to all other employers, employing units, individuals, and service;

1           however, if this state is not certified for any year by the United States Secretary of  
2           Labor under 26 U.S.C. 3304(c) (Federal Unemployment Tax Act, Internal Revenue  
3           Code), the payments required of the instrumentalities with respect to the year shall be  
4           refunded by the department from the fund in the same manner and within the same  
5           period as is provided in AS 23.20.225 with respect to contributions erroneously  
6           collected;

7                       (12) service performed in the employ of another state, or political  
8           subdivision of another state, or an instrumentality of another state or political  
9           subdivision that [WHICH] is wholly owned by another state or its political  
10          subdivision, or a service performed in the employ of an instrumentality of another  
11          state or its political subdivisions to the extent that the instrumentality is, with respect  
12          to the service, exempt under the Constitution of the United States from the tax  
13          imposed by 26 U.S.C. 3301 (Federal Unemployment Tax Act, Internal Revenue  
14          Code);

15                      (13) service performed in the employ of an international organization;

16                      (14) service covered by an election approved by the agency charged  
17          with the administration of any other state or federal employment security law, in  
18          accordance with an arrangement under AS 23.20.090(a) during the effective period of  
19          the election;

20                      (15) service performed by an individual in agricultural labor, except as  
21          provided in AS 23.20.525(a)(14) [AS 23.20.525(a)(16)]; the term "agricultural labor"  
22          means remunerated service

23                               (A) on a farm, in the employ of any person in connection with  
24          cultivating the soil, or in connection with raising or harvesting any agricultural  
25          or horticultural commodity, including the raising, shearing, feeding, caring for,  
26          training, and management of livestock, bees, poultry, and fur-bearing animals  
27          and wildlife;

28                               (B) in the employ of the owner or tenant or other operator of a  
29          farm, in connection with the operation, management, conservation,  
30          improvement, or maintenance of the farm and its tools and equipment, or in  
31          salvaging timber or clearing land of brush and other debris left by a hurricane,

1 if the major part of the service is performed on a farm;

2 (C) in connection with the production or harvesting of any  
3 commodity defined as an agricultural commodity in 12 U.S.C. 1141j (Sec.  
4 15(g), Agricultural Marketing Act), as amended, or in connection with the  
5 operation or maintenance of ditches, canals, reservoirs, or waterways, not  
6 owned or operated for profit, used exclusively for supplying and storing water  
7 for farming purposes;

8 (D) in the employ of the operator of a farm in handling,  
9 planting, drying, packing, packaging, processing, freezing, grading, storing, or  
10 delivering to storage or to market or to a carrier for transportation to market, in  
11 its unmanufactured state, any agricultural or horticultural commodity; but only  
12 if the operator produced more than one-half of the commodity with respect to  
13 which the service is performed except as stated in (b) of this section;

14 (E) in the employ of a group of operators of farms, or a  
15 cooperative organization of which the operators are members, in the  
16 performance of service described in (D) of this paragraph, but only if the  
17 operators produced more than one-half of the commodity with respect to which  
18 the service is performed;

19 (F) on a farm operated for profit if the service is not in the  
20 course of the employer's trade or business;

21 (16) service performed as a student nurse in the employ of a hospital or  
22 a nurses' training school by an individual who is enrolled and is regularly attending  
23 classes in a nurses' training school chartered or approved in accordance with the laws  
24 of this state, and service performed as an intern in the employ of a hospital by an  
25 individual who has completed a four-year course in a medical school chartered or  
26 approved in accordance with the laws of this state, unless the service is required to be  
27 covered under the Federal Unemployment Tax Act;

28 (17) service performed by an individual on a boat engaged in catching  
29 fish or other forms of aquatic animal life under an arrangement with the owner or  
30 operator of that boat under which

31 (A) that individual does not receive any cash remuneration

1           except as provided in (B) of this paragraph;

2                       (B) that individual receives a share of the boat's, or the boats' in  
3           the case of a fishing operation involving more than one boat, catch of fish or  
4           other forms of aquatic animal life or a share of the proceeds from the sale of  
5           that catch; and

6                       (C) the amount of that individual's share depends on the  
7           amount of the boat's, or the boats' in the case of a fishing operation involving  
8           more than one boat, catch of fish or other forms of aquatic animal life; but only  
9           if the operating crew of that boat, or each boat from which the individual  
10          receives a share in the case of a fishing operation involving more than one  
11          boat, is normally made up of fewer than 10 individuals;

12                      (18) service performed as a prospective or impaneled juror in a court;

13                      (19) service performed for a corporation by an employee of the  
14          corporation if

15                              (A) the corporation is incorporated under AS 10.06;

16                              (B) the corporation is not a government corporation; and

17                              (C) the employee is an executive officer of the corporation;

18                      (20) service performed by an individual who drives a taxicab whose  
19          compensation and written contractual arrangements are as described in  
20          AS 23.10.055(a)(13);

21                      (21) service of an individual who

22                              (A) directly sells or solicits the sale of consumer products, for  
23          resale or otherwise, personally to a prospective consumer in the home or  
24          otherwise than in a permanent retail establishment; a sale or solicitation by  
25          telephone, mail, other telecommunications method, or other nonpersonal  
26          method does not satisfy the requirement of this subparagraph;

27                              (B) is compensated solely by

28                                      (i) commissions on sales or other remuneration directly  
29          related to sales or sales performance; or

30                                      (ii) a profit represented by the difference between the  
31          wholesale cost of the product to the seller and the final sale price to the

1 consumer; and

2 (C) performs under a written contract with the person for whom  
3 the service is performed that provides, notwithstanding AS 23.20.395(a), that  
4 the individual is not an employee for purposes of this chapter or for federal or  
5 state tax purposes;

6 (22) temporary services related to emergency oil spill training and  
7 response activities by an individual described in (17) of this subsection; in this  
8 paragraph, "temporary" means a period of less than seven continuous days.

9 \* **Sec. 40.** AS 23.20.526(d) is amended to read:

10 (d) For the purposes of **AS 23.20.525(a)(4) and (12)** [AS 23.20.525(a)(4) - (6)  
11 AND (14)], the term "employment" does not apply to service performed

12 (1) by a duly ordained, commissioned, or licensed minister of a church  
13 in the exercise of the person's ministry or by a member of a religious order in the  
14 exercise of duties required by the order;

15 (2) in a facility conducted for the purpose of carrying out a program of  
16 rehabilitation for individuals whose earning capacity is impaired by age or physical or  
17 mental deficiency or injury or providing remunerative work for individuals who,  
18 because of their impaired physical or mental capacity, cannot be readily absorbed in  
19 the competitive labor market by an individual receiving the rehabilitation or  
20 remunerative work;

21 (3) as part of an unemployment work-relief or work-training program  
22 assisted or financed in whole or in part by any federal agency or any agency of a state  
23 or political subdivision of the state, by an individual receiving work relief or work  
24 training;

25 (4) for a state hospital by an inmate of a prison or correctional  
26 institution;

27 (5) in the employ of a school, college, or university if the service is  
28 performed by a student who is enrolled and is regularly attending classes at the school,  
29 college, or university;

30 (6) by an individual under the age of 22 who is enrolled at a nonprofit  
31 or public educational institution that normally maintains a regular faculty and

1 curriculum and normally has a regularly organized body of students in attendance at  
2 the place where its educational activities are carried on as a student in a full-time  
3 program, taken for credit at the institution, that combines academic instruction with  
4 work experience if the service is an integral part of the program and the institution has  
5 so certified to the employer, except that this paragraph does not apply to service  
6 performed in a program established for or on behalf of an employer or group of  
7 employers;

8 (7) in the employ of a hospital if the service is performed by a patient  
9 of the hospital, as defined in AS 23.20.520;

10 (8) in the employ of the state or a political subdivision of the state if  
11 the service is performed by an individual in the exercise of duties

12 (A) as a judicial officer, the governor, the lieutenant governor,  
13 a person hired or appointed as the head or deputy head of a department in the  
14 executive branch, a person hired or appointed as the director of a division of a  
15 department in the executive branch, an assistant to the governor, a chair or  
16 member of a state commission or board, state investment officers and the state  
17 comptroller in the Department of Revenue, an appointed or elected municipal  
18 officer, any other elected official, the fiscal analyst of the legislative finance  
19 division, the legislative auditor of the legislative audit division, the executive  
20 director of the Legislative Affairs Agency, and the directors of the divisions  
21 within the Legislative Affairs Agency;

22 (B) as a member of the Alaska Army National Guard or Alaska  
23 Air National Guard or Alaska Naval Militia;

24 (C) as an employee serving on only a temporary basis in case  
25 of fire, storm, snow, earthquake, flood, or similar emergency; or

26 (D) as an election official or election worker if the amount of  
27 remuneration received by the individual during the calendar year for services  
28 as an election official or election worker is less than \$1,000;

29 (9) in the employ of

30 (A) a church or a convention or association of churches; or

31 (B) an organization that is operated primarily for religious

1 purposes and that is operated, supervised, controlled, or principally supported  
2 by a church or a convention or association of churches.

3 \* **Sec. 41.** AS 23.20.530(b) is amended to read:

4 (b) In this chapter, unless the context otherwise requires, "wages" does not  
5 include

6 (1) the amount of any payment, including an amount paid by an  
7 employing unit for insurance or annuities or into a fund to provide for the payment, to  
8 or on behalf of an individual or the individual's dependent under a plan or system  
9 established by an employing unit **that** [WHICH] makes provisions generally for  
10 individuals performing service for it, or for such individuals generally and their  
11 dependents, or for a class or classes of the individuals and their dependents, on  
12 account of

13 (A) retirement; [,]

14 (B) sickness or accident disability; [,]

15 (C) medical or hospitalization expenses in connection with  
16 sickness or accident disability; [,] or

17 (D) death;

18 (2) the amount of a payment made by an employing unit to an  
19 individual performing service for it, including an amount paid by an employing unit  
20 for insurance or annuities or into a fund to provide for the payment, on account of  
21 retirement;

22 (3) the amount of a payment on account of sickness or accident  
23 disability, or medical or hospitalization expenses in connection with sickness or  
24 accident disability [MADE AFTER DECEMBER 31, 1954], by an employing unit to  
25 or on behalf of an individual performing service for it after the expiration of six  
26 calendar months following the last calendar month in which the individual performed  
27 services for the employing unit;

28 (4) the amount of a payment made by an employing unit to or on  
29 behalf of an individual performing services for it or the individual's beneficiary

30 (A) from or to a trust described in 26 U.S.C. 401(a) (Internal  
31 Revenue Code) **that** [WHICH] is exempt from **taxation** [TAX] under 26

1 U.S.C. 501(a) at the time of the payment, unless the payment is made to an  
2 individual performing services for the trust as remuneration for those services  
3 and not as a beneficiary of the trust; [,] or

4 (B) under or to an annuity plan that, [WHICH] at the time of  
5 the payment, meets the requirements of 26 U.S.C. 401(a)(3) - (6);

6 (5) the amount of a payment made by an employing unit (without  
7 deduction from the remuneration of the individual in its employ) of the tax imposed  
8 upon an individual in its employ under 26 U.S.C. 3101 (Internal Revenue Code) with  
9 respect to service performed [AFTER JANUARY 1, 1941];

10 (6) remuneration paid in a medium other than cash to an individual for  
11 service not in the course of the employing unit's trade or business;

12 (7) the amount of a payment, other than vacation or sick pay, [MADE  
13 AFTER DECEMBER 31, 1954,] to an individual after the month in which the  
14 individual attains the age of 65, if the individual did not perform services for the  
15 employing unit in the period for which the payment is made;

16 (8) dismissal payments that [AFTER JANUARY 1, 1941, WHICH]  
17 the employing unit is not legally required to make;

18 (9) the amount of any payment, including any amount paid by an  
19 employer into a fund to provide for any such payment, made to or on behalf of an  
20 employee under a plan or system established by an employer that [WHICH] makes  
21 provision for the employer's employees generally, or for a class or group of the  
22 employer's employees, for the purpose of supplementing unemployment benefits;

23 (10) the amount of a payment made to or on behalf of an employee for  
24 subsistence while the employee is employed away from home, but this exemption  
25 applies only to that portion of a subsistence payment that [WHICH] does not exceed  
26 the actual expenses of the employee while so employed;

27 (11) compensation received for inactive service performed by a  
28 member of the Alaska National Guard or Naval Militia;

29 (12) the amount of a payment made to or on behalf of an employee or  
30 the employee's beneficiary under a cafeteria plan as defined in 26 U.S.C. 125, if the  
31 payment would not be treated as wages under this section without regard to the

1 cafeteria plan;

2 (13) the amount of payment made, or benefit furnished, by the  
3 employer under a plan to provide educational assistance to or for the benefit of an  
4 employee if, at the time of the payment or the furnishing, it is reasonable to believe  
5 that the employee will be able to exclude the payment or benefit from income under  
6 26 U.S.C. 127(b).

7 \* **Sec. 42.** AS 24.05.135(c) is amended to read:

8 (c) As the tapes, spools, or other recording devices are filled, or as reports are  
9 completed, they shall be transferred to the state library for placement in the state  
10 archives. Reproductions shall be placed in a centrally located public library in Juneau,  
11 Anchorage, and Fairbanks, until one year after adjournment of the legislative session  
12 recorded. The division of **the Department of Education and Early Development**  
13 **that has responsibility for** state libraries, archives, and museums shall supply  
14 reproductions of electronic recordings at cost to any person requesting them.

15 \* **Sec. 43.** AS 29.10.200 is amended to read:

16 **Sec. 29.10.200. Limitation of home rule powers.** Only the following  
17 provisions of this title apply to home rule municipalities as prohibitions on acting  
18 otherwise than as provided. These provisions supersede existing and prohibit future  
19 home rule enactments that provide otherwise:

- 20 (1) AS 29.05.140 (transition);  
21 (2) AS 29.06.010 (change of municipal name);  
22 (3) AS 29.06.040 - 29.06.060 (annexation and detachment);  
23 (4) AS 29.06.090 - 29.06.170 (merger and consolidation);  
24 (5) AS 29.06.190 - 29.06.420 (unification of municipalities);  
25 (6) AS 29.06.450 - 29.06.530 (dissolution);  
26 (7) AS 29.10.100 (charter amendment);  
27 (8) AS 29.20.010 (conflict of interest);  
28 (9) AS 29.20.020 (meetings public);  
29 (10) AS 29.20.050 (legislative power);  
30 (11) AS 29.20.060 - 29.20.120 (assembly composition and  
31 apportionment);

- 1 (12) AS 29.20.140 (qualifications of members of governing bodies);
- 2 (13) AS 29.20.150 (term of office);
- 3 (14) AS 29.20.220 (executive power);
- 4 (15) AS 29.20.270(e) (ordinance veto by mayor);
- 5 (16) AS 29.20.630 (prohibited discrimination);
- 6 (17) AS 29.20.640 (reports);
- 7 (18) AS 29.25.010(a)(10) (municipal exemption on contractor bond
- 8 requirements);
- 9 (19) AS 29.25.050 (codification);
- 10 (20) AS 29.25.060 (resolutions);
- 11 (21) AS 29.25.070(e) (notices of certain civil actions);
- 12 (22) AS 29.25.074 (surcharge);
- 13 (23) AS 29.25.080 (breast-feeding);
- 14 (24) AS 29.26.030 (notice of elections);
- 15 (25) AS 29.26.050 (voter qualification);
- 16 (26) AS 29.26.250 - 29.26.360 (recall);
- 17 (27) AS 29.35.020 (extraterritorial jurisdiction);
- 18 (28) AS 29.35.030 (eminent domain);
- 19 (29) AS 29.35.050 (garbage and solid waste services);
- 20 (30) AS 29.35.055 (local air quality control program);
- 21 (31) AS 29.35.060 (franchises and permits);
- 22 (32) AS 29.35.070 (public utilities);
- 23 (33) AS 29.35.080 (alcoholic beverages);
- 24 (34) AS 29.35.090(b) (certain vacations of rights-of-way prohibited);
- 25 (35) AS 29.35.120 (post audit);
- 26 (36) AS 29.35.125 (fees for police protection services);
- 27 (37) AS 29.35.131 - 29.35.137 (enhanced 911 system);
- 28 (38) AS 29.35.141 (regulation of radio antennas);
- 29 (39) AS 29.35.145 (regulation of firearms);
- 30 (40) AS 29.35.160 (education);
- 31 (41) AS 29.35.170(b) (assessment and collection of taxes);

- 1 (42) AS 29.35.180(b) (land use regulation);
- 2 (43) AS 29.35.250 (cities inside boroughs);
- 3 (44) AS 29.35.260 (cities outside boroughs);
- 4 (45) AS 29.35.340 (acquisition of areawide power);
- 5 (46) AS 29.35.450 ([VOTER APPROVAL OF ALTERATION OR
- 6 ABOLISHMENT OF] service areas);
- 7 (47) AS 29.35.500 - 29.35.590 (hazardous materials and wastes);
- 8 (48) AS 29.40.160(a) - (c) (title to vacated areas);
- 9 (49) AS 29.40.200 (subdivisions of state land);
- 10 (50) **AS 29.45.010 - 29.45.560 and 29.45.800** [AS 29.45.010 -
- 11 29.45.570] (property taxes);
- 12 (51) AS 29.45.650(c), (d), (e), (f), (i), (j), and (k) (sales and use tax);
- 13 (52) AS 29.45.700(d), (e), and (g) (sales and use tax);
- 14 (53) AS 29.45.750 (taxation of mobile telecommunications);
- 15 (54) AS 29.45.810 (exemption from municipal taxation);
- 16 (55) AS 29.46.010(b) (exemption from municipal assessment);
- 17 (56) AS 29.47.200(b) (security for bonds);
- 18 (57) AS 29.47.260 (**revenue bonds**) [(CONSTRUCTION)];
- 19 (58) AS 29.47.470 (air carriers);
- 20 (59) [REPEALED
- 21 (60) REPEALED
- 22 (61)] AS 29.65 (general grant land);
- 23 **(60)** [(62)] AS 29.71.040 (procurement preference for state agricultural
- 24 and fisheries products);
- 25 **(61)** [(63)] AS 29.71.050 (procurement preference for recycled Alaska
- 26 products).

27 \* **Sec. 44.** AS 29.46.010(b) is amended to read:

28 (b) Notwithstanding (a) of this section, a party to a contract approved by the

29 legislature as a result of submission of a proposed contract developed under AS 43.82

30 or as a result of acts by the legislature in implementing the purposes of AS 43.82, is

31 exempt, as specified in the contract, from assessment under this chapter against real

1 property associated with the approved qualified project that is subject to the contract.

2 **This subsection applies to home rule municipalities.**

3 \* **Sec. 45.** AS 29.46.030(a) is amended to read:

4 (a) When an improvement proposal is filed with the municipal clerk and  
5 presented to the governing body, the municipality shall find by resolution or ordinance  
6 whether (1) the improvement requested is necessary and should be made, and (2) if by  
7 petition, the request has sufficient and proper petitioners. The findings under this  
8 **subsection** [SECTION] are conclusive.

9 \* **Sec. 46.** AS 29.60.860(b) is amended to read:

10 (b) The per capita amount distributed to each community in the unorganized  
11 borough may not, when added to the basic community revenue sharing payment for  
12 that community, exceed the basic amount calculated under AS 29.60.855(b)(3). If the  
13 per capita distribution for a community **in the unorganized borough, when added to**  
14 **the basic community revenue sharing payment for that community, would exceed**  
15 [EXCEEDS] the basic amount calculated under AS 29.60.855(b)(3), the excess  
16 amount shall be distributed on a per capita basis to other communities in the  
17 unorganized borough.

18 \* **Sec. 47.** AS 33.16.090(c)(1) is amended to read:

19 (1) "active term of imprisonment" has the meaning given in  
20 **AS 12.55.127** [AS 12.55.185];

21 \* **Sec. 48.** AS 33.30.015(a) is amended to read:

22 (a) **The** [ON AND AFTER AUGUST 27, 1999, THE] commissioner may not  
23 (1) make per capita expenditures for food for prisoners in a state  
24 correctional facility operated by the state that exceed 90 percent of per capita  
25 expenditures for food that is available to enlisted personnel in the United States Army  
26 stationed in the state;

27 (2) provide<sub>2</sub> in a state correctional facility operated by the state<sub>2</sub>

28 (A) living quarters for a prisoner into which the view is  
29 obstructed; however, the commissioner is not required to renovate a facility to  
30 comply with this subparagraph if the facility is being used as a correctional  
31 facility on August 27, 1997, or if the facility was already built before being

1 acquired by the department;

2 (B) equipment or facilities for publishing or broadcasting  
3 material the content of which is not subject to prior approval by the department  
4 as consistent with keeping order in the institution and prisoner discipline;

5 (C) cable television service other than a level of basic cable  
6 television service that is available as a substitute for services that are broadcast  
7 to the public in the community in which a correctional facility is located;

8 (3) allow a prisoner held in a state correctional facility operated by the  
9 state to

10 (A) possess in the prisoner's cell a cassette tape player or  
11 recorder, a video cassette recorder (VCR), or a computer or modem of any  
12 kind;

13 (B) view movies rated "R," "X," or "NC-17";

14 (C) possess printed or photographic material that

15 (i) is obscene as defined by the commissioner in  
16 regulation;

17 (ii) could reasonably be expected to incite racial, ethnic,  
18 or religious hatred that is detrimental to the security, good order, or  
19 discipline of the institution or violence;

20 (iii) could reasonably be expected to aid in an escape or  
21 in the theft or destruction of property;

22 (iv) describes procedures for brewing alcoholic  
23 beverages or for manufacturing controlled substances, weapons, or  
24 explosives; or

25 (v) could reasonably be expected to facilitate criminal  
26 activity or a violation of institution rules;

27 (D) receive instruction in person, or by broadcast medium, or  
28 engage in boxing, wrestling, judo, karate, or other martial art or in any activity  
29 that, in the commissioner's discretion, would facilitate violent behavior;

30 (E) possess or have access to equipment for use in the activities  
31 listed in (D) of this paragraph;

1 (F) possess or have access to free weights;

2 (G) possess in the prisoner's cell a coffee pot, hot plate,  
3 appliance or heating element for food preparation, or more than three electrical  
4 appliances of any kind;

5 (H) possess or appear in a state of dress, hygiene, grooming, or  
6 appearance other than as permitted as uniform or standard in the correctional  
7 facility;

8 (I) use a computer other than those approved by the  
9 correctional facility; the use of a computer under this subparagraph may be  
10 approved only as part of the prisoner's employment, education, or vocational  
11 training and may not be used for any other purpose;

12 (J) smoke or use tobacco products of any kind.

13 \* **Sec. 49.** AS 38.07.030(a) is amended to read:

14 (a) An owner of agricultural land, or a lessee from the state of agricultural  
15 land, in the general vicinity of the land to be cleared or drained under AS 38.07.010(a)  
16 may apply to the commissioner to have the land cleared or drained or both along with  
17 the state land. The applicant's land shall be included in the contract of land to be  
18 cleared or drained if, in the discretion of the commissioner, the inclusion is feasible  
19 and furthers the agricultural policies of the division of **the Department of Natural**  
20 **Resources with responsibility for** agriculture.

21 \* **Sec. 50.** AS 39.25.110(14) is amended to read:

22 (14) petroleum engineers and petroleum geologists employed in a  
23 professional capacity by the Department of Natural Resources and by the **Alaska** Oil  
24 and Gas Conservation Commission, except for those employed in the division of  
25 geological and geophysical surveys in the Department of Natural Resources;

26 \* **Sec. 51.** AS 41.10.100(b) is amended to read:

27 (b) The board shall also

28 (1) receive and review reports concerning the use of soil resources of  
29 the state;

30 (2) hold public hearings and meetings to determine whether land in the  
31 state is being used in a manner consistent with sound soil and water conservation

1 practices;

2 (3) make recommendations for specific action necessary to provide for  
3 the effective and orderly development of agricultural, forest, and grazing land in the  
4 state;

5 (4) review an appeal by an applicant or lessee from a decision of the  
6 director of the division of lands concerning a sale or lease of state agricultural or  
7 grazing land and submit its recommendations to the commissioner or hearing officer;

8 (5) act in an advisory capacity to the soil and water conservation  
9 districts in the state;

10 (6) act in an advisory capacity to the commissioner and director of the  
11 division of **the department with responsibility for** agriculture in the review of farm  
12 conservation plans for all state agricultural land sales in the state.

13 \* **Sec. 52.** AS 44.41.035(b) is amended to read:

14 (b) The Department of Public Safety shall collect for inclusion into the DNA  
15 **identification** registration system a blood sample, oral sample, or both, from (1) a  
16 person convicted in this state of a crime against a person or a felony under AS 11 or  
17 AS 28.35 or a law or ordinance with elements similar to a crime against a person or a  
18 felony under AS 11 or AS 28.35, (2) a minor 16 years of age or older, adjudicated as a  
19 delinquent in this state for an act that would be a crime against a person or a felony  
20 under AS 11 or AS 28.35 if committed by an adult or for an act that would violate a  
21 law or ordinance with elements similar to a crime against a person or a felony under  
22 AS 11 or AS 28.35 if committed by an adult, (3) a voluntary donor, (4) an anonymous  
23 DNA donor for use in forensic validation, forensic protocol development, quality  
24 control, or population or statistical data bases, (5) a person required to register as a sex  
25 offender or child kidnapper under AS 12.63, and (6) a person arrested for a crime  
26 against a person or a felony under AS 11 or AS 28.35, or a law or ordinance with  
27 elements similar to a crime against a person or a felony under AS 11 or AS 28.35. The  
28 department also may collect for inclusion into the DNA **identification** registration  
29 system a blood sample, oral sample, or tissue sample from crime scene evidence or  
30 from unidentified human remains. The DNA identification registration system consists  
31 of the blood, oral, or tissue samples drawn under this section, any DNA or other blood

1 grouping tests done on those samples, and the identification data related to the samples  
2 or tests. Blood samples, oral samples, and tissue samples not subject to testing under  
3 this section, and test or identification data related to those samples, may not be entered  
4 into, or made a part of, the DNA identification registration system.

5 \* **Sec. 53.** AS 44.41.035(l) is amended to read:

6 (l) The Department of Public Safety may not include in the DNA  
7 **identification** registration system a blood sample, oral sample, or tissue sample of the  
8 victim of a crime, unless that person would otherwise be included under (b)(1) - (6) of  
9 this section.

10 \* **Sec. 54.** AS 44.41.035(n) is amended to read:

11 (n) A juvenile or adult correctional, probation, or parole officer or a peace  
12 officer may use reasonable force to collect an oral sample for inclusion into the DNA  
13 **identification** registration system from a person required to submit to collection of a  
14 sample under this section, AS 12.55.015(h), 12.55.100(d), AS 33.16.150(a), or another  
15 law.

16 \* **Sec. 55.** AS 44.41.035(p) is amended to read:

17 (p) The department shall make every reasonable effort to process each sample  
18 collected from a person under (b)(1), (b)(2), (b)(5), and (b)(6) of this section and  
19 include the identification data resulting from the testing of the sample in the **DNA**  
20 identification registration system within 90 days after receiving the sample.

21 \* **Sec. 56.** AS 45.07.309(a) is amended to read:

22 (a) A carrier who issues a bill of lading, whether negotiable or nonnegotiable,  
23 **shall** [MUST] exercise the degree of care in relation to the goods that a reasonably  
24 careful **person** [MAN] would exercise under like circumstances. This subsection does  
25 not repeal or change any law or rule of law that imposes liability upon a common  
26 carrier for damages not caused by its negligence.

27 \* **Sec. 57.** AS 45.10.220(6) is amended to read:

28 (6) "rate" means the percentage **that** [WHICH], when multiplied **by**  
29 [TIMES] the outstanding balance for each month or other installment period, yields  
30 the amount of the service charge for the month or period;

31 \* **Sec. 58.** AS 45.14.403(a) is amended to read:

1 (a) Payment of the sender's obligation under AS 45.14.402 to pay the  
2 receiving bank occurs as follows:

3 (1) if the sender is a bank, payment occurs when the receiving bank  
4 receives final settlement of the obligation through a federal reserve bank or through a  
5 funds-transfer system;

6 (2) if the sender is a bank and the sender

7 [(A)] credited an account of the receiving bank with the sender  
8 [;] or

9 [(B)] caused an account of the receiving bank in another bank  
10 to be credited, payment occurs when the credit is withdrawn or, if not  
11 withdrawn, at midnight of the day on which the credit is withdrawable and the  
12 receiving bank learns of that fact;

13 (3) if the receiving bank debits an account of the sender with the  
14 receiving bank, payment occurs when the debit is made to the extent that the debit is  
15 covered by a withdrawable credit balance in the account.

16 \* **Sec. 59.** AS 45.29.313(b) is amended to read:

17 (b) With respect to goods covered by a certificate of title issued by this state, a  
18 secured party may perfect a security interest in the goods by taking possession of the  
19 goods only in the circumstances described in **AS 45.29.316(d)** [AS 45.29.316(e)].

20 \* **Sec. 60.** AS 45.29.314(a) is amended to read:

21 (a) A security interest in deposit accounts, electronic chattel paper, investment  
22 property, or letter-of-credit rights [, OR] may be perfected by control of the collateral  
23 under AS 45.29.104, 45.29.105, 45.29.106, or 45.29.107.

24 \* **Sec. 61.** AS 45.50.471(b)(34) is amended to read:

25 (34) violating **AS 08.66.260 - 08.66.350** [AS 08.66.200 - 08.66.350]  
26 (motor vehicle buyers' agents);

27 \* **Sec. 62.** AS 46.03.450(8) is amended to read:

28 (8) "underground storage tank" means one or a combination of  
29 stationary devices, including underground pipes connected to the devices, that is  
30 designed to contain an accumulation of petroleum, the volume of which, including the  
31 volume of underground pipes, is 10 percent or more beneath the surface of the ground,

1 except that the term does not include a

2 (A) farm or residential tank of 1,100 gallons or less capacity  
3 used for storing motor fuel for noncommercial purposes;

4 (B) tank used for storing heating oil for consumptive use on the  
5 premises where stored;

6 (C) septic tank;

7 (D) pipeline facility, including gathering lines,

8 [(i)] regulated under 49 U.S.C. 60101 [49 U.S.C. 1671,]  
9 et seq. [, (NATURAL GAS PIPELINE SAFETY ACT OF 1968);

10 (ii) REGULATED UNDER 49 U.S.C. 2001, ET SEQ.,  
11 (HAZARDOUS LIQUID PIPELINE SAFETY ACT OF 1979);] or

12 [(iii)] that is an intrastate pipeline facility regulated  
13 under state laws comparable to the provisions of 49 U.S.C. 60101 et  
14 seq. [LAW REFERRED TO IN (i) OR (ii) OF THIS  
15 SUBPARAGRAPH];

16 (E) surface impoundment, pit, pond, or lagoon;

17 (F) storm water or waste water collection system;

18 (G) flow-through process tank;

19 (H) liquid trap or associated gathering lines directly related to  
20 oil or gas production and gathering operations;

21 (I) storage tank situated in an underground area such as a  
22 basement, cellar, mineworking, drift, shaft, or tunnel, if the storage tank is  
23 situated upon or above the surface of the floor;

24 (J) tank with a capacity of 110 gallons or less;

25 (K) tank containing hazardous wastes regulated under 42  
26 U.S.C. 6921 - 6939b; or

27 (L) tank system that the department has exempted by  
28 regulations adopted under AS 46.03.365;

29 \* **Sec. 63.** AS 46.06.090(a) is amended to read:

30 (a) A [BEGINNING OCTOBER 1, 1981, A] person may not sell or offer to  
31 sell a nonglass beverage container that is designed and constructed so that the

1 container is opened by detaching a metal ring or tab. This section does not apply to a  
2 beverage container that is opened by a detachable piece of tape, foil, or other soft  
3 material.

4 \* **Sec. 64.** AS 46.06.090(b) is amended to read:

5 (b) A [BEGINNING JANUARY 1, 1985, A] person may not sell or offer to  
6 sell in this state beverage containers that are held together by plastic rings or similar  
7 plastic devices unless the rings or devices are degradable and bear a distinguishing  
8 mark furnished to the department by the manufacturer. The department may require  
9 test data that shows that the plastic rings or plastic devices meet or exceed the  
10 department's standards of degradability.

11 \* **Sec. 65.** AS 46.14.170(c) is amended to read:

12 (c) Failure by the department to act within the time limits established in or  
13 under (a) [, (b),] or (d) of this section is considered to be a final agency action, but  
14 only for the purpose of judicial review to determine whether the court will require that  
15 action be taken by the department.

16 \* **Sec. 66.** AS 46.14.300(c) is amended to read:

17 (c) Except as provided in AS 46.14.310(b), the department shall provide  
18 assistance as described in (b) of this section to a requesting stationary source that is  
19 not a small business concern as defined in 15 U.S.C. 632 [15 U.S.C. 631] but that is  
20 subject to the requirements of this chapter if the legislature appropriates money from  
21 the general fund for this purpose.

22 \* **Sec. 67.** AS 46.14.990(24) is amended to read:

23 (24) "small business facility" means a stationary source that

24 (A) is owned or operated by a person who employs 100 or  
25 fewer individuals;

26 (B) is a small business concern as defined in 15 U.S.C. 632 [15  
27 U.S.C. 631 (SMALL BUSINESS ACT)]; and

28 (C) emits less than 100 TPY of regulated air pollutants;

29 \* **Sec. 68.** AS 46.15.035(c) is amended to read:

30 (c) Except as provided in AS 46.15.090, and in addition to the requirements of  
31 (a) of this section, the commissioner may approve an application for removal or permit

1 an appropriation for removal under (a) of this section of water from a lake, river, or  
2 stream that is used by fish for spawning, incubation, rearing, or migration, or ground  
3 water that significantly influences the volume of water in a lake, river, or stream that is  
4 used by fish for spawning, incubation, rearing, or migration, only if the commissioner  
5 reserves a volume of water in the lake or an instream flow in the river or stream for the  
6 use of fish and to maintain habitat for fish. The commissioner may adjust the volume  
7 of water reserved under this subsection if the commissioner, after public notice and  
8 opportunity to comment and with the concurrence of the commissioner of fish and  
9 game, finds that the best interests of the state are served by the adjustment. A  
10 reservation under this subsection

11 (1) of a volume of water or an instream flow for the use of fish and to  
12 maintain habitat for fish that is reserved under this section is withdrawn from  
13 appropriation;

14 (2) for fish from a lake, river, or stream, identified under **AS 16.05.871**  
15 [AS 16.05.870] or identified in a Department of Fish and Game regional guide as  
16 being used by fish for spawning, incubation, rearing, or migration on or before July 1,  
17 1992, has a priority date as of July 1, 1992;

18 (3) of water does not apply to an application for removal or  
19 appropriation for removal under AS 46.15.040 for nonconsumptive uses of water or  
20 for single family domestic use;

21 (4) is not subject to AS 46.15.145;

22 (5) of water does not apply to appropriations of ground water of 5,000  
23 gallons or less a day unless the commissioner, in consultation with the Department of  
24 Fish and Game, determines that the appropriation may adversely affect fish habitat in  
25 a lake, river, or stream; the commissioner shall consider multiple appropriations of  
26 water for a single related use as a single appropriation for the purposes of this  
27 subsection.

28 \* **Sec. 69.** AS 46.15.165(c) is amended to read:

29 (c) Upon initiation of the adjudication, the commissioner shall

30 (1) serve the order on each applicant, certificate holder, or permittee  
31 listed in the department's records within the adjudication area;

1 (2) serve the order on any agency of the federal, state, or a local  
2 government with management authority over land or water within the adjudication  
3 area;

4 (3) serve the order on any person who owns or claims land within the  
5 adjudication area if the land is held in trust by the United States for the person or if the  
6 patent, deed, or certificate to the land from the United States was issued under 25  
7 U.S.C. 334 (Indian General Allotment Act of February 8, 1887, 24 Stat. 389, as  
8 amended and supplemented), 25 U.S.C. 372 (the Allotment Act of June 25, 1910, 36  
9 Stat. 855), **former** 43 U.S.C. 270-1, 270-2 (the Allotment Act of May 17, 1906, 34  
10 Stat. 197), any other allotment act, or the Alaska Native Townsite Act of May 25,  
11 1926, 44 Stat. 629, and serve the order on the United States on behalf of the person;

12 (4) serve the order on the United States and the appropriate governing  
13 body of the Annette Island Reserve established by 25 U.S.C. 495 (the Act of March 3,  
14 1891, 26 Stat. 1101) if the land or water, including hydrologically interconnected  
15 water, of the Annette Island Reserve is within the adjudication area;

16 (5) serve the order on any other person claiming a federal reserved  
17 water right within the adjudication area;

18 (6) serve the regional corporation and village corporation established  
19 under 43 U.S.C. 1601 et seq. (Alaska Native Claims Settlement Act) that has a  
20 pending land selection or has acquired ownership to land under that act that is located  
21 within the adjudication area; and

22 (7) serve the order on each mining claimant of record with the United  
23 States and the state within the adjudication area as of the date of the order initiating  
24 the administrative adjudication.

25 \* **Sec. 70.** AS 46.30.080 is amended to read:

26 **Sec. 46.30.080. Regulations.** The department, with the advice of the **Water**  
27 **and** Wastewater Works Advisory Board, shall adopt regulations for administration of  
28 this chapter. The regulations must include

29 (1) the basis for classification of potable water supply and wastewater  
30 systems and facilities, including the type and size of lesser systems and facilities, if  
31 any, to which the provisions of this chapter do not apply, as required by AS 46.30.010;

1 (2) criteria for the qualification of applicants for operator certification  
2 corresponding to each of the classifications referred to in AS 46.30.010;

3 (3) procedures for examination of candidates and renewal of  
4 certificates;

5 (4) procedures for the revocation of certificates;

6 (5) determination as to which additional personnel shall be certified  
7 when certification is required for more than the operator in direct responsible charge.

8 \* **Sec. 71.** AS 47.10.396 is amended to read:

9 **Sec. 47.10.396. Confidentiality of records.** If the department requires record  
10 keeping by a shelter for runaways or by a [NONPROFIT] corporation that is licensed  
11 to designate shelters for runaways, records of the shelter and the [NONPROFIT]  
12 corporation that identify a runaway minor who has been sheltered in a shelter for  
13 runaways or has sought assistance from a shelter for runaways are confidential and are  
14 not subject to inspection or copying under AS 40.25.110 - 40.25.120 unless

15 (1) after being informed of the minor's right to privacy, the minor  
16 consents in writing to the disclosure of the records;

17 (2) the records are relevant to an investigation or proceeding involving  
18 child abuse or neglect or a child in need of aid petition; or

19 (3) disclosure of the records is necessary to protect the life or health of  
20 the minor.

21 \* **Sec. 72.** AS 47.14.100 is amended by adding a new subsection to read:

22 (n) In this section, "adult family member" has the meaning given in  
23 AS 47.10.990.

24 \* **Sec. 73.** AS 47.14.990(12) is amended to read:

25 (12) ["TREATMENT FACILITY" OR] "treatment institution" means a  
26 hospital, clinic, institution, center, or other health care facility that has been designated  
27 by the department for the treatment of juveniles.

28 \* **Sec. 74.** AS 47.30.660(b) is amended to read:

29 (b) The department, in fulfilling its duties under this section and through its  
30 division **responsible for** [OF] mental health [AND DEVELOPMENTAL  
31 DISABILITIES], shall

1                   (1) administer a comprehensive program of services for persons with  
2 mental disorders, for the prevention of mental illness, and for the care and treatment of  
3 persons with mental disorders, including inpatient and outpatient care and treatment  
4 and the procurement of services of specialists or other persons on a contractual or  
5 other basis;

6                   (2) take the actions and undertake the obligations that are necessary to  
7 participate in federal grants-in-aid programs and accept federal or other financial aid  
8 from whatever sources for the study, prevention, examination, care, and treatment of  
9 persons with mental disorders;

10                   (3) administer AS 47.30.660 - 47.30.915;

11                   (4) designate, operate, and maintain treatment facilities equipped and  
12 qualified to provide inpatient and outpatient care and treatment for persons with  
13 mental disorders;

14                   (5) provide for the placement of patients with mental disorders in  
15 designated treatment facilities;

16                   (6) enter into arrangements with governmental agencies for the care or  
17 treatment of persons with mental disorders in facilities of the governmental agencies  
18 in the state or in another state;

19                   (7) enter into contracts with treatment facilities for the custody and  
20 care or treatment of persons with mental disorders; contracts under this paragraph are  
21 governed by AS 36.30 (State Procurement Code);

22                   (8) enter into contracts, which incorporate safeguards consistent with  
23 AS 47.30.660 - 47.30.915 and the preservation of the civil rights of the patients with  
24 another state for the custody and care or treatment of patients previously committed  
25 from this state under 48 U.S.C. 46 et seq., and P.L. 84-830, 70 Stat. 709;

26                   (9) prescribe the form of applications, records, reports, requests for  
27 release, and consents to medical or psychological treatment required by AS 47.30.660  
28 - 47.30.915;

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

31                   (11) visit each treatment facility at least annually to review methods of

1 care or treatment for patients;

2 (12) investigate complaints made by a patient or an interested party on  
3 behalf of a patient;

4 (13) delegate upon mutual agreement to another officer or agency of it,  
5 or a political subdivision of the state, or a treatment facility designated, any of the  
6 duties and powers imposed upon it by AS 47.30.660 - 47.30.915;

7 (14) after consultation with the Alaska Mental Health Trust Authority,  
8 adopt regulations to implement the provisions of AS 47.30.660 - 47.30.915;

9 (15) provide technical assistance and training to providers of mental  
10 health services; and

11 (16) set standards under which each designated treatment facility shall  
12 provide programs to meet patients' medical, psychological, social, vocational,  
13 educational, and recreational needs.

14 \* **Sec. 75.** AS 47.30.662(c) is amended to read:

15 (c) The board members

16 (1) shall include the director of the division of **the department**  
17 **responsible for** mental health [AND DEVELOPMENTAL DISABILITIES IN THE  
18 DEPARTMENT]; and

19 (2) may include representatives of the principal state agencies with  
20 respect to education, vocational rehabilitation, criminal justice, housing, social  
21 services, medical assistance, substance abuse, and aging.

22 \* **Sec. 76.** AS 47.30.772 is amended to read:

23 **Sec. 47.30.772. Medication and treatment.** An evaluation facility or  
24 designated treatment facility may administer medication or other treatment to an  
25 involuntarily committed patient only in a manner that is consistent with the provisions  
26 of **AS 47.30.817 - 47.30.865** [AS 47.30.825 - 47.30.865].

27 \* **Sec. 77.** AS 47.30.835(b) is amended to read:

28 (b) Court-ordered evaluation or treatment under AS 47.30.660 - 47.30.915 is  
29 not a determination of legal incapacity under **AS 13.26.005 - 13.26.320** [AS 13.26.005  
30 - 13.26.330].

31 \* **Sec. 78.** AS 47.30.838(b) is amended to read:

1 (b) When a patient is no longer in the crisis situation that **led** [LEAD] to the  
2 use of psychotropic medication without consent under (a) of this section, an  
3 appropriate health care professional shall discuss the crisis with the patient, including  
4 precursors to the crisis, in order to increase the patient's and the professional's  
5 understanding of the episode and to discuss prevention of future crises. The  
6 professional shall seek and consider the patient's recommendations for managing  
7 potential future crises.

8 \* **Sec. 79.** AS 47.30.855 is amended to read:

9 **Sec. 47.30.855. Posting of rights.** The rights set out in **AS 47.30.817 -**  
10 **47.30.855** [AS 47.30.825 - 47.30.855] shall be prominently posted in all treatment  
11 facilities in places accessible to all patients. A patient who does not understand  
12 English shall have the patient rights explained in a language the patient understands.

13 \* **Sec. 80.** Section 14, ch. 137, SLA 2002, is amended to read:

14 Sec. 14. AS 16.43.970(b) is amended to read:

15 (b) A person [OR ENTITY] who knowingly makes a false statement to the  
16 commission for the purpose of obtaining a benefit, including the issuance, renewal,  
17 duplication, or transfer of an entry or interim-use permit **or** [,] vessel license [,  
18 VESSEL INTERIM-USE PERMIT, OR VESSEL ENTRY PERMIT], or a person who  
19 assists another by knowingly making a false statement to the commission for the  
20 purpose of obtaining a benefit for another, is guilty of the crime of unsworn  
21 falsification **in the second degree** as set out in AS 11.56.210. Upon conviction, the  
22 person [OR ENTITY] is also subject to suspension of commercial fishing privileges  
23 and revocation of commercial fishing permits under (i) of this section.

24 \* **Sec. 81.** Section 12, ch. 50, SLA 2005, is amended to read:

25 Sec. 12. [AS 14.25.070(b);] AS 39.35.150(f), 39.35.150(g), 39.35.150(h), and  
26 39.35.270(b) are repealed July 1, 2009.

27 \* **Sec. 82.** AS 08.36.246(a)(4)(B); AS 31.05.080(b); AS 44.88.180(b); AS 46.14.170(b),  
28 46.14.990(13); AS 47.14.295(1), 47.14.990(11); AS 47.20.390(4); and sec. 33, ch. 122, SLA  
29 1977, are repealed.

30 \* **Sec. 83.** AS 14.25.070(e) is repealed.

31 \* **Sec. 84.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2           CONDITIONAL EFFECT. Section 83 of this Act takes effect only if AS 14.20.135 is  
3 repealed under secs. 12 and 15, ch. 57, SLA 2001, as amended by sec. 6, ch. 15, SLA 2003,  
4 and by secs. 10 and 17, ch. 50, SLA 2005, and any future amendments extending the date of  
5 that repeal.

6       \* **Sec. 85.** Section 34, ch. 122, SLA 1977, is repealed.

7       \* **Sec. 86.** If sec. 83 of this Act takes effect, it takes effect on the date of the repeal described  
8 in sec. 84 of this Act.

9       \* **Sec. 87.** Section 55 of this Act takes effect July 1, 2009.

10       \* **Sec. 88.** Except as provided in secs. 86 and 87 of this Act, this Act takes effect  
11 immediately under AS 01.10.070(c).