

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672

9845 HOUSE JUDICIARY

HB

85

PROPOSED GOVERNOR'S AMENDMENTS TO HB 85

4/19

~~ADOPTED~~
adopted

Page 2, line 9:

Delete "the reports"

Insert "a report that indicates grounds for denial of a license under AS 14.20.029"

Page 2, lines 9-10:

Delete "this chapter"

Insert "AS 14.20.029"

Page 2, line 12, following "has" :

Insert "received and"

Page 2, lines 12-13:

Delete "received under this section and has determined the applicant's suitability for licensing under this chapter"

Insert "under this subsection"

Page 2, lines 17-18:

Delete "the department, by regulation, requires a criminal history background check before a license may be renewed"

Insert:

- (1) a criminal history background check has not been previously conducted on the licensee;
- (2) the licensee was not employed in a position requiring a license for the entire duration of the previous license period; or
- (3) the licensee has resided out of state for a portion of the previous license period

Page 2, line 27::

Delete "has been"

Insert "is"

Page 3, line 2, following "investigation":

Insert "for an allegation suggesting unfitness to teach"

Page 3, line 6, following "jurisdiction";

Insert "for reasons that would be grounds for denial under AS 14.20.029"

Page 3, lines 15-16:

Delete "this chapter"

Insert "AS 14.20.029"

Page 3, line 17:

Delete "complaint, review procedure, or"

Page 3, line 18, following "agency"

Insert "on grounds that relate to suitability for licensing under AS 14.20.029"

Page 3, lines 29-30:

Delete "are otherwise in the best interests of the public"

Insert "will otherwise protect the physical and mental well-being of students"

Page 5, lines 17-18:

Delete "as defined by the commission in regulation"

Page 7, line 6, following "chapter":

Insert "and the commission finds grounds for discipline under AS 14.20.372"

Page 7, line 7:

Delete "if the commission finds grounds for discipline under AS 14.20.372"

Insert "as appropriate to the finding of grounds for discipline"

Page 8, line 18:

Insert a new subsection to read:

(e) The commission shall stay a hearing on an accusation under this section if the teacher has requested a hearing before the school board or invoked grievance procedures.

STATE OF ALASKA

DEPARTMENT OF EDUCATION Professional Teaching Practices Commission

Tony Knowles, Governor

344 West Third Avenue, Suite 127
Anchorage, Alaska 99501

Phone: (907) 269-6579

FAX (907) 269-6580

Sanna Green, Executive Director

Bruce Johnson, Chair

Mary Lou Madden, Vice-Chair

Vickie McCubbin

Judith Entwife

Steve Beardsley

Christine Dart

Linda Connelly

Patricia Clitty

Georgia Cast

"SPONSORS STATEMENT"

I am writing in support of HB 85. This bill enhances the state's ability to protect students and the integrity of educators by strengthening, streamlining, and consolidating licensure and discipline provisions for members of the teaching profession.

The bill incorporates the direction from the Board of Education to change a teacher "certificate" to a "license." The names of the "Professional Teaching Practices Commission" would be changed to "Educator Ethics Commission," to shorten the name and more accurately reflect the commission's functions.

Among the bill's provisions are new sections governing applications and denial of applications for teaching licenses. The current regulatory provision requiring criminal history background checks for applicants would be strengthened and placed in statute. The bill would also compile, for the first time, the grounds for denial of an application or for putting conditions on a teaching license.

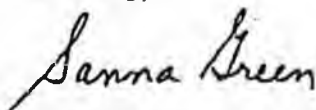
The bill expands the range of available disciplinary sanctions beyond suspension or license revocation, tracking powers currently available to occupational licensing boards, such as being able to summarily suspend a license if the educator poses a clear and immediate danger. The commission also would gain the authority to impose a civil fine against a person who is regulated by state law, but is not required to hold a license. The bill contains provisions that would preclude a person whose license is suspended or revoked from employment as a member of the teaching profession, even if the position does not require a license.

The bill also would streamline current law by consolidating regulatory and statutory grounds for discipline into one statutory provision; allowing reciprocal discipline of an educator who was disciplined in another jurisdiction; and clarifying the procedure for revoking the license of a person convicted of certain sex crimes. In addition, the bill adds misrepresentation for a material fact on an employment application as a ground for discipline.

In rewriting the procedures and requirements for reinstatement of a suspended or revoked license, the bill would expand from one year to five years the waiting period for reinstatement. Finally, the bill contains new provisions to protect the confidentiality of minors and of investigatory files, and provides immunity from liability for persons who participate in good faith in certain investigations and proceedings of the commission or the Department of Education.

Teresa Williams, in the Department of Law, is separately providing a sectional analysis of the bill. I will be happy to answer any questions you may have regarding the bill.

Sincerely,



Sanna Green
Executive Director

STATE OF ALASKA

DEPARTMENT OF EDUCATION *Professional Teaching Practices Commission*

Tony Knowles, Governor

344 West Third Avenue, Suite 127
Anchorage, Alaska 99501
Phone: (907) 269-6579
FAX (907) 269-6580
Sanna Green, Executive Director

Bruce Johnson, Chair
Mary Lou Madden, Vice-Chair
Peggy Conner-Jones, Secretary

Judith Entwife
Marsha Van Abel
Christine Dart

Linda Connelly
Patricia Chitty
Georgia Cast

February 17, 1999

The Honorable Fred Dyson, Co-Chair
House, Health Education and Social Services Committee
Alaska State Legislature
State Capitol, Room 104
Juneau, AK 99801-1182

Dear Representative Dyson

I would like to request a hearing in the House Health, Education and Social Services Committee for HB 85, the Governor's teacher licensure bill. The bill has been referred to your committee, and I hope you will give it attention this session.

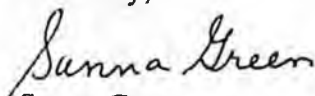
Maintaining and enforcing the code of educator ethics is a critical function of the Professional Teaching Practices Commission (PTPC). The Commission has made recommendations to update its statutory language that are worthy of consideration.

The bill would change the PTPC title to the "Educator Ethics Commission," accurately reflecting the Commission's current role. The bill would also change references to teaching "certificates" to teacher "licenses," again reflecting the current terminology in the teaching profession.

Some of the more important suggested modifications to the statutes include strengthening the PTPC in its disciplinary role for teachers and administrators who have breached the code of educator ethics. New measures include the power to impose fines, and expanding the Commission's range of sanctions beyond license suspension or revocation.

I urge you to consider holding a hearing on this important bill as soon as possible. Thank you for your time and your commitment to children.

Sincerely,



Sanna Green
Executive Director

cc: The Honorable John Coghill, Jr.

TONY KNOWLES
GOVERNOR



HB 85
P O Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500
Fax (907) 465-3532

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 8, 1999

The Honorable Brian Porter
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Brian
Dear Speaker Porter:

Quality education for all Alaska children remains a focus and ongoing effort of my Administration. This bill I transmit today enhances the state's ability to protect students and the integrity of educators by strengthening, streamlining and consolidating licensure and discipline provisions for members of the teaching profession.

The bill incorporates the direction from the Board of Education to change a teacher "certificate" to a "license." The name of the "Professional Teaching Practices Commission" would be changed to "Educator Ethics Commission," to shorten the name and more accurately reflect the commission's functions.

Among the bill's numerous provisions are new sections governing applications and denial of applications for teaching licenses. The current regulatory provision requiring criminal history background checks for applicants would be strengthened and placed in statute. The bill would also compile, for the first time, the grounds for denial of an application or for putting conditions on a teaching license.

The bill expands the range of available disciplinary sanctions beyond suspension or license revocation, tracking powers currently available to occupational licensing boards, such as being able to summarily suspend a license if the educator poses a clear and immediate danger. The commission also would gain the authority to impose a civil fine against a person who is regulated by state law, but is not required to hold a license. The bill contains provisions that would preclude a person whose license is suspended or revoked from employment as a member of the teaching profession, even if the position does not require a license.

BILL ANALYSIS

The Honorable Brian Porter

February 8, 1999

Page 2


The bill also would streamline current law by consolidating regulatory and statutory grounds for discipline into one statutory provision; allowing reciprocal discipline of an educator who was disciplined in another jurisdiction; and clarifying the procedure for revoking the license of a person convicted of certain sex crimes. In addition, the bill adds misrepresentation of a material fact on an employment application as a ground for discipline.

In rewriting the procedures and requirements for reinstatement of a suspended or revoked license, the bill would expand from one year to five years the waiting period for reinstatement.

Finally, the bill contains new provisions to protect the confidentiality of minors and of investigatory files, and provides immunity from liability for persons who participate in good faith in certain investigations and proceedings of the commission or the Department of Education.

This bill represents a thorough effort on the part of the Department of Education and Professional Teaching Practices Commission to ensure Alaska educators are of high quality and integrity. I urge your prompt and favorable action on this measure.

Sincerely,



Tony Knowles
Governor

FISCAL NOTE

Bill Version: HB 85

(H) Publish Date: 2/10/99

**STATE OF ALASKA
1999 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) _____ Dept. Affected Education
 Title Professional Teaching Practices Commission BRU Commissions and Boards
 name change to Educator Ethics Commission Component Professional Teaching Practices
 Sponsor Rules Committee Commission
 Requester Governor Component Serial No. 190

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Any fees collected from imposed fines will be deposited into the General Fund.

Prepared by Sanna Green Sanna Green, Executive Director Phone 269-6579
 Division Professional Teaching Practices Commission Date/Time 1/22/99 11:33 AM
 Approved by Commissioner Shirley Holloway, PhD., Commissioner Date 1/25/99
 Agency Education

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HB

99

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HB 99

Revision Date: _____
Title: "An Act relating to sexual assault..."

Department Affected: Administration
BRU: Legal and Advocacy Services
Component: Public Defender Agency

Sponsor: Rules Committee
Requestor: (H) JUD

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
PERSONAL SERVICES	**	**	**	**	**	**
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	**	**	**	**	**	**

CAPITAL EXPENDITURES	**	**	**	**	**	**
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CHANGE IN REVENUES ()	**	**	**	**	**	**
------------------------	----	----	----	----	----	----

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts	**	**	**	**	**	**
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	**	**	**	**	**	**

Estimate of any current year (FY 98) cost: \$ _____

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached.

Prepared by: Barbara Brink, Director
Division: Public Defender Agency

Phone: (907) 264-4414
Date: _____

Approved by Commissioner: Robert Poo Jr.
Agency: Department of Administration

Date: 3/25/99

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This bill makes it illegal for Department of Corrections' employees or "legal guardians" of 18 or 19-year olds committed to the care of the Department of Health and Social Services to have sex relations with people committed to their custody.

It is expected that the prosecutions envisioned by this bill would be rare. There would also be a fairly good chance that the people prosecuted would be able to afford to hire their own attorneys, although attorneys in private practice generally charge a substantial, up-front fee before entering an appearance in a sexual assault case.

Although the Public Defender Agency expects that there will be a few prosecutions under this bill where a Public Defender attorney would be appointed, the fiscal impact cannot be determined with any precision. Therefore, an indeterminate fiscal note is being submitted.

FISCAL NOTE

Bill version: HB 99

(H) Publish Date: 2/19/99

STATE OF ALASKA
1999 LEGISLATIVE SESSION

Revision Date/ Title: Sex with Inmates
Dept. Affected: Public Safety
Component: BRU
Sponsor: Rules Committee
Requester: Governor
Component Serial No.:

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Sandy Perry-Provost, Special Assistant
 Division: Office of the Commissioner
 Approved by: Commissioner Ronald L. Otte
 Agency: Department of Public Safety
 Phone: 465-4322
 Date/Time: 2/17/99 11:53 AM
 Date: 2-17-99

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FISCAL NOTE

No. 4

**STATE OF ALASKA
1999 LEGISLATIVE SESSION**

Bill Version: HB 99
(H) Publish Date: 2/19/99

Revision Date/Time (Note if correction)	Dept Affected	Law
Title "An Act relating to sexual assault and the definitions of 'sexual contact,' 'sexual penetration,' and	BRU	Criminal Division
Sponsor Rules Committee	Component	1st-4th Judicial Districts, Special Prosecutions/Appeals
Requester Governor	Component Serial No	2198/99/2261/79/01/03

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill makes it a crime for a person employed in a correctional facility or other placement for prisoners to engage in sexual conduct with a prisoner. The bill also makes it a crime for a legal guardian of a person 18 or 19 years of age who is in the custody of the Department of Health and Social Services to engage in sexual conduct with that person. The criminalization of this conduct is premised on the offender's abuse of authority over others.

This bill is not anticipated to have a fiscal impact on the Department of Law.

Prepared by <u>Joan M. Kasson</u> <i>Joan M. Kasson</i>	Phone <u>465-5370</u>
Division <u>Attorney General's Office</u>	Date/Time <u>2/16/99, 12:16 PM</u>
Approved by Commissioner <u>Francis M. Baisley</u> <i>Francis M. Baisley</i>	Date <u>2/16/99</u>
Agency <u>Department of Law</u>	

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STATE OF ALASKA
1999 LEGISLATIVE SESSION

Bill Version: HB 99
(H) Publish Date: 2/19/99

Revision Date/Time (Note if correction): _____
 Title: Relating to Sexual conduct with a prisoner
or juvenile offender.
 Sponsor: Rules Committee by Request of the Governor
 Requestor: Governor

Dept. Affected: Health and Social Services
 BRU: Youth Corrections
 Component: Probation Services
 COMPONENT SERIAL NO. 2134
 See also (SN#): _____

Expenditures/Revenues: (Thousands of Dollars)

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

OPERATING	FY2000	FY2001	FY2002	FY2003	FY2004	FY2005
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY1999) cost: \$0.0

POSITIONS:

FULL-TIME	0				
PART-TIME					
TEMPORARY					

ANALYSIS: (Attach a separate page if necessary)

This bill would have no fiscal impact on the department. Violations under this bill would be processed through the adult criminal system. Although department employees may need to be called as witnesses in an adult prosecution under this bill, this need is viewed as being extremely limited and rare. Any such occurrence would be met through the normal course of business and would not justify a separate budgetary allocation.

2/10/99
 Prepared by: George Buhite
 Division: Family & Youth Services
 Approved by Commissioner: Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

Phone: 465-2212
 Date/Time: 2/10/99 11:27 AM
 Date: 2/10/99

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FISCAL NOTE

No: 2

STATE OF ALASKA
1999 LEGISLATIVE SESSION

Bill Version: HB 99
(H) Publish Date: 2/19/99

Revision Date/Time (Note if correction) _____ Dept. Affected Department of Corrections
 Title An Act relating to sexual assault and the BRU Administration and Operations
 definitions of 'sexual penetration' and 'legal guardian' is AS 11 Component All
 Sponsor Rules Committee
 Requester Governor Component Serial No #0694

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: 0.0

POSITIONS

POSITIONS	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

A zero fiscal note is provided as these types of assault are extremely rare.

Prepared by Bruce Richards Phone 465-3307
 Division Commissioner's Office Date/Time 2/16/99 5:01 PM
 Approved by Commissioner Margaret M. Pugh *Margaret M. Pugh* Date 2/16/99
 Agency Department of Corrections

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(Rev 10/98) 99fncm xls/OMB

FISCAL NOTE

No: 1

STATE OF ALASKA
1999 LEGISLATIVE SESSION

Bill Version: HB 99
(H) Publish Date: 2/19/99

Revision Date: 2/3/99
Title: "An Act relating to sexual assault ..."
Sponsor: Rules
Requestor: Governor

Department Affected: Administration
BRU: Legal and Advocacy Services
Component: Public Defender Agency
COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 98) cost: \$ _____

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

The bill creates a new class C felony and class A misdemeanor if a person employed in a correctional facility or prisoner placement or a legal guardian of a person in DHSS custody engages in sexual conduct with a person subject to that authority. Fiscal impact should be zero as predicted cases are few and public defender financial eligibility is unlikely.

Prepared by: Barbara Brink, Director
Division: Public Defender Agency

Phone: (907) 264-4414
Date: _____

Approved by Commissioner: Robert Poe Jr.
Agency: Department of Administration

Date: 2/3/99

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LODY KNOWLES
GOVERNOR

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Juneau, Alaska 99811-0001
(907) 465-3500
Fax (907) 465-3510

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 18, 1998

The Honorable Brian Porter
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker ^{Brian} Porter:

I am transmitting today a bill making it a crime for a person employed in a correctional facility or other placement for prisoners to engage in sexual conduct with a prisoner. The bill also makes it a crime for a legal guardian of a person 18 or 19 years of age, who is in the custody of the Department of Health and Social Services (DHSS), to engage in sexual conduct with that person.

Alaska law currently prohibits persons in specific authoritative positions from engaging in sexual conduct with other persons subject to that authority. For example, employees who work in licensed care facilities are prohibited from engaging in sexual conduct with clients who are mentally incapable, incapacitated, or unaware a sexual act is being committed. The criminalization of this conduct is premised on the offender's abuse of authority over others. Those employed in correctional facilities or other placements designated by the commissioner of the Department of Corrections (DOC), and those who are a legal guardian of an 18- or 19-year old in the custody of the DHSS, have a similar position of authority over persons committed to the state's custody, and should not abuse their position by engaging in sexual conduct with the persons subject to that authority.

The bill provides that it is a class C felony for these persons in authority to engage in sexual penetration, and a class A misdemeanor to engage in sexual contact with a person subject to that authority. A defendant convicted of either offense would be required to register as a sex offender.

The Honorable Brian Porter .

February 18, 1999

Page 2

The bill does not address conduct involving juveniles under the age of 18 who are committed to the legal custody of the DHSS, because that conduct is already illegal under Alaska law.

I urge your prompt and favorable consideration of this proposal.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tony Knowles".

Tony Knowles
Governor

Alaska State Legislature



House of Representatives House Judiciary Committee

COMMITTEE SECTIONAL ANALYSIS

DATE: March 26, 1999
TO: Judiciary Committee Members
FROM: Representative Pete Kott, Chair
RE: Sectional Analysis of HB 99

-
- SECTION 1: This section is amended adding language which raises the offense of *sexual penetration* by an employee of the Department of Corrections with an inmate of the Department of Corrections to Third Degree Sexual Assault.
- This section is also amended adding language which raises the offense of *sexual penetration* with a person 18 or 19 years of age who is committed to the custody of the Department of Health and Social Services per AS 47.10 or AS 47.12 to Third Degree Sexual Assault.
- SECTION 2: This section is added which makes *sexual contact* under the circumstances of the two categories listed in Section 1 a Fourth Degree Sexual Assault.
- SECTION 3: This section amends the definitions of "legal guardian" to comport with the intent of Section 1.
- SECTION 4: This section amends the definitions of "sexual contact" to exclude legitimate searches of the person.
- SECTION 5: This section amends the definitions of "sexual penetration" to exclude legitimate searches of the person.

HB

101

HB101

be a reasonable compromise between the competing considerations of providing a remedy to injured plaintiffs and providing a period of repose after which dissolved corporations may distribute remaining assets free of all claims and shareholders may receive them secure in the knowledge that they may not be reclaimed.

Directors must generally discharge or make provision for discharging all of the corporation's liabilities before distributing the remaining assets to the shareholders. See the Official Comment to section 14.06. But section 14.07 does not contemplate that liquidating distributions to shareholders will be deferred until all possible claims are barred under section 14.07. Many claims covered by this section are of a type for which provision may be made by the purchase of insurance or by the setting aside of a portion of the assets, thereby permitting prompt distributions in liquidation. Claimants, of course, may always have recourse to the remaining assets of the dissolved corporation. See section 14.07(d)(1). Further, where unexpected claims arise after distributions have been made to shareholders in liquidation, section 14.07(d)(2) authorizes recovery against the shareholders receiving the earlier distributions. The recovery, however, is limited to the smaller of the recipient shareholder's pro rata share of the claim or the total amount of assets received as liquidating distributions by the shareholder from the corporation. The provision ensures that claimants seeking to recover distributions from shareholders will try to recover from the entire class of shareholders rather than concentrating only on the larger shareholders and protects the limited liability of shareholders.

Subchapter B.

ADMINISTRATIVE DISSOLUTION

§ 14.20. GROUNDS FOR ADMINISTRATIVE DISSOLUTION

The secretary of state may commence a proceeding under section 14.21 to administratively dissolve a corporation if:

- (1) the corporation does not pay within 60 days after they are due any franchise taxes or penalties imposed by this Act or other law;
- (2) the corporation does not deliver its annual report to the secretary of state within 60 days after it is due;

- (3) the corporation is without a registered agent or registered office in this state for 60 days or more;
- (4) the corporation does not notify the secretary of state within 60 days that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued; or
- (5) the corporation's period of duration stated in its articles of incorporation expires.

CROSS-REFERENCES

- Annual report, see § 16.22.
- Appeal from administrative dissolution, see § 14.23.
- "Deliver" includes mail, see § 1.40.
- Duration of corporation, see § 3.02.
- Judicial dissolution, see §§ 14.30—14.33.
- Registered office and agent, see ch 5.
- Reinstatement following administrative dissolution, see § 14.22.
- Voluntary dissolution, see §§ 14.01 & 14.02.

OFFICIAL COMMENT

Involuntary dissolution in earlier versions of the Model Act required judicial order upon suit filed by the state attorney general. In the comment to section 95 of the 1969 Model Act, this decision was explained on the basis that the Model Act "provides for judicial review in protection of rights that might otherwise be lost." This position, however, was not generally accepted—in 1982 only three jurisdictions limited involuntary dissolution to judicial action—with all other jurisdictions permitting administrative dissolution for a variety of reasons, usually including a failure to pay franchise taxes and often including failure to file annual reports or otherwise comply with similar requirements of the corporation statutes. Some of these administrative dissolution statutes appear in the tax statutes rather than the corporation statutes of the states.

The experience in most states has been that administrative dissolution, or the threat thereof, is an effective enforcement mechanism for a variety of statutory obligations. Judicial dissolution is inappropriate for many of these violations because of its cost and the diversion of limited legal resources, particularly since most violations reflect the abandonment of the corporation by its owners.

The advantages of administrative dissolution in these circumstances are compelling: it not only reduces the number of records maintained by the secretary of state, but also avoids further wasteful attempts to compel compliance by the abandoned corporations and returns the corporate name promptly to the status of available names. Therefore, the revised Model Act includes, in sections 14.20 through 14.23, a model provision for the administrative dissolution of corporations in certain limited circumstances. These circumstances are set forth in section 14.20 and closely parallel provisions found in most state statutes on this subject.

§ 14.21. PROCEDURE FOR AND EFFECT OF ADMINISTRATIVE DISSOLUTION

- (a) If the secretary of state determines that one or more grounds exist under section 14.20 for dissolving a corporation, he shall serve the corporation with written notice of his determination under section 5.04.
- (b) If the corporation does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within 60 days after service of the notice is perfected under section 5.04, the secretary of state shall administratively dissolve the corporation by signing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the corporation under section 5.04.
- (c) A corporation administratively dissolved continues its corporate existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs under section 14.05 and notify claimants under sections 14.06 and 14.07.
- (d) The administrative dissolution of a corporation does not terminate the authority of its registered agent.

CROSS-REFERENCES

Appeal from denial of reinstatement, see § 14.23.
 Claims, see §§ 14.06 & 14.07.
 Deposit with state treasurer, see § 14.33.
 Effective date of service, see § 5.04.
 Reinstatement following administrative dissolution, see § 14.22.
 Winding up, see § 14.05.

OFFICIAL COMMENT

Many failures to comply with statutory requirements that may give rise to administrative dissolution under section 14.20 occur because of oversight or inadvertence by responsible corporate officers of corporations that are continuing in business. Such failures are usually corrected promptly when brought to the corporation's attention. Sections 14.21(a) and (b) therefore provide a mandatory notice by the secretary of state to each corporation subject to administrative dissolution and a 60-day grace period following the notice before the certificate of administrative dissolution may be filed.

In most instances, the issue whether the corporation is subject to administrative dissolution will not be controverted. If a corporation is administratively dissolved, it may petition the secretary of state for reinstatement under section 14.22 and, if this is denied, it may appeal to the courts under section 14.23.

§ 14.22. REINSTATEMENT FOLLOWING ADMINISTRATIVE DISSOLUTION

- (a) A corporation administratively dissolved under section 14.21 may apply to the secretary of state for reinstatement within two years after the effective date of dissolution. The application must:
 - (1) recite the name of the corporation and the effective date of its administrative dissolution;
 - (2) state that the ground or grounds for dissolution either did not exist or have been eliminated;
 - (3) state that the corporation's name satisfies the requirements of section 4.01; and
 - (4) contain a certificate from the [taxing authority] reciting that all taxes owed by the corporation have been paid.
- (b) If the secretary of state determines that the application contains the information required by subsection (a) and that the information is correct, he shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites his determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation under section 5.04.
- (c) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the

corporation resumes carrying on its business as if the administrative dissolution had never occurred.

CROSS-REFERENCES

Appeal from denial of reinstatement, see § 14.23.
Corporate name generally, see ch. 4.
Effective date of administrative dissolution, see § 14.21.
Filing fees, see § 1.22.
Filing requirements, see § 1.20.
Grounds for administrative dissolution, see § 14.20.

OFFICIAL COMMENT

Section 14.22 provides a two-year period during which a corporation may seek reinstatement following administrative dissolution. This section may apply when a corporation through inadvertence or a failure to maintain a registered agent fails to receive or respond to the predissolution notice of default required by section 14.21. A corporation that is reinstated pursuant to this section resumes carrying on its business as before dissolution.

In order to be eligible for reinstatement, a corporation must comply with all statutory requirements at the time it seeks reinstatement. It must establish, for example, that all taxes have been paid and that its name is available when it files the application for reinstatement.

§ 14.23. APPEAL FROM DENIAL OF REINSTATEMENT

- (a) If the secretary of state denies a corporation's application for reinstatement following administrative dissolution, he shall serve the corporation under section 5.04 with a written notice that explains the reason or reasons for denial.
- (b) The corporation may appeal the denial of reinstatement to the [name or describe] court within 30 days after service of the notice of denial is perfected. The corporation appeals by petitioning the court to set aside the dissolution and attaching to the petition copies of the secretary of state's certificate of dissolution, the corporation's application for reinstatement, and the secretary of state's notice of denial.

if evidence is required. The award of the appraisers or of a majority of the appraisers, when confirmed by the court, is final and conclusive upon all parties. The court shall enter a decree that provides in the alternative for winding up and dissolution of the corporation unless payment is made for the shares within the time specified by the decree. If the purchasing parties do not make payment for the shares within the time specified, judgment shall be entered against the purchasing parties and the surety or sureties on the bond for the amount of the expenses, including attorney fees, of the moving parties. A shareholder aggrieved by the action of the court may appeal.

(d) If the purchasing parties desire to prevent the winding up and dissolution, they shall pay to the moving parties the value of their shares as provided under this section less an allowance for the costs of the appraisal as the court shall determine. In the case of an appeal, the purchasing parties shall pay to the moving parties the value of the shares and costs of appraisal as fixed on appeal. On receiving payment or the tender of payment as determined by the court, the moving parties shall transfer their shares to the purchasing parties.

(e) For the purposes of this section, "shareholder" includes a beneficial owner of shares who has entered into an agreement under AS 10.06.425(a).

Sec. 10.06.633. Involuntary dissolution by the commissioner: grounds, procedure, reinstatement.

(a) A corporation may be dissolved involuntarily by the commissioner if

(1) the corporation is delinquent six months in filing its biennial report or in paying its biennial corporation tax or a penalty;

(2) the corporation has failed for 30 days to appoint and maintain a registered agent in the state;

(3) the corporation has failed for 30 days after change of its registered office or registered agent to file in the office of the commissioner a statement of the change;

(4) the corporation has failed for two years to complete dissolution under a certificate of election under AS 10.06.608 to dissolve;

(5) a vacancy on the board of the corporation is not filled within six months or the next annual meeting, whichever occurs first;

(6) a misrepresentation of material facts has been made in the application, report, affidavit, or other document submitted under this chapter; or

(7) the corporation is 90 days delinquent in filing notice of change of an officer, director, alien affiliate, or five percent shareholder, as required by this chapter.

(b) A corporation may not be dissolved under this section unless the commissioner has given the corporation written notice of its delinquency, failure, or noncompliance by certified mail addressed to its registered office, registered agent, president, or secretary at the last known address as shown by the records of the commissioner. If the corporation fails, within 60 days after the notice is sent by certified mail, to contest the alleged neglect, omission, delinquency, or noncompliance by a written request for a hearing before the commissioner or fails to correct the asserted neglect, omission, delinquency, or noncompliance it may be dissolved under (d) of this section.

(c) If, following a hearing, the commissioner determines the presence of neglect, omission, delinquency, or noncompliance providing grounds for involuntary dissolution under this section, the corporation may appeal to the superior court by filing with the clerk of the court a notice of appeal setting out a copy of the notice given by the commissioner under (b) of this section together with a copy of a timely demand for a hearing by the corporation, and a copy of an affirmation by the commissioner of an intention to dissolve under (d) of this section. The matter shall be tried de novo by the superior court, and the court shall either sustain the commissioner or direct the commissioner to take action the court considers proper.

(d) If a corporation has given cause for involuntary dissolution and has failed to correct the neglect, omission, delinquency, or noncompliance as provided in this section, and there has been no order of the superior court, the commissioner shall dissolve the corporation by issuing a certificate of involuntary dissolution containing a statement that the corporation has been dissolved, the date, and the reason for

which it was dissolved. The original certificate of dissolution shall be placed in the department files and a copy of it mailed to the corporation at its registered office or in care of its registered agent, president, or secretary at the last known address, as shown by the records of the commissioner. Upon the issuance of the certificate of involuntary dissolution the existence of the corporation ceases, except as otherwise provided in this section, and its name shall be available to and may be adopted by another corporation no less than six months after the dissolution.

(e) A corporation dissolved under this section may be reinstated within two years from the date of the certificate of involuntary dissolution if it is established to the satisfaction of the commissioner that in fact there was no cause for the dissolution, or if the neglect, omission, delinquency, or noncompliance resulting in dissolution has been corrected and payment made of double the amount delinquent along with the amount the corporation would have paid had it not been dissolved during the two-year period. Reinstatement may not be authorized if the same or a deceptively similar corporate, reserved, or registered name is currently on file with the commissioner, unless the corporation being reinstated amends its articles of incorporation to change its name to conform with the provisions of this chapter.

(f) Nothing in this section relieves a corporation reinstated under this section from penalty or forfeiture of its powers in a case of failure to pay subsequently accruing licenses and taxes imposed by a law of the state.

(g) An action arising out of a contract assigned by a corporation dissolved under this section may be brought in the name of the assignee. The fact of assignment and of purchase by the plaintiff shall be set out in the complaint or other process. The defense may avail itself of any defense the defense might have availed itself of in a suit upon the claim by the corporation had it not been dissolved under this section.

(h) Service of process on a corporation dissolved under this section shall be made in the same manner prescribed by law as if the corporation had not been dissolved.

Sec. 10.06.635. Commissioner's authority to bring action for involuntary dissolution; grounds; relief. (a) In addition to other remedies provided by law, a corporation may be dissolved involuntarily by a decree of the superior court in an action filed by the commissioner when it is established that the corporation has

- (1) procured its certificate of incorporation through fraud;
- (2) continued to exceed or abuse the authority conferred upon it by law;
- (3) seriously violated a statute regulating corporations; or
- (4) violated a provision of law by an act or default that under the law is a ground for forfeiture of corporate existence.

(b) The court may order dissolution or other or partial relief as it considers just and expedient. The court also may appoint a receiver under AS 10.06.643 for winding up the affairs of the corporation or may order that the corporation be wound up by its board subject to the supervision of the court.

Sec. 10.06.638. Jurisdiction and process for commissioner's action. (a) An action for the involuntary dissolution of a corporation under AS 10.06.635 shall be commenced by the commissioner in the superior court.

(b) Summons shall issue and be served as in civil actions. If no registered agent or office is found to serve, the commissioner shall publish notice as in civil cases in a newspaper published in the judicial district where the registered office of the corporation is situated, containing a notice of the pendency of the action, the title of the court, the title of the action, and the date on or after which default may be entered. The commissioner may include in one notice the names of any number of corporations against which actions are pending in the same court.

(c) The commissioner shall mail a copy of the notice to an office of the corporation, if one is known, within 10 days after the first publication of the notice.

(d) Notice shall be published at least once each week for two successive weeks, and the first publication

Sec. 10.06.670. Distribution in money or in kind; installments. Distribution of assets may be made in money, in property, or in securities and either in installments or as a whole, if the distribution is done fairly and ratably and in conformity with the articles of incorporation and the rights of the shareholders, and shall be made as soon as reasonably consistent with the beneficial liquidation of the corporate assets.

Sec. 10.06.673. Plan of distribution; adoption; binding effect; notice; payment to dissenting shareholders; abandonment. (a) If a corporation in the process of winding up has both preferred and common shares outstanding, a plan of distribution of the shares, obligations, or securities of another corporation, or of the assets of the corporation, other than money, that is not in accordance with the liquidation rights of the preferred shares as specified in the articles of incorporation may be adopted if approved by the board and by approval of the outstanding shares of each class. The plan may provide that the distribution is in complete or partial satisfaction of the rights of the preferred shareholders upon distribution and liquidation of the assets.

(b) A plan of distribution approved under (a) of this section is binding upon the shareholders except as provided in (c) of this section. The board shall mail notice of the adoption of the plan within 20 days after its adoption to all holders of shares having a liquidation preference.

(c) Shareholders having a liquidation preference who dissent from the plan of distribution are entitled to be paid the amount of their liquidation preference in cash if they file written demand for payment with the corporation within 30 days after the date of mailing of the notice of the adoption of the plan of distribution unless the plan of distribution is abandoned. The demand shall state the number and class of the shares held of record by the shareholder for which the shareholder claims payment.

(d) If a demand for cash payment is filed under (c) of this section, the board in its discretion may abandon the plan without further approval by the outstanding shares and the shareholders shall be entitled to distribution according to their rights and liquidation preferences in the process of winding up.

Sec. 10.06.675. Recovery of amounts improperly distributed. (a) If a distribution of assets has been made in the process of winding up a corporation without a court order and without prior payment or adequate provision for payment of the debts and liabilities of the corporation, the amount improperly distributed to a shareholder may be recovered by the corporation. Shareholders who received an improper distribution may be joined as a party in the same action.

(b) Suit may be brought in the name of the corporation to enforce the liability under (a) of this section against a shareholder receiving an improper distribution by a creditor of the corporation, whether or not the creditor has reduced the claim of the creditor to judgment.

(c) A shareholder who satisfies a liability under this section has the right of ratable contribution from other distributees who are similarly liable. A shareholder who has been compelled to return to the corporation more than the shareholder's ratable share of the amount needed to pay the debts and liabilities of the corporation may require that the corporation recover from any or all of the other distributees the proportion of the amounts received by them by the improper distribution necessary to give contribution to shareholders held liable under this section and to make the distribution of the assets fair and ratable, according to the respective rights and preferences of the shares, after payment or adequate provision for payment of all the debts and liabilities of the corporation.

(d) In this section, "process of winding up" includes proceedings under AS 10.06.605 - 10.06.678 and other distributions of assets to shareholders made in contemplation of termination or abandonment of the corporate business.

Sec. 10.06.678. Continued existence of dissolved corporations; purposes; abatement of actions; distribution of omitted assets. (a) A corporation that is dissolved voluntarily or involuntarily continues to exist for the purpose of winding up its affairs, defending actions against it, and enabling it to collect and discharge obligations, dispose of and convey its property, and collect and divide its assets. A dissolved corporation does not continue to exist for the purpose of continuing business except so far as necessary for winding up the business.

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(b) An action or proceeding to which a corporation is a party does not abate by the dissolution of the corporation or by reason of proceedings for winding up and dissolution of the corporation. A corporation that is dissolved voluntarily or involuntarily may not commence a court action, except for a court action under AS 10.06.675.

(c) Assets inadvertently or otherwise omitted from the winding up continue as assets of the dissolved corporation for the benefit of persons entitled to the assets upon dissolution of the corporation and on realization the assets shall be distributed to the persons entitled.

(d) The directors of the corporation on the date of its dissolution or as determined under AS 10.06.663 shall exercise and enjoy the powers necessary to act under the terms of this section.

Article 10. Foreign Corporations.

Section

- 705. Admission of foreign corporation
- 710. Liability for transacting business without certificate of authority
- 713. Transacting business without certificate of authority as a bar to right to sue
- 715. Transacting business without certificate of authority not affecting contracts and right to defend action
- 718. Activities not constituting transacting business in this state
- 720. Corporate name of foreign corporation
- 723. Assumed corporate name
- 725. Change of name by foreign corporation
- 728. Application for certificate of authority
- 730. Contents of application
- 733. Execution and filing of application for certificate of authority
- 735. Effect of certificate of authority
- 738. Amended certificate of authority
- 740. Powers of foreign corporation
- 743. Revocation of certificate of authority
- 745. Limitation on revocation of certificate of authority
- 748. Issuance of certificate of revocation
- 750. Effect of certificate of revocation
- 753. Registered office and registered agent of foreign corporation
- 758. Change of registered office or registered agent of foreign corporation
- 760. Filing of statement of change
- 763. Service of process on foreign corporation
- 765. Service on commissioner
- 768. Records kept by commissioner
- 770. Procedure not exclusive
- 775. Organic change of foreign corporation
- 778. Withdrawal of foreign corporation
- 780. Contents of application for withdrawal
- 783. Form of application for withdrawal
- 785. Filing of application for withdrawal
- 788. Effect of certificate of withdrawal

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Sec. 10.06.705. Admission of foreign corporation. A foreign corporation may not transact business in this state until it has been issued a certificate of authority by the commissioner. A foreign corporation may not be issued a certificate of authority to transact business in this state that a corporation organized under this chapter is not permitted to transact. A foreign corporation may not be denied a certificate of authority because the laws of the state or country under which it is organized governing its organization and internal affairs differ from the laws of this state.

Public hearing on HB 101

3/3/99

Utilities Restructuring Committee

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HOUSE BILL NO. 101

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE MORGAN

Introduced: 2/19/99

Referred: House Special Committee on Utility Restructuring, Labor and Commerce

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the reinstatement of corporations that are public utilities; and
2 providing for an effective date."

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

4 * Section 1. Reinstatement of public utility corporations. Notwithstanding
5 AS 10.06.633(e), a corporation that is a public utility, that has been involuntarily dissolved
6 by the commissioner under AS 10.06.633, and that has failed to apply for reinstatement during
7 the period established under AS 10.06.633(e) may be reinstated under AS 10.06.633(e) on or
8 before December 31, 1999. A reinstatement authorized under this section is retroactive to the
9 date of the involuntary dissolution, and the reinstated corporation and its shareholders have
10 all of the rights, privileges, liabilities, and obligations that would have applied to them if the
11 corporation had not been dissolved. If a corporation elects to seek reinstatement under this
12 section and if the corporation's previously used corporate name is no longer available for use
13 by the corporation, then, notwithstanding AS 10.06.502 - 10.06.510, an amendment to the
14 articles of incorporation changing the previously used corporate name may be adopted by

1 action of the corporation's board of directors alone. In this section, "public utility" has the
2 meaning given in AS 42.05.990.

3 * **Sec. 2.** This Act takes effect immediately under AS 01.10.070(c).

Alaska State Legislature

SESSION

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MEMBER

Community & Regional Affairs Committee
Health, Education & Social Services Committee
House Resources Committee
Special Committee on Fisheries



Representative Carl M. Morgan, Jr. District 36

Sponsor Statement HB 101

**"An Act relating to the reinstatement of corporations that are public utilities;
and providing for an effective date"**

This legislation is a vehicle to allow the Alaska Department of Commerce and Economic Development the discretion to reinstate, as a corporation, a local exchange (telecommunications) company that serves several communities in western Alaska.

After reviewing the facts and circumstances surrounding the issue, I hope that you will agree that this measure warrants our attention and support. The following are the facts surrounding the involuntary dissolution of Bush-Tell.

Bush-Tell is a small, rural local exchange telephone company located in Aniak, Alaska, which provides local exchange telephone service to ten small villages in Western Alaska. Bush-Tell was incorporated on November 10, 1969 and has been providing telecommunications service since 1970. Mr. Harry "Eob" Colliver, Jr., the President and sole shareholder of Bush-Tell, recently contacted the Alaska Division of Banking, Securities & Corporations to find out about registering a "dba" and was informed that Bush-Tell was no longer registered as a corporation with the division. Bush-Tell had been involuntarily dissolved in 1993 for failing to file its biennial report and/or failing to pay its biennial corporate tax for the period ending December 31, 1992. Upon investigation, it was discovered that Bush-Tell's registered agent had failed to follow the proper statutory procedures for resigning as a registered agent and that his omissions resulted in the involuntary dissolution of Bush-Tell.

Bush-Tell's designated agent was a sole practitioner in Anchorage, Alaska who also served as Bush-Tell's general counsel. In the early 1980's, Bush-Tell hired another law firm to do its legal work but continued to retain the sole practitioner as its registered agent. The forms for Bush-Tell's biennial reports were sent to the registered agent and were filed by the registered agent up to and including the period ending December 31, 1990.

In 1991, the registered agent left the private practice of law, closed his office and left a forwarding address for his mail with the U.S. Postal Service. The registered agent did not inform the Alaska Division of Banking, Securities & Corporations that his address was changing or that he was resigning as Bush-Tell's registered agent. Alaska Statute 10.06.170(b) requires that, if a registered agent resigns, the registered must file a

Page Two
Sponsor Statement
HB 101

written notice with the commissioner setting out the latest address of the principal office of the corporation and the names, addresses and titles of the most recent officers of the corporation. The commission must then immediately mail a copy of the notice to the corporation at its principal office.

On July 12, 1993, the Alaska Division of Banking, Securities & Corporations sent a notice by certified mail to Bush-Tell, care of the registered agent, informing Bush-Tell that it had not filed its biennial report and/or tax for the period ending December 31, 1992 and that, if the biennial report and/or tax are not mailed by September 19, 1993, the Certificate of Involuntary Dissolution will be issued and the corporation will cease to exist as of September 20, 1993. This notice was returned to the Alaska Division Banking, Securities & Corporations because the register agent's forwarding notice had expired. On September 20, 1993, Bush-Tell was involuntarily dissolved.

Since the time of dissolution, and even after discovering the involuntary dissolution, Bush-Tell has observed all of the corporate procedures required by its Bylaws and Alaska law including holding regular board of directors meetings and paying corporate income tax.

I urge your support of HB 101.

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HB 101

Revision Date/Time (Note if correction) _____ Dept. Affected Commerce & Econ. Dev.
 Title Corporate Public Utility Reinstatement BRU Banking, Securities and Corporations
 Component Banking, Securities and Corporations
 Sponsor Rep. Morgan
 Requester House URS Component Serial No. 1233

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by Franklin T. Elder, Director Phone 465-2521
 Division Banking, Securities and Corporations Date/Time 3/1/99 3:58 PM
 Approved by Commissioner Deborah B. Sedwick Date 3/1/99
 Agency Commerce and Economic Development

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STATE OF ALASKA

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

DIVISION OF BANKING, SECURITIES, AND CORPORATIONS

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HOUSE BILL NO. 101

REINSTATEMENT OF PUBLIC UTILITY CORPORATIONS

In reviewing HB 101, the Division of Banking, Securities and Corporations supports the language and intent of this bill. Indeed, the Division feels that it is in the best interest of the State of Alaska to continue to help keep entities active and in good standing with the State. Public utility corporations provide important public services to citizens of Alaska.

In the past, it has been the Division's policy to send statutorily required biennial reports to a corporation's, or an entity's, registered agent. Corporations complete the report and return it with any required taxes or fees to the Division. Receipt of these completed reports and fees by this Division determine the compliance of each entity. However, an episode occurred a couple of years ago in which a service company, who acts as registered agent for a large number of Alaska corporations, misplaced a large number of reports. Because of this episode, the Division changed policy and started sending these reports to the principal business address of each corporation. Unfortunately, not all corporations keep the Division apprised of their address changes. Therefore, for those reports that are returned as undeliverable by the U. S. Post Office, the Division resends the report to the registered agent. We have increased our diligence in working with corporations to avoid to the maximum extent possible inadvertent dissolving of businesses.

Alaska Telephone Association

201 E. 56th, Suite 114
Anchorage, AK 99518
(907) 563-4000
FAX (907) 562-3776

David Fauske
President

James Rowe
Executive Director

BY FACSIMILE

The Honorable Bill Hudson, Chairman
House Utility Restructuring Committee
State Capitol
Juneau, Alaska 99801

Re: H.B. 101

Dear Representative Hudson:

I am writing in support of H.B. 101, which is the reinstatement of public utility corporations. The Alaska Telephone Association supports this measure because of its importance to local telephone service provider Bush-Tell, Inc.

The current ownership and management of Bush-Tell, Inc. has been the same since its inception in 1969. Since that time the corporation has provided service, often in challenging conditions, to many small communities in western Alaska, including Aniak, Red Devil, Crooked Creek, Shageluk, Sleetmute and Stony River. This corporation has always done an outstanding job of providing reliable telecommunications services while being an integral part of the community and good corporate citizen.

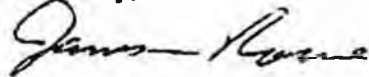
Through a set of unfortunate circumstances Bush-Tell, Inc. was involuntarily dissolved in 1993. Even after learning of the involuntary dissolution last summer, Bush-Tell continued to hold Board meetings, conduct business, pay all corporate income taxes, and conduct its affairs as if it had not been dissolved.

Upon discovering that it had been involuntarily dissolved, Bush-Tell, Inc. approached the Department of Commerce and learned that it would take an act of the Legislature to obtain reinstatement.

Given this unique set of circumstances and the excellent record that Bush-Tell, Inc. has in providing telephone service in rural Alaska, I hope that the Legislature recognizes the importance of Bush-Tell to its customers and quickly passes this legislation. The members of the Alaska Telephone Association believe that Bush-Tell, Inc. has in the past and will in the future provide a very necessary public service.

Thank you for your consideration.

Sincerely,



James Rowe



BUSH-TELL, INC.

Box 109 • Aniak, Alaska 99557 • (907) 876-4311

The Honorable Bill Hudson, Chairman
House Utility Restructuring Committee
State Capitol
Juneau, Alaska 99801

Re: H.B. 101

Dear Representative Hudson:

I am President and sole shareholder of Bush-Tell, a small, rural local exchange telephone company located in Aniak, Alaska. Bush-Tell, Inc. provides local exchange telephone service to ten small villages in Western Alaska.

I moved to Alaska in 1958 and worked as a technician providing maintenance and operations services to the White Alice Communications system from 1958 to 1978. I started Bush-Tell in 1969 and worked as both the full-time manager of Bush-Tell and as a technician on the White Alice Communications and have since devoted all of my time to managing Bush-Tell. I have lived in Aniak for approximately 39 years.

This year, I contacted the Alaska Division of Corporations to find out about registering as a "dba" and was informed that Bush-Tell was no longer registered as a corporation with the Alaska Division of Corporations. I further learned that Bush-Tell had been involuntarily dissolved in September 1993 for failing to file its biennial report and/or failing to pay its biennial corporate tax for the period ending December 31, 1992, that Bush-Tell's registered agent failed to follow the proper statutory procedures for resigning as a registered agent and that his omissions resulted in the involuntary dissolution of Bush-Tell in 1993. (The State did not send any notices to me informing me that Bush-Tell had not filed its biennial report and/or paid the biennial corporate tax for the period ending December 31, 1992 and that, if the biennial report and/or tax were not mailed by September 19, 1993, the certificate of Involuntary Dissolution would be issued and the corporation would cease to exist as of September 20, 1993.)

Since the time of dissolution, and even after discovering the involuntary dissolution, Bush-Tell has observed all of the corporate procedures required by its Bylaws and Alaska law including holding regular board of directors meetings and paying corporate income taxes.

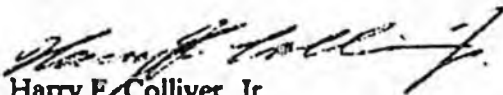
My company performs a necessary public service, especially for residents of rural Alaska. Telecommunications services are vital for emergencies, for businesses and for a full range of human and social needs. Bush-Tell, Inc. has provided an outstanding job in providing service in rural Alaska, and its corporate dissolution took place through no fault of mine or any of my

employees. Rather, the dissolution arose out of the neglect of a registered corporate agent.

Upon learning of Bush-Tell's involuntary dissolution, I sought reinstatement from the Alaska Department of Commerce. However, the Department of Commerce advised me that it was unable to reinstate Bush-Tell because too much time had passed and that a legislative enactment would be required. I understand that the Alaska Legislature has passed similar legislation in the past. Under the circumstance, I am hopeful that the Alaska Legislature would pass H.B. 101.

Thank you for consideration of this matter, which is extremely important to my customers and to me,

Sincerely,



Harry E. Colliver, Jr.
President, Bush-Tell, Inc.

Public hearing on HB 101

3/3/99

Utilities Restructuring Committee

Contents

HB 101 "reinstatement of corporations that are public utilities"

Sponsor statement by Rep. Morgan

Fiscal note

Comments by AK Telephone Assn.

Comments by Bush-Tell inc.

HOUSE BILL NO. 101

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE MORGAN

Introduced: 2/19/99

Referred: House Special Committee on Utility Restructuring, Labor and Commerce

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the reinstatement of corporations that are public utilities; and
2 providing for an effective date."

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

4 * Section 1. Reinstatement of public utility corporations. Notwithstanding
5 AS 10.06.633(e), a corporation that is a public utility, that has been involuntarily dissolved
6 by the commissioner under AS 10.06.633, and that has failed to apply for reinstatement during
7 the period established under AS 10.06.633(e) may be reinstated under AS 10.06.633(e) on or
8 before December 31, 1999. A reinstatement authorized under this section is retroactive to the
9 date of the involuntary dissolution, and the reinstated corporation and its shareholders have
10 all of the rights, privileges, liabilities, and obligations that would have applied to them if the
11 corporation had not been dissolved. If a corporation elects to seek reinstatement under this
12 section and if the corporation's previously used corporate name is no longer available for use
13 by the corporation, then, notwithstanding AS 10.06.502 - 10.06.510, an amendment to the
14 articles of incorporation changing the previously used corporate name may be adopted by

1 action of the corporation's board of directors alone. In this section, "public utility" has the
2 meaning given in AS 42.05.990.

3 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

Alaska State Legislature

SESSION

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Fax: 907-465-2197
Toll Free: 800-491-4527
E-mail: Representative_Carl_Morgan@legis.state.ak.us

MEMBER

Community & Regional Affairs Committee
Health, Education & Social Services Committee
House Resources Committee
Special Committee on Fisheries



INTERIM

P.O. Box 243
Aniak, Alaska 99557
Phone: 907-675-4413

Representative Carl M. Morgan, Jr. District 36

Sponsor Statement HB 101

**"An Act relating to the reinstatement of corporations that are public utilities;
and providing for an effective date"**

This legislation is a vehicle to allow the Alaska Department of Commerce and Economic Development the discretion to reinstate, as a corporation, a local exchange (telecommunications) company that serves several communities in western Alaska.

After reviewing the facts and circumstances surrounding the issue, I hope that you will agree that this measure warrants our attention and support. The following are the facts surrounding the involuntary dissolution of Bush-Tell.

Bush-Tell is a small, rural local exchange telephone company located in Aniak, Alaska, which provides local exchange telephone service to ten small villages in Western Alaska. Bush-Tell was incorporated on November 10, 1969 and has been providing telecommunications service since 1970. Mr. Harry "Bob" Colliver, Jr., the President and sole shareholder of Bush-Tell, recently contacted the Alaska Division of Banking, Securities & Corporations to find out about registering a "dba" and was informed that Bush-Tell was no longer registered as a corporation with the division. Bush-Tell had been involuntarily dissolved in 1993 for failing to file its biennial report and/or failing to pay its biennial corporate tax for the period ending December 31, 1992. Upon investigation, it was discovered that Bush-Tell's registered agent had failed to follow the proper statutory procedures for resigning as a registered agent and that his omissions resulted in the involuntary dissolution of Bush-Tell.

Bush-Tell's designated agent was a sole practitioner in Anchorage, Alaska who also served as Bush-Tell's general counsel. In the early 1980's, Bush-Tell hired another law firm to do its legal work but continued to retain the sole practitioner as its registered agent. The forms for Bush-Tell's biennial reports were sent to the registered agent and were filed by the registered agent up to and including the period ending December 31, 1990.

In 1991, the registered agent left the private practice of law, closed his office and left a forwarding address for his mail with the U.S. Postal Service. The registered agent did not inform the Alaska Division of Banking, Securities & Corporations that his address was changing or that he was resigning as Bush-Tell's registered agent. Alaska Statute 10.06.170(b) requires that, if a registered agent resigns, the registered must file a

Page Two
Sponsor Statement
HB 101

written notice with the commissioner setting out the latest address of the principal office of the corporation and the names, addresses and titles of the most recent officers of the corporation. The commission must then immediately mail a copy of the notice to the corporation at its principal office.

On July 12, 1993, the Alaska Division of Banking, Securities & Corporations sent a notice by certified mail to Bush-Tell, care of the registered agent, informing Bush-Tell that it had not filed its biennial report and/or tax for the period ending December 31, 1992 and that, if the biennial report and/or tax are not mailed by September 19, 1993, the Certificate of Involuntary Dissolution will be issued and the corporation will cease to exist as of September 20, 1993. This notice was returned to the Alaska Division Banking, Securities & Corporations because the register agent's forwarding notice had expired. On September 20, 1993, Bush-Tell was involuntarily dissolved.

Since the time of dissolution, and even after discovering the involuntary dissolution, Bush-Tell has observed all of the corporate procedures required by its Bylaws and Alaska law including holding regular board of directors meetings and paying corporate income tax.

I urge your support of HB 101.

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HB 101

Revision Date/Time (Note if correction) _____ Dept. Affected Commerce & Econ. Dev.
 Title Corporate Public Utility Reinstatement BRU Banking, Securities and Corporations
 Component Banking, Securities and Corporations
 Sponsor Rep. Morgan
 Requester House URS Component Serial No. 1233

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by Franklin T. Elder, Director Phone 465-2521
 Division Banking, Securities and Corporations Date/Time 3/1/99 3:58 PM
 Approved by Commissioner Deborah B. Sedwick Date 3/1/99
 Agency Commerce and Economic Development

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STATE OF ALASKA

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

DIVISION OF BANKING, SECURITIES, AND CORPORATIONS

TONY KNOWLES, GOVERNOR

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P.O. BOX 110808
JUNEAU, ALASKA 99811-0808
Corporation Section (907) 465-2530
Banking & Securities (907) 465-2521

ANCHORAGE

Corporation Information (907) 269-8140
TDD: (907) 465-5437

HOUSE BILL NO. 101

REINSTATEMENT OF PUBLIC UTILITY CORPORATIONS

In reviewing HB 101, the Division of Banking, Securities and Corporations supports the language and intent of this bill. Indeed, the Division feels that it is in the best interest of the State of Alaska to continue to help keep entities active and in good standing with the State. Public utility corporations provide important public services to citizens of Alaska.

In the past, it has been the Division's policy to send statutorily required biennial reports to a corporation's, or an entity's, registered agent. Corporations complete the report and return it with any required taxes or fees to the Division. Receipt of these completed reports and fees by this Division determine the compliance of each entity. However, an episode occurred a couple of years ago in which a service company, who acts as registered agent for a large number of Alaska corporations, misplaced a large number of reports. Because of this episode, the Division changed policy and started sending these reports to the principal business address of each corporation. Unfortunately, not all corporations keep the Division apprised of their address changes. Therefore, for those reports that are returned as undeliverable by the U. S. Post Office, the Division resends the report to the registered agent. We have increased our diligence in working with corporations to avoid to the maximum extent possible inadvertent dissolving of businesses.

Alaska Telephone Association

201 E. 56th, Suite 114
Anchorage, AK 99518
(907) 563-4000
FAX (907) 562-3776

David Fauske
President

James Rowe
Executive Director

BY FACSIMILE

The Honorable Bill Hudson, Chairman
House Utility Restructuring Committee
State Capitol
Juneau, Alaska 99801

Re: H.B. 101

Dear Representative Hudson:

I am writing in support of H.B. 101, which is the reinstatement of public utility corporations. The Alaska Telephone Association supports this measure because of its importance to local telephone service provider Bush-Tell, Inc.

The current ownership and management of Bush-Tell, Inc. has been the same since its inception in 1969. Since that time the corporation has provided service, often in challenging conditions, to many small communities in western Alaska, including Aniak, Red Devil, Crooked Creek, Shageluk, Sleetmute and Stony River. This corporation has always done an outstanding job of providing reliable telecommunications services while being an integral part of the community and good corporate citizen.

Through a set of unfortunate circumstances Bush-Tell, Inc. was involuntarily dissolved in 1993. Even after learning of the involuntary dissolution last summer, Bush-Tell continued to hold Board meetings, conduct business, pay all corporate income taxes, and conduct its affairs as if it had not been dissolved.

Upon discovering that it had been involuntarily dissolved, Bush-Tell, Inc. approached the Department of Commerce and learned that it would take an act of the Legislature to obtain reinstatement.

Given this unique set of circumstances and the excellent record that Bush-Tell, Inc. has in providing telephone service in rural Alaska, I hope that the Legislature recognizes the importance of Bush-Tell to its customers and quickly passes this legislation. The members of the Alaska Telephone Association believe that Bush-Tell, Inc. has in the past and will in the future provide a very necessary public service.

Thank you for your consideration.

Sincerely,



James Rowe



BUSH-TELL, INC.

Box 100 • Aniak, Alaska 99557 • (907) 875-4311

The Honorable Bill Hudson, Chairman
House Utility Restructuring Committee
State Capitol
Juneau, Alaska 99801

Re: H.B. 101

Dear Representative Hudson:

I am President and sole shareholder of Bush-Tell, a small, rural local exchange telephone company located in Aniak, Alaska. Bush-Tell, Inc. provides local exchange telephone service to ten small villages in Western Alaska.

I moved to Alaska in 1958 and worked as a technician providing maintenance and operations services to the White Alice Communications system from 1958 to 1978. I started Bush-Tell in 1969 and worked as both the full-time manager of Bush-Tell and as a technician on the White Alice Communications and have since devoted all of my time to managing Bush-Tell. I have lived in Aniak for approximately 39 years.

This year, I contacted the Alaska Division of Corporations to find out about registering as a "dba" and was informed that Bush-Tell was no longer registered as a corporation with the Alaska Division of Corporations. I further learned that Bush-Tell had been involuntarily dissolved in September 1993 for failing to file its biennial report and/or failing to pay its biennial corporate tax for the period ending December 31, 1992, that Bush-Tell's registered agent failed to follow the proper statutory procedures for resigning as a registered agent and that his omissions resulted in the involuntary dissolution of Bush-Tell in 1993. (The State did not send any notices to me informing me that Bush-Tell had not filed its biennial report and/or paid the biennial corporate tax for the period ending December 31, 1992 and that, if the biennial report and/or tax were not mailed by September 19, 1993, the certificate of Involuntary Dissolution would be issued and the corporation would cease to exist as of September 20, 1993.)

Since the time of dissolution, and even after discovering the involuntary dissolution, Bush-Tell has observed all of the corporate procedures required by its Bylaws and Alaska law including holding regular board of directors meetings and paying corporate income taxes.

My company performs a necessary public service, especially for residents of rural Alaska. Telecommunications services are vital for emergencies, for businesses and for a full range of human and social needs. Bush-Tell, Inc. has provided an outstanding job in providing service in rural Alaska, and its corporate dissolution took place through no fault of mine or any of my

employees. Rather, the dissolution arose out of the neglect of a registered corporate agent.

Upon learning of Bush-Tell's involuntary dissolution, I sought reinstatement from the Alaska Department of Commerce. However, the Department of Commerce advised me that it was unable to reinstate Bush-Tell because too much time had passed and that a legislative enactment would be required. I understand that the Alaska Legislature has passed similar legislation in the past. Under the circumstance, I am hopeful that the Alaska Legislature would pass H.B. 101.

Thank you for consideration of this matter, which is extremely important to my customers and to me,

Sincerely,


Harry E. Colliver, Jr.
President, Bush-Tell, Inc.



INTERIOR TELEPHONE CO., INC.

MUKLUK TELEPHONE CO., INC.

TelHAWAII, INC.

TELALASKA LONG DISTANCE, INC.

EYECOM, INC.

TELALASKANET

2121 Abbott Road
Anchorage, Alaska 99507
(907) 349-2400
Fax (907) 349-1858

March 1, 1999

MAR 2 1999

The Honorable Bill Hudson, Chairman
House Utility Restructuring Committee
State Capitol, Room 108
Juneau AK 99801

Via Facsimile: (907) 465-2273

Regarding: H.B. 101

Dear Representative Hudson:

I am writing in support of H.B. 101, a bill to reinstate public utility corporations. I am the President and Chairman of TelAlaska, Inc. which, through some of its subsidiaries, provides local telephone service in rural America. I support H.B. 101 because of its importance to Bush-Tell, Inc., another rural telephone company.

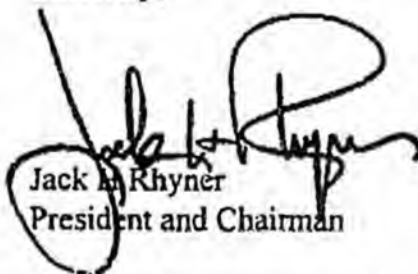
Bush-Tell, Inc. has done an outstanding job of providing rural local exchange service. However, through an unfortunate set of circumstances that were outside the control of Bush-Tell, Bush-Tell was apparently dissolved involuntarily in 1993. My understanding is that an act of the Legislature is now required to reinstate Bush-Tell.

Since the time of dissolution, and even after discovering the involuntary dissolution, I have been advised that Bush-Tell has observed all of the corporate procedures required by its Bylaws and Alaska law. This includes the holding of regular board of directors meetings and paying corporate income taxes.

Bush-Tell performs critical public functions, and has unfortunately been dissolved through a unique set of circumstances. TelAlaska, Inc. strongly supports the passage of H.B. 101, and I hope the Legislature will enact it.

Thank you for your consideration of H.B. 101.

Sincerely,



Jack A. Rhyner
President and Chairman

Attn: Walt Wilcox

Re: Corrected fees for reinstatement of Bush-Tel - HB101

A.	Pay biennial company tax for 1993-94	100.00
B.	Penalty for nonpayment of company tax 1993	25.00
C.	Penalty for nonpayment of company tax 1994	25.00
D.	Penalty for nonpayment of company tax 1995	25.00
E.	Penalty for non-filing of biennial report 1993	17.50 (10%)
F.	Pay biennial company tax for 1995-96	100.00
G.	Penalty for nonpayment of company tax 1995	25.00
H.	Penalty for nonpayment of company tax 1996	25.00
I.	Penalty for non-filing of biennial report 1995	15.00 (10%)
J.	Pay biennial company tax for 1997-1998	100.00
K.	Penalty for nonpayment of company tax 1997	25.00
L.	Penalty for nonpayment of company tax 1998	25.00
M.	Penalty for non-filing of biennial report 1997	17.50 (10%)
N.	Pay biennial company tax for 1999-2000	100.00
O.	Penalty for nonpayment of company tax 1999	25.00
P.	Penalty for non-filing of biennial report 1999	<u>12.50 (10%)</u>
	Total	662.50
	Penalty to reinstate (double fee)	<u>662.50</u>
	Total to reinstate	1325.00

The above totals are based on the following:

Company Involuntarily Dissolved on 9/28/98 (Reinstate after 1/1/00)

Pay fees totaling \$522.50:

A.	Pay biennial company tax for 1997-98	\$100.00
B.	Penalty for nonpayment of company tax 1997	\$25.00
C.	Penalty for nonpayment of company tax 1998	\$25.00
D.	Penalty for nonpayment of company tax 1999	\$25.00
E.	Penalty for non-filing of biennial report 1997	\$17.50
F.	Penalty to reinstate	\$192.50
G.	Pay biennial company tax for 1999-00	\$100.00
H.	Penalty for nonpayment of company tax 1999	\$25.00
I.	Penalty for non-filing of biennial report 1999	<u>\$12.50</u>
	TOTAL	<u>\$522.50*</u>

Public hearing on HB 101
3/3/99
Utilities Restructuring Committee

Contents

HB 101 "reinstatement of corporations that are public utilities"

Sponsor statement by Rep. Morgan

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Alaska State Legislature

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MEMBER

Community & Regional Affairs Committee
Health, Education & Social Services Committee
House Resources Committee
Special Committee on Fisheries



INTERIM

P.O. Box 243
Aniak, Alaska 99557
Phone: 907-675-4413

Representative Carl M. Morgan, Jr. District 36

Sponsor Statement HB 101

**"An Act relating to the reinstatement of corporations that are public utilities;
and providing for an effective date"**

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Bush-Tell is a small, rural local exchange telephone company located in Aniak, Alaska, which provides local exchange telephone service to ten small villages in Western Alaska. Bush-Tell was incorporated on November 10, 1969 and has been providing telecommunications service since 1970. Mr. Harry "Bob" Colliver, Jr., the President and sole shareholder of Bush-Tell, recently contacted the Alaska Division of Banking, Securities & Corporations to find out about registering a "dba" and was informed that Bush-Tell was no longer registered as a corporation with the division. Bush-Tell had been involuntarily dissolved in 1993 for failing to file its biennial report and/or failing to pay its biennial corporate tax for the period ending December 31, 1992. Upon investigation, it was discovered that Bush-Tell's registered agent had failed to follow the proper statutory procedures for resigning as a registered agent and that his omissions resulted in the involuntary dissolution of Bush-Tell.

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Page Two
Sponsor Statement
HB 101

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Since the time of dissolution, and even after discovering the involuntary dissolution, Bush-Tell has observed all of the corporate procedures required by its Bylaws and Alaska law including holding regular board of directors meetings and paying corporate income tax.

I urge your support of HB 101.

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HB 101

Revision Date/Time (Note if correction) _____ Dept. Affected Commerce & Econ Dev
 Title Corporate Public Utility Reinstatement BRU Banking, Securities and Corporations
 Component Banking, Securities and Corporations
 Sponsor Rep. Morgan
 Requester House URS Component Serial No. 1233

Expenditures/Revenues (Thousands of Dollars)

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

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Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by Franklin T. Elder, Director Phone 465-2521
 Division Banking, Securities and Corporations Date/Time 3/1/99 3:58 PM
 Approved by Commissioner Deborah B. Sedwick Date 2/1/99
 Agency Commerce and Economic Development

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STATE OF ALASKA

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

DIVISION OF BANKING, SECURITIES, AND CORPORATIONS

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Banking & Securities (907) 465-2521

ANCHORAGE
Corporation Information (907) 269-8145
TDD: (907) 465-5437

HOUSE BILL NO. 101

REINSTATEMENT OF PUBLIC UTILITY CORPORATIONS

In reviewing HB 101, the Division of Banking, Securities and Corporations supports the language and intent of this bill. Indeed, the Division feels that it is in the best interest of the State of Alaska to continue to help keep entities active and in good standing with the State. Public utility corporations provide important public services to citizens of Alaska.

In the past, it has been the Division's policy to send statutorily required biennial reports to a corporation's, or an entity's, registered agent. Corporations complete the report and return it with any required taxes or fees to the Division. Receipt of these completed reports and fees by this Division determine the compliance of each entity. However, an episode occurred a couple of years ago in which a service company, who acts as registered agent for a large number of Alaska corporations, misplaced a large number of reports. Because of this episode, the Division changed policy and started sending these reports to the principal business address of each corporation. Unfortunately, not all corporations keep the Division apprised of their address changes. Therefore, for those reports that are returned as undeliverable by the U. S. Post Office, the Division resends the report to the registered agent. We have increased our diligence in working with corporations to avoid to the maximum extent possible inadvertent dissolving of businesses.

Alaska Telephone Association

201 E. 56th, Suite 114
Anchorage, AK 99518
(907) 563-4000
FAX (907) 562-3776

David Fauske
President

James Rowe
Executive Director

BY FACSIMILE

The Honorable Bill Hudson, Chairman
House Utility Restructuring Committee
State Capitol
Juneau, Alaska 99801

Re: H.B. 101

Dear Representative Hudson:

I am writing in support of H.B. 101, which is the reinstatement of public utility corporations. The Alaska Telephone Association supports this measure because of its importance to local telephone service provider Bush-Tell, Inc.

The current ownership and management of Bush-Tell, Inc. has been the same since its inception in 1969. Since that time the corporation has provided service, often in challenging conditions, to many small communities in western Alaska, including Aniak, Red Devil, Crooked Creek, Shageluk, Sleetmute and Stony River. This corporation has always done an outstanding job of providing reliable telecommunications services while being an integral part of the community and good corporate citizen.

Through a set of unfortunate circumstances Bush-Tell, Inc. was involuntarily dissolved in 1993. Even after learning of the involuntary dissolution last summer, Bush-Tell continued to hold Board meetings, conduct business, pay all corporate income taxes, and conduct its affairs as if it had not been dissolved.

Upon discovering that it had been involuntarily dissolved, Bush-Tell, Inc. approached the Department of Commerce and learned that it would take an act of the Legislature to obtain reinstatement.

Given this unique set of circumstances and the excellent record that Bush-Tell, Inc. has in providing telephone service in rural Alaska, I hope that the Legislature recognizes the importance of Bush-Tell to its customers and quickly passes this legislation. The members of the Alaska Telephone Association believe that Bush-Tell, Inc. has in the past and will in the future provide a very necessary public service.

Thank you for your consideration.

Sincerely,



James Rowe



BUSH-TELL, INC.

Box 108 • Aniak, Alaska 99557 • (907) 875-4311

The Honorable Bill Hudson, Chairman
House Utility Restructuring Committee
State Capitol
Juneau, Alaska 99801

Re: H.B. 101

Dear Representative Hudson:

I am President and sole shareholder of Bush-Tell, a small, rural local exchange telephone company located in Aniak, Alaska. Bush-Tell, Inc. provides local exchange telephone service to ten small villages in Western Alaska.

I moved to Alaska in 1958 and worked as a technician providing maintenance and operations services to the White Alice Communications system from 1958 to 1978. I started Bush-Tell in 1969 and worked as both the full-time manager of Bush-Tell and as a technician on the White Alice Communications and have since devoted all of my time to managing Bush-Tell. I have lived in Aniak for approximately 39 years.

This year, I contacted the Alaska Division of Corporations to find out about registering as a "dba" and was informed that Bush-Tell was no longer registered as a corporation with the Alaska Division of Corporations. I further learned that Bush-Tell had been involuntarily dissolved in September 1993 for failing to file its biennial report and/or failing to pay its biennial corporate tax for the period ending December 31, 1992, that Bush-Tell's registered agent failed to follow the proper statutory procedures for resigning as a registered agent and that his omissions resulted in the involuntary dissolution of Bush-Tell in 1993. (The State did not send any notices to me informing me that Bush-Tell had not filed its biennial report and/or paid the biennial corporate tax for the period ending December 31, 1992 and that, if the biennial report and/or tax were not mailed by September 19, 1993, the certificate of Involuntary Dissolution would be issued and the corporation would cease to exist as of September 20, 1993.)

Since the time of dissolution, and even after discovering the involuntary dissolution, Bush-Tell has observed all of the corporate procedures required by its Bylaws and Alaska law including holding regular board of directors meetings and paying corporate income taxes.

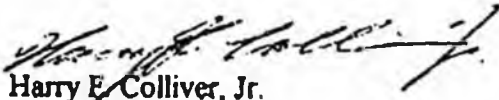
My company performs a necessary public service, especially for residents of rural Alaska. Telecommunications services are vital for emergencies, for businesses and for a full range of human and social needs. Bush-Tell, Inc. has provided an outstanding job in providing service in rural Alaska, and its corporate dissolution took place through no fault of mine or any of my

employees. Rather, the dissolution arose out of the neglect of a registered corporate agent.

Upon learning of Bush-Tell's involuntary dissolution, I sought reinstatement from the Alaska Department of Commerce. However, the Department of Commerce advised me that it was unable to reinstate Bush-Tell because too much time had passed and that a legislative enactment would be required. I understand that the Alaska Legislature has passed similar legislation in the past. Under the circumstance, I am hopeful that the Alaska Legislature would pass H.B. 101.

Thank you for consideration of this matter, which is extremely important to my customers and to me,

Sincerely,



Harry E. Colliver, Jr.
President, Bush-Tell, Inc.



INTERIOR TELEPHONE CO., INC.

MUKILTA TELEPHONE CO., INC.

TELHAWAII, INC.

TELALASKA LONG DISTANCE, INC.

ETECOM, INC.

TELALASKANET

2121 Abbott Road

Anchorage, Alaska 99507

(907) 349-2400

Fax (907) 349-1658

March 1, 1999

MAR 2 1999

The Honorable Bill Hudson, Chairman
House Utility Restructuring Committee
State Capitol, Room 108
Juneau AK 99801

Via Facsimile: (907) 465-2273

Regarding: H.B. 101

Dear Representative Hudson:

I am writing in support of H.B. 101, a bill to reinstate public utility corporations. I am the President and Chairman of TelAlaska, Inc. which, through some of its subsidiaries, provides local telephone service in rural America. I support H.B. 101 because of its importance to Bush-Tell, Inc., another rural telephone company.

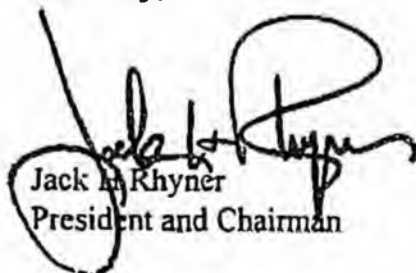
Bush-Tell, Inc. has done an outstanding job of providing rural local exchange service. However, through an unfortunate set of circumstances that were outside the control of Bush-Tell, Bush-Tell was apparently dissolved involuntarily in 1993. My understanding is that an act of the Legislature is now required to reinstate Bush-Tell.

Since the time of dissolution, and even after discovering the involuntary dissolution, I have been advised that Bush-Tell has observed all of the corporate procedures required by its Bylaws and Alaska law. This includes the holding of regular board of directors meetings and paying corporate income taxes.

Bush-Tell performs critical public functions, and has unfortunately been dissolved through a unique set of circumstances. TelAlaska, Inc. strongly supports the passage of H.B. 101, and I hope the Legislature will enact it.

Thank you for your consideration of H.B. 101.

Sincerely,



Jack A. Rhyner
President and Chairman

Attn: Walt Wilcox

Re: Corrected fees for reinstatement of Bush-Tel - HB101

A.	Pay biennial company tax for 1993-94	100.00
B.	Penalty for nonpayment of company tax 1993	25.00
C.	Penalty for nonpayment of company tax 1994	25.00
D.	Penalty for nonpayment of company tax 1995	25.00
E.	Penalty for non-filing of biennial report 1993	17.50 (10%)
F.	Pay biennial company tax for 1995-96	100.00
G.	Penalty for nonpayment of company tax 1995	25.00
H.	Penalty for nonpayment of company tax 1996	25.00
I.	Penalty for non-filing of biennial report 1995	15.00 (10%)
J.	Pay biennial company tax for 1997-1998	100.00
K.	Penalty for nonpayment of company tax 1997	25.00
L.	Penalty for nonpayment of company tax 1998	25.00
M.	Penalty for non-filing of biennial report 1997	17.50 (10%)
N.	Pay biennial company tax for 1999-2000	100.00
O.	Penalty for nonpayment of company tax 1999	25.00
P.	Penalty for non-filing of biennial report 1999	<u>12.50 (10%)</u>
	Total	662.50
	Penalty to reinstate (double fee)	<u>662.50</u>
	Total to reinstate	1325.00

The above totals are based on the following:

Company Involuntarily Dissolved on 9/28/98 (Reinstate after 1/1/00)

Pay fees totaling \$522.50:

A.	Pay biennial company tax for 1997-98	\$100.00
B.	Penalty for nonpayment of company tax 1997	\$25.00
C.	Penalty for nonpayment of company tax 1998	\$25.00
D.	Penalty for nonpayment of company tax 1999	\$25.00
E.	Penalty for non-filing of biennial report 1997	\$17.50
F.	Penalty to reinstate	\$192.50
G.	Pay biennial company tax for 1999-00	\$100.00
H.	Penalty for nonpayment of company tax 1999	\$25.00
I.	Penalty for non-filing of biennial report 1999	<u>\$12.50</u>
	TOTAL	<u>\$522.50*</u>

Public hearing on HB 101
3/3/99
Utilities Restructuring Committee

Contents

HB 101 "reinstatement of corporations that are public utilities"

Sponsor statement by Rep. Morgan

Fiscal note

Comments by AK Telephone Assn.

Comments by Bush-Tell inc.

HOUSE BILL NO. 101

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE MORGAN

Introduced: 2/19/99

Referred: House Special Committee on Utility Restructuring, Labor and Commerce

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the reinstatement of corporations that are public utilities; and
2 providing for an effective date."

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

4 * Section 1. Reinstatement of public utility corporations. Notwithstanding
5 AS 10.06.633(e), a corporation that is a public utility, that has been involuntarily dissolved
6 by the commissioner under AS 10.06.633, and that has failed to apply for reinstatement during
7 the period established under AS 10.06.633(e) may be reinstated under AS 10.06.633(e) on or
8 before December 31, 1999. A reinstatement authorized under this section is retroactive to the
9 date of the involuntary dissolution, and the reinstated corporation and its shareholders have
10 all of the rights, privileges, liabilities, and obligations that would have applied to them if the
11 corporation had not been dissolved. If a corporation elects to seek reinstatement under this
12 section and if the corporation's previously used corporate name is no longer available for use
13 by the corporation, then, notwithstanding AS 10.06.502 - 10.06.510, an amendment to the
14 articles of incorporation changing the previously used corporate name may be adopted by

1 action of the corporation's board of directors alone. In this section, "public utility" has the
2 meaning given in AS 42.05.990.

3 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

Alaska State Legislature

SESSION

State Capitol Building, Suite 409
Juneau, Alaska 99801-1182
Phone: 907-465-4527
Fax: 907-465-2197
Toll Free: 800-491-4527
E-mail: Representative_Carl_Morgan@legis.state.ak.us

MEMBER

Community & Regional Affairs Committee
Health, Education & Social Services Committee
House Resources Committee
Special Committee on Fisheries



INTERIM

P.O. Box 243
Aniak, Alaska 99557
Phone: 907-675-4413

Representative Carl M. Morgan, Jr. District 36

Sponsor Statement HB 101

**"An Act relating to the reinstatement of corporations that are public utilities;
and providing for an effective date"**

This legislation is a vehicle to allow the Alaska Department of Commerce and Economic Development the discretion to reinstate, as a corporation, a local exchange (telecommunications) company that serves several communities in western Alaska.

After reviewing the facts and circumstances surrounding the issue, I hope that you will agree that this measure warrants our attention and support. The following are the facts surrounding the involuntary dissolution of Bush-Tell.

Bush-Tell is a small, rural local exchange telephone company located in Aniak, Alaska, which provides local exchange telephone service to ten small villages in Western Alaska. Bush-Tell was incorporated on November 10, 1969 and has been providing telecommunications service since 1970. Mr. Harry "Bob" Colliver, Jr., the President and sole shareholder of Bush-Tell, recently contacted the Alaska Division of Banking, Securities & Corporations to find out about registering a "dba" and was informed that Bush-Tell was no longer registered as a corporation with the division. Bush-Tell had been involuntarily dissolved in 1993 for failing to file its biennial report and/or failing to pay its biennial corporate tax for the period ending December 31, 1992. Upon investigation, it was discovered that Bush-Tell's registered agent had failed to follow the proper statutory procedures for resigning as a registered agent and that his omissions resulted in the involuntary dissolution of Bush-Tell.

Bush-Tell's designated agent was a sole practitioner in Anchorage, Alaska who also served as Bush-Tell's general counsel. In the early 1980's, Bush-Tell hired another law firm to do its legal work but continued to retain the sole practitioner as its registered agent. The forms for Bush-Tell's biennial reports were sent to the registered agent and were filed by the registered agent up to and including the period ending December 31, 1990.

In 1991, the registered agent left the private practice of law, closed his office and left a forwarding address for his mail with the U.S. Postal Service. The registered agent did not inform the Alaska Division of Banking, Securities & Corporations that his address was changing or that he was resigning as Bush-Tell's registered agent. Alaska Statute 10.06.170(b) requires that, if a registered agent resigns, the registered must file a

Page Two
Sponsor Statement
HB 101

written notice with the commissioner setting out the latest address of the principal office of the corporation and the names, addresses and titles of the most recent officers of the corporation. The commission must then immediately mail a copy of the notice to the corporation at its principal office.

On July 12, 1993, the Alaska Division of Banking, Securities & Corporations sent a notice by certified mail to Bush-Tell, care of the registered agent, informing Bush-Tell that it had not filed its biennial report and/or tax for the period ending December 31, 1992 and that, if the biennial report and/or tax are not mailed by September 19, 1993, the Certificate of Involuntary Dissolution will be issued and the corporation will cease to exist as of September 20, 1993. This notice was returned to the Alaska Division Banking, Securities & Corporations because the register agent's forwarding notice had expired. On September 20, 1993, Bush-Tell was involuntarily dissolved.

Since the time of dissolution, and even after discovering the involuntary dissolution, Bush-Tell has observed all of the corporate procedures required by its Bylaws and Alaska law including holding regular board of directors meetings and paying corporate income tax.

I urge your support of HB 101.

STATE OF ALASKA

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

DIVISION OF BANKING, SECURITIES, AND CORPORATIONS

TONY KNOWLES, GOVERNOR

333 Willoughby Avenue, 9th Floor
P.O. BOX 110808
JUNEAU, ALASKA 99811-0808
Corporation Section (907) 465-2530
Banking & Securities (907) 465-2521

ANCHORAGE
Corporation Information (907) 269-8140
TDD: (907) 465-5437

HOUSE BILL NO. 101

REINSTATEMENT OF PUBLIC UTILITY CORPORATIONS

In reviewing HB 101, the Division of Banking, Securities and Corporations supports the language and intent of this bill. Indeed, the Division feels that it is in the best interest of the State of Alaska to continue to help keep entities active and in good standing with the State. Public utility corporations provide important public services to citizens of Alaska.

In the past, it has been the Division's policy to send statutorily required biennial reports to a corporation's, or an entity's, registered agent. Corporations complete the report and return it with any required taxes or fees to the Division. Receipt of these completed reports and fees by this Division determine the compliance of each entity. However, an episode occurred a couple of years ago in which a service company, who acts as registered agent for a large number of Alaska corporations, misplaced a large number of reports. Because of this episode, the Division changed policy and started sending these reports to the principal business address of each corporation. Unfortunately, not all corporations keep the Division apprised of their address changes. Therefore, for those reports that are returned as undeliverable by the U. S. Post Office, the Division resends the report to the registered agent. We have increased our diligence in working with corporations to avoid to the maximum extent possible inadvertent dissolving of businesses.

Alaska Telephone Association

201 E. 56th, Suite 114
Anchorage, AK 99518
(907) 563-4000
FAX (907) 563-3776

David Fauske
President

James Rowe
Executive Director

BY FACSIMILE

The Honorable Bill Hudson, Chairman
House Utility Restructuring Committee
State Capitol
Juneau, Alaska 99801

Re: H.B. 101

Dear Representative Hudson:

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Through a set of unfortunate circumstances Bush-Tell, Inc. was involuntarily dissolved in 1993. Even after learning of the involuntary dissolution last summer, Bush-Tell continued to hold Board meetings, conduct business, pay all corporate income taxes, and conduct its affairs as if it had not been dissolved.

Upon discovering that it had been involuntarily dissolved, Bush-Tell, Inc. approached the Department of Commerce and learned that it would take an act of the Legislature to obtain reinstatement.

Given this unique set of circumstances and the excellent record that Bush-Tell, Inc. has in providing telephone service in rural Alaska, I hope that the Legislature recognizes the importance of Bush-Tell to its customers and quickly passes this legislation. The members of the Alaska Telephone Association believe that Bush-Tell, Inc. has in the past and will in the future provide a very necessary public service.

Thank you for your consideration.

Sincerely,



James Rowe

**BUSH-TELL, INC.**

Box 109 • Aniak, Alaska 99557 • (907) 875-4311

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House Utility Restructuring Committee
State Capitol
Juneau, Alaska 99801

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This year, I contacted the Alaska Division of Corporations to find out about registering as a "dba" and was informed that Bush-Tell was no longer registered as a corporation with the Alaska Division of Corporations. I further learned that Bush-Tell had been involuntarily dissolved in September 1993 for failing to file its biennial report and/or failing to pay its biennial corporate tax for the period ending December 31, 1992, that Bush-Tell's registered agent failed to follow the proper statutory procedures for resigning as a registered agent and that his omissions resulted in the involuntary dissolution of Bush-Tell in 1993. (The State did not send any notices to me informing me that Bush-Tell had not filed its biennial report and/or paid the biennial corporate tax for the period ending December 31, 1992 and that, if the biennial report and/or tax were not mailed by September 19, 1993, the certificate of Involuntary Dissolution would be issued and the corporation would cease to exist as of September 20, 1993.)

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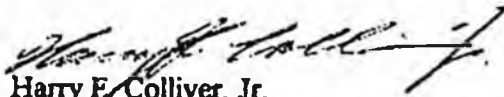
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Thank you for consideration of this matter, which is extremely important to my customers and to me,

Sincerely,



Harry F. Colliver, Jr.
President, Bush-Tell, Inc.

HB

102

COMMITTEE TAPE LOG

COMMITTEE: HOUSE JUDICIARY DATE: MARCH 15, 1999 TIME: 1:32 pm
 SUBJECT: OVERVIEW: CARRS/SAFEGWAY MERGER; HB 57; HB 102
 MEMBERS: KOTT GREEN JAMES MURKOWSKI ROKEBERG CROFT KERTTULA

SPEAKER	TAPE #	SIGNIFICANT INFORMATION
Ko	99/A	call to order @ 1:32 p.m.
	108	at - case @ 1:33 pm.
		back at 1:38 p.m.
		overview: Safeway
	120	Rule 22 - Executive Session
croft	143	more
rope	160	objected
	181	w/ draw objection
		at 1:40 the Exec. Session
		back at 2:42
		HB 102
α Bruce	230	D.O. Law
B.		
		not required to pass, but penalty
		against state.
Ko	448	apply to or broader?
BB	468	targeted to all cig. + cigar.
		provisions for oral.
green	490	any sale not in U.S.
BB		"yes" not
green	520	any effort on alien
BB		any comp. selling

SPEAKER	TAPE #	SIGNIFICANT INFORMATION
munK	549	other states... Any?
BB	575	no challenge to model, but settlements NY, NJ, + PA.
munK	632	if declared → throwout.
BB		correct
mun	650	Sec. 53.020 COLA increase.
BB		numbers negotiated at length...
KoH	711	provide any rev
B:B		correct. not revenue source
roke	736	take thru steps
BB	756	any company register..
roke	784	how much?
BB		according to schedule.
roke	806	Schedule in settlement?
BB		one in . . . based on representation
roke	835	guidance?
BB		triggers . . . + provides authority.
roke	878	ind. cigarettes
BB		yes
roke		Q
BB	897	generally yes.
Curt	925	other states?
BB		get to comm. All states consider in session
Curt	958	other bills to cover ... ?
BB		defer to
		sig. not covered ... no cigars

SPEAKER	TAPE #	SIGNIFICANT INFORMATION
Croft	1014	major companies ...
BB	1030	states neg. w/ 5 largest manufs.
Croft	1084	in drafting #5?
BB		w/ big 5.
munk	1106	definition section - not apply to cigars. any product contain ...
Croft		—
rore	1158	Subsect 4 . rests on manufacture not state of Ark.
JH	1199	move HB 102 . No objection HB 57
Ko	1260	open up to teleconference Network
* Mail B.	1285	asst. A.G. Arch. propose minor amend. to clarify "state" concern because people don't automat. think of all state organs.
green	1385	move Am. 1 no objection.
* Brad Poc Brad Thompson	1478	D.O. Admin. - Comm Designee intends to address problem of litigation ment for due diligence.
* BT	1585	involved in civil litigation 20 states considering

SPEAKER	TAPE #	SIGNIFICANT INFORMATION
Croft	1668	require "state" do anything protecting ... ?
John		?
Croft		Yes
Thompson	
Hail	1714	bill doesn't require that for immunity.
Croft	1759	nothing in bill to get immunity.... both immune?
Hail	1789	Yes, in present form no standard of performance.
rore	1821	concern about Y2K definition. debate about what means.....
	1851	
poe	1860	similar definition used...
rore	1895	have am. for 18 month window.
rore		
green	1922	any drawing-in immunity that would tag in.....?
poe	1959	by giving immunity....
Hail	1981	bill intended to only cover acts/admissions of an electronic device
munr	2038	consistent over. is medical community "medical equipment" → no upgrade still have immunity?
poe	2101	med. devices are mission critical... covered by contingency - "due diligence"

FISCAL NOTE

Bill Version: HB 102

(H) Publish Date: 2/19/99

**STATE OF ALASKA
1999 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction)	Dept. Affected	Law
Title " ... to a settlement agreement between certain tobacco product manufacturers and the state ..."	BRU	Civil Division
Sponsor Rules Committee	Component	Fair Business Practices
Requester Governor	Component Serial No	2206

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation implements a provision of the Master Settlement Agreement (MSA) between 46 states, including Alaska, and certain United States tobacco product manufacturers. That agreement, which was a final settlement of the states' litigation with the major tobacco manufacturers, was signed on November 23, 1998. Under the terms of the settlement, Alaska will receive \$670 million over the next 25 years to help offset the financial burdens imposed on the state by cigarette smoking. In addition to the monetary provisions, the settlement requires fundamental and far-ranging changes in the tobacco industry's business practices, advertising, and marketing.

This legislation, referred to in the MSA as the "model (or qualifying) statute," creates a reserve fund for nonparticipating manufacturers to pay future claims and is intended to level the playing field between the manufacturers who participated in the MSA (or sign on to it in the future) and those who did not. It is intended to neutralize the cost

Prepared by	Joan M. Kasson	Phone 465-5370
Division	Attorney General's Office	Date/Time 2/8/99, 8:37 AM
Approved by Commissioner	Bruce M. Botelho, Attorney General	Date 2/8/99
Agency	Department of Law	

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ANALYSIS CONTINUATION

disadvantages that the participating manufacturers experience (relative to the nonparticipating manufacturers) as a result of the MSA. It requires the nonparticipating manufacturers that sell tobacco products in the state and are not signators of the MSA to establish escrow accounts to pay for qualified claims for health-related concerns tied to their sales of tobacco products in the state.

Alaska does not need to pass the model/qualifying statute in order to receive payments under the Master Settlement Agreement, but failure to enact it could result in a significant reduction (as much as 65 percent) in the state's allotment under the agreement in the future. If a state does not pass the model statute, the MSA provides for an adjustment to that state's payments if the participating manufacturers, as a result of the marketing restrictions, payments, and other restrictions in the settlement, experience a disadvantage and lose market share for sales of their tobacco products to nonparticipating manufacturers. However, under the terms of the MSA, if a state passes the model statute and enforces it, it will be exempt from any payment reductions, even if the settlement was a significant factor contributing to the participating manufacturers' loss of market share.

Under terms of the legislation, a tobacco product manufacturer selling cigarettes in the state must either become a participating manufacturer or place a set amount into an escrow account for each unit sold in the state. The Commissioner of Revenue will be responsible for receiving certification that the manufacturer is in compliance with the terms of the legislation, and the Attorney General will be responsible for bringing a civil action against a non-complying manufacturer. It is impossible to predict whether nonparticipating manufacturers will enter the Alaska market and whether there will be a need for the Attorney General to take legal action against companies that do not comply with the terms of the statute. At this time, however, we do not anticipate additional costs related to enforcing the legislation.

ALASKA DEPARTMENT OF REVENUE

Income and Excise Audit Division

Cigarette Escrow Account
Draft 1-GB1036.A
February 5, 1999
Page 2 of 2

BILL ANALYSIS

Section 1 describes the health consequences from smoking cigarettes, and the state's obligation to provide and pay for medical assistance to and for persons with health conditions associated with cigarette smoking. This section holds the tobacco product manufacturers responsible for the financial burdens imposed on the state by cigarette smoking, describes the Master Settlement Agreement reached with the leading tobacco product manufacturers, and discusses the intent of this legislation, which is to prevent non-signatory manufacturers from deriving short-term profits and from becoming judgement-proof before liability arises.

Section 2 requires non-signatory manufacturers selling cigarettes in the state to either participate in the Master Settlement Agreement or place into a qualified escrow account by April 15 of each year an established amount for each cigarette sold in the state in the prior year. Funds in escrow will only be released: 1) to pay judgements or settlements from claims brought against the non-signatory manufacturer, 2) to the non-signatory manufacturer if payments placed in escrow exceed what would have been paid if the non-signatory manufacturer participated in the Master Settlement Agreement, or 3) to the non-signatory manufacturer after 25 years from the date of deposit. This section directs non-signatory manufacturers selling cigarettes in the state to certify that they are in compliance with the escrow requirements, and provides for civil actions if they fail to comply.

Section 3 establishes an immediate effective date.

OPERATING EXPENDITURES

This bill will require the Department of Revenue to revise its tax forms to allow verification of the name of each manufacturer whose cigarettes are being sold in the state. We believe the costs of new forms and the accompanying data capture and computer program modifications can be absorbed into the existing budget.

REVENUE

This Act provides no new revenue to the state.