

HOUSE FINANCE COMMITTEE
March 28, 2002
1:48 P.M.

TAPE HFC 02 - 69, Side A
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CALL TO ORDER

Co-Chair Mulder called the House Finance Committee meeting to order at 1:48 P.M.

MEMBERS PRESENT

Representative Eldon Mulder, Co-Chair
Representative Con Bunde, Vice-Chair
Representative Eric Croft
Representative John Davies
Representative John Harris
Representative Bill Hudson

MEMBERS ABSENT

Representative Bill Williams, Co-Chair
Representative Richard Foster
Representative Ken Lancaster
Representative Carl Moses
Representative Jim Whitaker

ALSO PRESENT

Margot Knuth, Assistant Attorney General, Department of Corrections; Charles Campbell, Juneau; Frank Prewitt, Cornell Whittier, Anchorage; David Katzeek, Juneau ANB, Camp 2, Juneau

PRESENT VIA TELECONFERENCE

Pete Halgren, City Administrator, City of Delta; Mayor John Williams, Kenai; Steve Sweet, Fairbanks; John Duffy, Borough Manager, Mat-Su; Jim LeCrone, Public Safety Employee Association, Anchorage; Don Valesko, Public Employees #72, Anchorage; Dee Hubbard, Anchorage; Frank Smith, Kansas; Marvin Wiebe, Cornell Corporation, Ventura, California

SUMMARY

#HB498

HB 498 An Act expressing legislative intent regarding privately operated correctional facility space and services; relating to the development and financing of privately operated correctional facility space and services; authorizing the

Department of Corrections to enter into an agreement for the confinement and care of prisoners in privately operated correctional facility space; and providing for an effective date.

HB 498 was HEARD and HELD in Committee for further consideration.

HOUSE BILL NO. 498

An Act expressing legislative intent regarding privately operated correctional facility space and services; relating to the development and financing of privately operated correctional facility space and services; authorizing the Department of Corrections to enter into an agreement for the confinement and care of prisoners in privately operated correctional facility space; and providing for an effective date.

MARGOT KNUTH, ASSISTANT ATTORNEY GENERAL, DEPARTMENT OF CORRECTIONS, agreed that more prison and jail beds are needed for Alaska. She mentioned the two bills put forth by the Governor, which address the expansion of existing facilities and Senator Green's proposed bill, which also addresses the expansion of some of the various State facilities. In crafting the Department of Corrections expansion plan, Governor Knowles and Commissioner Pugh came up with a four-point standard that must be met by any plan. Any initiative must be:

- Safe;
- Meet the statewide needs of the Department;
- Meet government-to-government relationships; and
- Be cost effective.

She warned that HB 498 does not meet any of the criteria.

Co-Chair Mulder asked Ms. Knuth for further clarification.

Ms. Knuth explained that the community of Whittier has a population base of around 200 residents. It is located 45 minutes from the Anchorage area. The proposal under consideration is a 1200 bed prison. The City of Whittier has a limited infrastructure. The capability of its fire and police department to be able to respond in the event of an emergency is limited. Additionally, there are issues of transfer time for medical emergencies. She reiterated that the fire and police protection concerns are problematic when there are six inmates for every citizen in a community. That is a difficult ratio and additionally, there will be one correctional employee for every three inmates making another 400 staff members.

Ms. Knuth referenced remarks made by Frank Prewitt regarding the State's needs. She noted the handout provided by Mr. Prewitt, which indicates the Department of Corrections master plan numbers. Out of the 1269 beds listed there, the beds in Palmer and Kenai are the types of beds that the proposed facility would be duplicating. The remaining beds would not be satisfied with that proposal and it does not address any "special need" beds. Adding the 1200 bed facility as proposed would not relieve the State from the current need for the 96 beds in Bethel, 80 beds in Fairbanks and the 150 beds in Seward or any of the special need beds for the youthful offender program. The Mat-Su beds are essential because that is where the fastest growing population is. Pt. McKenzie is the transition place and those needs would not be addressed. Juneau and Ketchikan are also jail facilities. At this time, the Department of Corrections has identified a need of about 475 beds for medium security inmates.

She pointed out that those numbers are listed in the handout and it also indicates the 750 beds in Arizona. The Arizona inmates would be brought back. She reminded members that the new Anchorage jail facility would be opening very soon. Those beds will take care of the Arizona population. She interjected that listing the 217 Palmer beds, the 250 in Kenai and then adding the 750 Arizona beds to that, was "false" math. By the end of this fiscal year, the number of inmates in Arizona will drop to 585 because of the opening of the Anchorage jail.

Ms. Knuth pointed out that crime rates are declining across the nation except in Alaska. There are two reasons for that to be occurring. In 1980, when the sex offender code was revised, Alaska extended sentences significantly. That has increased the length of time that inmates are spending in the system. They are not getting out as fast as they are coming in. Additionally, there has been an increase in the number of incarcerated pretrials. She advised that both of those concerns could be addressed through policy changes. Other states have made the decision to not spend as much of their budget on incarceration but instead at looking at reducing sentences and increasing treatment programs outside the facility. Ms. Knuth claimed that it is essential to stabilize the incarceration given the State's fiscal circumstances.

In the State's master expansion plan, when the Department indicated some uncertainty whether they would continue to need beds in Arizona, given the expansion as outlined, it was because the Department could not determine future needs and whether there would be an increase or a decline. She suggested that it would be unfortunate to lock the State into a 1200 bed facility if there was a way to stabilize the

incarceration needs. She added that even if there were adequate number of prison beds, the State would still need 700 more jail beds and special need beds that are not addressed by the prison proposal.

Ms. Knuth pointed out that the proposal does not include transportation costs. She noted that when there are people in Bethel who must show up for court appearances, that the transportation need must be addressed. It is for that reason that Bethel needs to be expanded. She explained that expansion should have been done several years ago. The needed expansion number is 400 beds, not 96. That number was scaled back to just the jail beds by Cornell, and the jail bed number is 96. Fairbanks needs 80 more beds for those inmates who are pre-sentenced or serving short sentences. Logistically, it is difficult to transfer an inmate from Fairbanks to Arizona or Whittier to serve a three or four day sentence.

Ms. Knuth emphasized that the proposed legislation does not meet statewide needs and suggested that it was "overbuilt". The Department sees a need for about 500 medium security prison beds. The legislation would be locking the State into 1200.

On the issue of government-to-government, she voiced concern that Whittier is a small community and that it does not have the infrastructure and expertise to "stand on it own two feet" through the transaction. Whittier has never taken on a project of this size and they would be forced to rely on outside resources. In a town with a population of 182, it is not likely that the State of Alaska would have a government-to-government relationship. She sensed that the State would have a superficial relationship with Whittier and would need to apply to other experts for negotiations. Ms. Knuth stressed that it is the private party, Cornell, that has the vested interest. The venture would not be cost effective for the State of Alaska.

Ms. Knuth reminded members that the Anchorage jail project is coming on line. The Municipality of Anchorage had enough resources to be concerned about what they wanted. The State was able to work with Anchorage as a team. She reiterated that the Anchorage jail was an impressive facility and was the result from negotiations and planning, needed for any facility, especially one that is three times the size of Anchorage.

Ms. Knuth pointed out that there are other problems with Whittier regarding the infrastructure needed to support a prison that size. Their water and electric capacity is not known. They do not have the population base from which they would be able to hire correctional officers, teachers or medical personnel to run the facility. She added that there

are other communities such as Metlakatla that would like to be considered for a proposal such as this. That community believes that they could be competitive and that they have a relationship with the Bureau of Indian Affairs (BIA) currently established. That relationship with the federal government could make them competitive because they would be able to qualify for subsidized federal funds. She commented that in terms of a competitive process that would make sense for the State. It would behoove the Committee to open the bill up to allow other communities to express their interest.

Ms. Knuth mentioned that the State has significant concerns regarding the competitive bidding process. She recommended deleting language on Page 2, Lines 22 & 27, which states that the procurement requirements of that subsection are satisfied by the City of Whittier in exercising its powers to procure. The concern for the State is that the City of Whittier is able to achieve and protect its interest through the procurement process. She stressed that the State of Alaska has extremely vested interest and those interests need to be protected. Using the State procurement code would allow that.

Ms. Knuth pointed out that references had been made to the Inter Governmental Agreement (IGA). The problem with relying on the IGA is that in terms of effectiveness, the State does not know and will not have the resources to know how much these services ought to cost such as building a fence around the facility. The competitive bidding process is cost based. That is the process that the State uses. That process has proven to be a significant grantor of cost effectiveness.

Ms. Knuth pointed out that the cost listed by Cornell is \$91 dollars per day. That number does not represent the 18-20% cost savings over what the State's cost of running the same facility as proposed here.

Co-Chair Mulder thought that the State's capital costs were not the same.

Ms. Knuth replied that would be if the State were building a 1200 bed facility as opposed to expanding the existing facilities. She suggested that more would be lost because it will expand the "economy of scale". If the State could use a 1200 bed facility, and they built it and ran it, then Alaska could do it for \$4 million dollars a year less than the amount of money authorized through the legislation for Cornell. The figure that is used in the legislation for the State number is the current average per diem rate for all State facilities. If the State ran a 1200 bed facility, it could beat its own average per diem rate because of the economy of scale.

Co-Chair Mulder agreed. He asked if that \$4 million dollars less would include the operational costs.

Ms. Knuth offered to provide that information. She added that the cost of care in Palmer and Cook Inlet, which are the State's largest facilities, is \$65 dollars a day when you exclude the items that are excluded in HB 498. Those excluded items are prisoner care, major medical, prescription medical, and transportation costs of the prisoners. She noted that Mr. Prewitt suggested that those dollars would total over \$15 dollars or less a day, when in reality, they are over \$30 dollars a day. Major medical per inmate per day is \$17 dollars. The indirect costs would total \$32 dollars a day. The cost of care in Palmer is \$65 dollars a day. If the State were operating a 1200 bed facility, the State could do better because of the economies of scales.

Vice-Chair Bunde inquired why the State was not currently running a 1200 bed facility if it were that much cheaper.

Ms. Knuth replied that the Department does not believe that there is a population that warrants or justifies that size facility. There needs to be more regional beds. If an inmate were going to be sentenced tomorrow in Bethel, they would need to be in Bethel.

Co-Chair Mulder thought that the concept of a jail with a larger central facility was simply a larger jail. He advised that it appeared that the Administration has gone along with the concept of a larger jail as opposed to a central facility. He was trying to understand why that was preferential. He felt that the costs would not warrant it.

Ms. Knuth explained that the jails are overcrowded. The places highlighted in the account sheet, indicate inmates that cannot go elsewhere. People with remarkably short sentences are being transported to Palmer. Palmer is supposed to be a facility for sentenced inmates. The handout indicates that the Palmer medium correctional is holding 130 un-sentenced inmates. Those are people that belong in jails and there is not enough room in their local jails for them to be housed. Our court system has said that defendants have a right to appear at their trial and sentencing. If a three-day sentence were about to occur, that would be difficult.

The Department of Corrections has 30,000 bookings a year. Out of that, within the State there are 2,894 beds currently being used and 700 beds in Arizona. There are 3,500 beds filled with Alaska inmates. The 30,000 bookings that come through the facility represent a large volume of people staying for a very short time. Those people need to be in

the jails and cannot be sent to Arizona or a prison in Whittier. It does not make economic sense to take someone with a three or four day sentence and pay the airfare to get them from Bethel to where there is a larger facility. Each day, the number of inmates is combed, looking for those that have a longer than 10 day sentence. The average length of sentence for people in Arizona has dropped dramatically. Anybody that has a sentence longer than a year would be eligible to go to Arizona. They are released directly from Arizona back into their communities. She stressed that prisons are bursting at the seams.

Representative Hudson requested a side-by-side comparison of all the numbers being presented. He asked the number the Department would recommend for a facility and if the facility would need to include a pre-trial area. He admitted that he was confused.

Representative Davies agreed that a side-by-side comparison would be helpful. He added that the current comparison was an "apples to oranges" comparison. He added that there needs to be a comparison of the option of having a longer-term incarceration regional facility versus having inmates in a centralized facility. He recommended that the bigger policy choices should be separated.

Ms. Knuth recommended that one way that could happen would be to take the summary sheets from the handout and to circle the 217 beds from Palmer and the 256 beds from Kenai. Those are the two prisons that the Administration wants to expand to create room for the long-term sentenced defendants. That number is 473 and then you can add the anticipated growth rate.

In response to Co-Chair Mulder's recommendation that the Arizona component be included, Ms. Knuth explained that the number was based on bringing home the Arizona inmates. She added that there are about 735 inmates in Arizona, and reiterated that the Anchorage jail would soon be opening. That would allow the State to bring enough inmates home, that by June 30th, the number would decline to 585. That is the number of prison beds needed. She noted that 256 would go to Kenai and 217 would go to Palmer. There would be special beds at the Pt. McKenzie farm and the Seward Spring Creek facility. Pt. McKenzie and Seward Spring Creek would not be a part of the prison system. It is the Palmer and Kenai beds that represent the pool.

Co-Chair Mulder questioned that supposition. Under the proposal, "increasing capacity at Wildwood would enable the Department of Corrections to keep up with the growing number of prisoners and perhaps bring home some prisoners from out of State". He believed that the supposition was that the Department may or may not bring people back from Arizona.

Ms. Knuth argued that the Department of Corrections would never "look a bed in the mouth". If that is how the State wants to spend money, then filling every bed could happen.

Co-Chair Mulder inquired how many inmates at the Bethel facility were from Fairbanks.

Ms. Knuth did not know but offered to provide that information.

Representative Davies and Co-Chair Mulder requested that the Department provide the Committee with side-by-side highlighting points of concern.

Ms. Knuth requested clarification on the specifics.

Representative Davies recognized that a pre-sentencing need exists and asked to see:

- The shortage numbers;
- Information on the medium and longer-need inmate needs;
- Building a larger facility in Whittier scale and would that be cost effective using the State's economy of scale.

Representative J. Davies requested that the trade-offs be highlighted. He thought that should be a reasonable policy question. He requested a comparison of the policy options and costs associated and those policy choices.

Representative J. Davies thought that the best system would be one in which the person that needs to go to jail would be placed in their local area so that the transition back into the community could be more smooth. He recommended seeing the full-up costs.

Co-Chair Mulder disagreed, commenting that not everyone agrees that the inmates should be located in close proximity to their communities. He claimed that the Legislature has a higher "sensitivity" than most of the Alaskan public to that concern.

Ms. Knuth referenced the expression that Whittier was 100% behind the process. She pointed out that there is a process, which the community has not yet gone through, where the community learns what is being proposed and what it would look like.

Ms. Knuth addressed the expense of the project. At \$90 dollars a day, times 1200 inmates, times 365 days, would

equal a \$40 million dollar a year piece of legislation. Over the 25 year life of the proposed contract would generate \$985 million dollars. She underlined how complicated that is. That would be the largest amount ever awarded in the history of the State.

CHARLES CAMPBELL, JUNEAU, advised that the difference between a private correction and a public correction is the goal. The goal of a public facility is to try to empty the beds, while the goal of a private facility is to keep the beds full.

Mr. Campbell advised that the legislation proposes the biggest contract in the State's history, which he assumed was a bad idea. He advised that most correctional professionals in the State that know about the situation, realize that this is bad legislation and do not support it. He added that Senator Lyda Green's bill, SB 231, was a superior approach to addressing the Alaska prison based needs and problems.

Mr. Campbell stated that the bill would not accomplish the needs of Alaska. The thought of a with 1200 bed prison in an inaccessible location with inexperienced and marginally qualified officers and no law enforcement back up near by, is very worrisome. He voiced concern with the qualifications of the staff and noted that Cornell would have a difficult time recruiting a competent staff of officers and in addition would have a more difficult time trying to keep their staff. The annual turnover rate in private prisons across the country has risen to 53%.

If the legislation passes, Mr. Campbell stated that it would create a huge legal headache and embarrassment for the State of Alaska. He acknowledged that the Cleary ruling has been overturned but he thought that could suddenly change. The principle ruling remains in place, as does the State Constitution.

Mr. Campbell did not agree with Mr. Prewitt in contending that a private prison would be the best place for the Department of Corrections to center the State's correctional efforts. He advised that corrections happen better in small facilities than they do in the larger ones. The lack of infrastructure in Whittier would make it impossible to have a professional correctional program. The size of the facility would make it worse.

Mr. Campbell stated that the biggest need is to bring the offenders back from Arizona. The bill proposes a location in which the inmates would still be inaccessible to their families and their communities.

Mr. Campbell noted that Alaska is one of the few states that still have a viable correctional system. Many other states are basically "warehousing" prisoners. He claimed that Alaska could continue to have a better system when it is clear that the staff and not the inmates are in charge. Mr. Campbell emphasized that Senator Green's bill offers a responsible and reasonable means of doing that with seven communities addressing their individual concerns.

Mr. Campbell stressed that it is "very wrong" that an essential public service be given to a profit making entity when the goals of that entity are in conflict with the State's mission.

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Mr. Campbell added that private prisons have never served the public well. They have a fatal flaw and serve a conflict of interest, because the focus has to be on the profit margin rather than on the effectiveness of the program. He indicated that with HB 498, millions of dollars would be leaving Alaska.

Representative Hudson asked if Mr. Campbell had ever been or evaluated a Cornell operated or comparable private operated prison.

Mr. Campbell responded that he had not. He added that an "exemplary" system is never seen anymore. He added that the facility in Arizona is one of the better private prisons. If a business must be careful of the bottom line, they always cut corners. He reiterated that he had not seen a Cornell prison facility.

Representative Hudson stated that HB 498 measures a Cornell system. He added that the State is interested in trying to improve the corrections system in Alaska.

PETE HALGREN, CITY ADMINISTRATOR, CITY OF DELTA, indicated that the City of Delta has no position on the advisability of a prison at Whittier. He advised that Delta Junction has its own lawsuit settlement obligation arising out of the previous prison proposal. Mr. Halgren noted that the City of Delta Junction has already paid \$100 thousand dollars and has an additional \$1 million dollar obligation due in three months for the promissory note. Delta does not have the money to pay that obligation and cannot raise it.

Co-Chair Mulder noted efforts made to lighten the burden for the City of Delta Junction.

Mr. Halgren voiced his appreciation, however, added that the underlining federal statute thoroughly precludes the use of impact funds for anything prior to that concern. He stressed that the City of Delta, currently, has no way of using any potential grants that are on the horizon.

Co-Chair Mulder understood and noted that they had met with those individuals to reflect that concern.

MAYOR JOHN WILLIAMS, KENAI, commented that it is the State's responsibility to incarcerate and protect criminals and to address and administer the laws. Philosophically, Mayor Williams noted that he opposes the issue of private run jails. He stated that HB 498 has the same problems that it had when Kenai was being considered. It would be difficult to oversee the concerns in such an isolated area and that much of the money would leave the State of Alaska. The location of Whittier has a lot to be desired.

Mayor Williams addressed the issue of multiple prisons throughout the State. He noted that many people in Alaska support Senator Lyda Green's bill, which would take care of many of the problems and questions through smaller prisons.

He spoke to the existing infrastructure. If you can add on to the existing infrastructure, then that which is available could be taken advantage of, and that action which would save a considerable amount of money. Mayor Williams added that the personnel problems would then be handled more efficiently. He noted that he did support a smaller, State run facility and recommended that the issue be put to rest. The State of Alaska has been involved in this problem for so long. He added that during one of his previous testimonies, the question was asked if the communities were against prisons. He explained that the communities are not against State run prisons but they oppose privately run prisons.

Co-Chair Mulder asked if Mayor Williams was aware that under the approach of the Administration, the increased cost to the State would be over \$30 million dollars per year. He warned that was the amount of revenue sharing and municipal assistance. He asked if their community would be willing to give that up for the sake of having a regional plan. He indicated that these are "real considerations" that need to be made by the Legislature.

Mayor Williams advised that he would not be willing to give up municipal assistance and revenue sharing but would be willing to pay an income tax and cap the dividend from the permanent fund. He stated that in regards to the \$30 millions dollars, the State currently spends \$20 million dollars in Arizona per year. An additional benefit to the State would be that an extra \$10 million dollars would be spent within the communities that need that kind of economic

development. Mayor Williams stated that there are answers to all sides of each question.

Representative Davies voiced concern with the number being "thrown around". He noted that it is not an "apples to apples" comparison. The Administration's number is attempting to solve some other problems as well. He reiterated the need for the spreadsheet.

STEVE SWEET, FAIRBANKS, voiced his opposition to the legislation and building a private super prison. He commented on the wear and tear to the road system in building such a facility. He noted that he was a heavy equipment operator and had worked on the Haul Road and seen the damage done from heavy loads. The volume and equipment involved in building a super prison would be huge. After the prison was built, the State would have to up grade the road to a four-lane road to accommodate all the people that would work in the prison. He pointed out that it costs \$1 million dollars per mile to upgrade a road.

Mr. Sweet added that there is currently no place to live in Whittier, so the roads would be greatly impacted. The threat of avalanches is present all of the time and many people have been killed in that stretch of road already. Citizens have already voted 3-1 against the private prison in three cities so far.

Mr. Sweet stated that he did not want to support a multimillion-dollar company that would lower the standard of living in Alaska by saving money using cheap labor. He claimed that cheap labor would be the only way that Cornell could make money. It makes economic sense to expand existing facilities throughout the State.

Mr. Sweet disagreed with comments made by Co-Chair Mulder that the people of the State do not care where the prisoners are located. He agreed with Representative J. Davies that it is healthier for those inmates to be located close to their communities and family support when in prison.

JOHN DUFFY, BOROUGH MANAGER, MAT-SU, voiced opposition to HB 498. He added his support for Senator Green's bill, SB 231. He noted that he was concerned that HB 498 would redirect revenue and attention away from public owned and operated commercial facilities throughout the State.

Mr. Duffy added his concern that there are not true regulations concerning the operations, security and management of private prisons in the State. Those regulations should be put in place first. If a private prison is to be considered, then an open and competitive process should be used to select the operator.

Mr. Duffy noted that there must be a request for qualifications by the city of referral. That needs to be one of the on-going steps of the procurement process. It is important to determine what type of qualifications needs to be in place. It is important that qualification requirements be in place that considers audits, prior experience and management approval.

Mr. Duffy noted that he preferred the regional approach where the economic impact is shared throughout the State of Alaska. There are a number of communities that have voiced their support for the regional concept, the preferred alternative.

JIM LECRONE, PUBLIC SAFETY EMPLOYEE ASSOCIATION, ANCHORAGE, voiced support for SB 231 and opposition to HB 498. He acknowledged that no one could argue against Whittier's economic need. There is no logical tie between that need and the State's need so far as the correctional institutions are required. Every single time that the voters in the State have been given a choice, they resoundingly vote against private prisons. Privatizing an important public safety function makes no sense.

Mr. LeCrone reminded members that in 1977, the Legislature enacted a statute creating the Police Standards Council. In 1988, the Department of Corrections was placed under that statute and they rule on standards for selection, training and certification of correctional officers. He cautioned the Committee to hold Cornell to that standard and not to a lesser one.

He added that the fiscal notes to the bill suggest that the contract would spend nearly \$1 billion dollars over 25 years and would be the largest single contract in the State's history. He warned that the Legislature should move cautiously when entering into a contract with a corporation that is involved in no less than five lawsuits with their stockholders.

Co-Chair Mulder asked about Mr. LeCrone's statement that the voters had rejected overwhelming private prisons three times. He asked which city rejected it besides Delta and Kenai.

Mr. LeCrone noted that Wrangell had a vote, in which 70% voted against the private prison.

DON VALESKO, PUBLIC EMPLOYEES #71, ANCHORAGE, noted that he has sat on the privatization commission that the Legislature authorized a few years back. On the Commission, it was revealed that over the past ten years, the State has turned over quite a few of its functions to the private sector and during that time, the State has seen the largest increase

expense in the rate of government doing business in Alaska. The term that privatizing something is going to save the State dollars is a fallacy. He noted that he had serious concerns that privatizing a government function is morally wrong. To privatize housing, care and rehabilitation of prisoners does not make sense. He questioned where privatization saves money.

Mr. Valesko reiterated that privatization would save money on the backs of the working people. He thought it was wrong for the Legislature to say that they want to lower the standard of living for the people of Alaska.

Mr. Valesko indicated that SB 231 would expand prisons. That bill would bring prisoners back to Alaska from Arizona and put them in communities where they have a support community. It would allow for construction at reduced costs and personnel costs would be less.

Mr. Valesko addressed the number of avalanches that happen each year going into Whittier. Most of the employees for Cornell would live in Anchorage. He asked if the Committee could imagine a prison where the roads would be closed because of an avalanche and the existing staff on board in Whittier would have work day and night during that time. He asked who would run the prison. There would not be enough rested staff to do the work. He asked if the Legislature was willing to commit the dollars to fix up the road between Anchorage and Whittier.

Mr. Valesko reiterated his support for Senator Green's prison bill and concluded that community support is non-existent for any private prison.

DEE HUBBARD, ANCHORAGE, voiced strong opposition to HB 498. She warned that currently, there are no existing statutes or regulations that govern private prisons. There use to be but in 1986, the corrections title was rewritten and all the references to private prisons were deleted. Since there are no laws, the State would have to go on whatever the private agreement was.

Ms. Hubbard spoke to the contract that Cornell had presented to the State. The State would be paying for all of the beds, whether they are filled or not. That is called "take or pay basis". The take or pay rate must be acceptable to Cornell and advance payment is required. A bond trustee would be appointed because the City of Whittier would have no responsibility for the bond. The bond will reflect that it would be paid by the bond amount. Under warranties of the City of Whittier, the facility would be established as an adult, medium correctional facility to house inmates from in Alaska, the federal government and other governmental entities that may wish to house inmates in the facility.

She stated that means that Cornell could "go shopping" for inmates wherever they want because the State has no laws which indicate that we will not accept out of state prisoners. The City of Whittier would cooperate with Cornell to accommodate any other sources of inmates, which Cornell may identify. That could allow for an additional expansion of the facility. The State would not be involved if the facility were to be expanded or not, it would be up to Cornell. Cornell and Whittier would cooperate with each other to seek reimbursement of their planning and promoting expense. She suggested that the "promoting" expenses would be their lobbying costs. In other words, Cornell and Whittier are going to be reimbursed for every expense since the time that they began talking about the plan in October 2001.

Ms. Hubbard stated that if the Cornell agreement is terminated for cause, the State still has to make payment. There are only two-sub sections in the entire agreement where it states that if there is a conflict between the agreement and the IGA, the terms of the IGA shall control.

Ms. Hubbard pointed out that the former CEO of Cornell, Mr. Logan, had a conference in October and was asked about the impact of September 11th. He stated that since September 11th, there is a heightened focus on detention. He commented that it would cause more people to get caught and claimed that was positive for the industry. He added that in the United States, there are over nine hundred thousand undocumented individuals of Middle Eastern descent and that population is being targeted. He noted that the federal business is the best business for Cornell and the events of September 11th are increasing the level of business. Ms. Hubbard thought that statement indicates the moral problem that many residents in Alaska have with Cornell.

Ms. Hubbard questioned if enough fiscal notes had been submitted for the legislation. She emphasized that she did not support the "marriage" of a public and private prison bill. Ms. Hubbard asked if the \$90 million dollars that was deleted from the operating budget was intended to cover the costs associated with the proposed bill.

FRANK SMITH, KANSAS, commented that there were few true comments made by Mayor Butler of Whittier. He added that he was "out raged" by comments made by Mr. Prewitt. There were few factual statements in Mayor Butler's testimony. Mr. Smith thought Whittier was a terrible place to put a prison.

Mr. Smith stated that he had visited both private and State owned prisons throughout the country. He noted the need for prisoners to be near their families. Mr. Smith indicated that he had done research regarding prisoners being near

their community. The recidivism rate by the prisoners not located by their families and communities is much higher.

Mr. Smith addressed how all of the Cornell prisons have been run and the legal trouble that those prisons are experiencing throughout the country. He warned that Cornell has a bad history and reputation.

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MARVIN WIEBE, CORNELL CORPORATION, VENTURA, CALIFORNIA, offered to answer questions of the Committee. He noted that he does not believe that the Governor intends to close five private prisons in the State. He claimed the information is not yet released.

Co-Chair Mulder asked if there were any particular points raised that Mr. Wiebe wanted to respond to.

Mr. Wiebe commented on the ethics of corporations in general. He acknowledged that there is a sense that there is no basis for the private operation of a prison. Mr. Wiebe noted that he had been working for 28 years in the private correctional center business. He pointed out that the federal government is embracing the private correctional plans. The primary source of national strength is private operators.

Mr. Wiebe added that specifically, he was addressing one recent study in the Arizona operations. It was noted that after three or four years of operation, over \$5 million dollars had been saved, indicating a 12% savings. He added that those prisons were run as well as any prison throughout the State. He added that nationwide, there is a \$50 billion dollars shortfall in state budgets over the next year. The state governments do not have a lot of options on how to deal with that shortfall. He suggested that the cost of labor should be considered. He acknowledged that there is a difference in labor costs for a private and public facility. Mr. Weibe acknowledged that Cornell had been criticized by paying lower wages to employees. He claimed that the wages are not consistent in the market place and that those are the issues which need to be addressed.

DAVID KATZEK, JUNEAU ALASKA NATIVE BROTHERHOOD (ANB), CAMP 2, JUNEAU, noted that his family settled in this land. He pointed out that the majority of the prisoners in the State of Alaska are Native Alaskans. The fundamental thing that Alaskan Natives have is the way in which they address one another. Mr. Katzeek commented that the testimony presented has provided many numbers, however, he asked how many leaders have heard the cry of a person incarcerated. He

asked how does one know the frustration, rage, anger, and resentment that come on the land those people settled long before any other people. The issue is not to place any burden on anyone. It takes leadership to do what the majority might say you should not do.

Mr. Katzeek noted that back in the late 1800's, people called Alaska, Seward's folly. Evidence is built all the time on why something should not be done. There is an opportunity for the leaders of Alaska to face the issue. The need is that the Alaska Natives, the citizens of the State who are being incarcerated, have a right under the Constitution to be rehabilitated. He claimed that issue is not adequately being addressed. The recidivism rate is high, and that 96% of the people that end up going back into jail have problems with alcohol and drug abuse. He acknowledged that the public also needs to be saved. He claimed that safety does not rest in building bigger prisons but in rehabilitating the inmates with treatment efforts. Mr. Katzeek agreed that an additional need was one of respecting finances. He concluded that what needs to be should be handled through Legislative leadership.

Mr. Katzeek urged that the cry of the Native people be heard. He believed that this is the opportunity and voiced his appreciation for the proposed legislation.

Co-Chair Mulder acknowledged the need for appropriate programs for the Natives. He noted that he and Representative Kapsner had visited the facility in Arizona and that the programs there were good. Co-Chair Mulder believed that those programs as well and more variety could be addressed in Alaska. He encouraged Mr. Katzeek to work with Cornell to develop a strong foundation for that type program.

HB 498 was HELD in Committee for further consideration.
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ADJOURNMENT

The meeting was adjourned at 3:41 P.M.