

**ALASKA STATE LEGISLATURE  
HOUSE STATE AFFAIRS STANDING COMMITTEE**

March 5, 2002

8:10 a.m.

**MEMBERS PRESENT**

Representative John Coghill, Chair  
Representative Jeannette James  
Representative Hugh Fate  
Representative Gary Stevens  
Representative Harry Crawford  
Representative Joe Hayes

**MEMBERS ABSENT**

Representative Peggy Wilson

**COMMITTEE CALENDAR**

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."

- HEARD AND HELD

**PREVIOUS ACTION**

BILL: HB 498

SHORT TITLE:WHITTIER PRIVATE PRISON

SPONSOR(S): FINANCE

Jrn-Date	Jrn-Page		Action
02/20/02	2342	(H)	READ THE FIRST TIME - REFERRALS
02/20/02	2342	(H)	STA, FIN
02/28/02		(H)	STA AT 8:00 AM CAPITOL 102
02/28/02		(H)	Heard & Held
02/28/02		(H)	MINUTE(STA)
03/05/02		(H)	STA AT 8:00 AM CAPITOL 102

**WITNESS REGISTER**

HOUSE STA COMMITTEE

-1-

March 5, 2002

FRANK PREWITT, Consultant  
Cornell Companies  
8500 Upper Huffman Road  
Anchorage, Alaska 99516

POSITION STATEMENT: Provided comments and responded to questions during discussion of HB 498.

MARVIN WIEBE, Senior Vice President  
Cornell Companies  
1700 West Loop South, Suite 1500  
Houston, Texas 77027

POSITION STATEMENT: Provided comments and responded to questions during discussion of HB 498.

VICTOR WELLINGTON, Sr., Mayor  
Metlakatla Indian Community  
P.O. Box 8  
Metlakatla, Alaska 99926

POSITION STATEMENT: During the hearing on HB 498, testified that Metlakatla is also interested in having a prison.

ELSIE HENDRIX, Vice President  
Kenai Native Association  
215 Fidalgo Avenue  
Kenai, Alaska 99611

POSITION STATEMENT: During the hearing on HB 498, testified in support of having a prison in Whittier.

JAMES PRICE  
P.O. Box 7043  
Kenai, Alaska 99611

POSITION STATEMENT: During the hearing on HB 498, testified in opposition to having any publicly funded private prison anywhere in Alaska.

VALERIE McCANDLESS  
P.O. Box 2238  
Wrangell, Alaska 99929

POSITION STATEMENT: During the hearing on HB 498, testified that she preferred not to have private prisons in Alaska.

SHARI MIETHE  
P.O. Box 963  
Wrangell, Alaska 99929

POSITION STATEMENT: During the hearing on HB 498, testified against legislation that will incur long-range expense and export millions of dollars out of state.

KEVIN WYATT

(No address provided)

Homer, Alaska 99603

POSITION STATEMENT: Suggested changes to the language of HB 498.

MICHAEL YOURKOWSKI, City Council Member

City of Homer

491 East Pioneer Avenue

Homer, Alaska 99603

POSITION STATEMENT: During the hearing on HB 498, mentioned alternative bills and recommend that a competent analysis be done.

GEORGE AVILA

P.O. Box 872379

Wasilla, Alaska 99687

POSITION STATEMENT: Testified on HB 498, mentioning alternative bills and accessibility issues relating to the proposed facility in Whittier.

JIM LECROWE, Retired Corrections Sergeant;

Retired Air Force Pilot and Parachutist

6010 Staedem Drive

Anchorage, Alaska 99504

POSITION STATEMENT: During the hearing on HB 498, testified about his concerns regarding the proposed prison's readiness for tsunamis and avalanches.

LEONARD JONES, Director

Public Facilities

City of Whittier

P.O. Box 608

Whittier, Alaska 99693

POSITION STATEMENT: Provided comments and responded to previous testimony during discussion of HB 498.

DAVID KATZEEK

Juneau Alaska Native Brotherhood (ANB) Camp 2

6590 Glacier Highway, Number 129

Juneau, Alaska 99801

POSITION STATEMENT: During the hearing on HB 498, testified in support of the opportunities in private prisons to restore and rehabilitate people who are incarcerated.

DON ETHERIDGE, Lobbyist  
for AFL-CIO  
710 West Ninth Street  
Juneau, Alaska 99801

POSITION STATEMENT: During the hearing on HB 498, testified on behalf of the public employees sector of the AFL-CIO in support of expanding existing facilities.

CHARLES CAMPBELL  
3020 Douglas Highway  
Juneau, Alaska 99801

POSITION STATEMENT: During the hearing on HB 498, testified that the proposal in HB 498 is not a tenable one.

#### **ACTION NARRATIVE**

TAPE 02-22, SIDE A  
Number 0001

CHAIR JOHN COGHILL called the House State Affairs Standing Committee meeting to order at 8:10 a.m. Representatives James, Fate, Stevens, Crawford, and Coghill were present at the call to order. Representative Hayes arrived as the meeting was in progress. [For the overview on actuarials and the Division of Retirement and Benefits, see the 9:25 a.m. minutes for this date.]

#### HB 498-WHITTIER PRIVATE PRISON

[Contains mention of HB 388, SB 231, SB 261, and SB 336]

Number 0075

CHAIR COGHILL announced that the committee would hear 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."

Number 0158

FRANK PREWITT, Consultant, Cornell Companies, came forward to testify. A former [commissioner] with the Department of Corrections under Governors Sheffield, Cowper, and Hickel, Mr. Prewitt noted that Marvin Wiebe, the senior vice president of Cornell Companies, was available online to answer questions regarding Cornell Companies - the contractor in the Whittier prison - and about the "quality of the delivery of private correctional services."

MR. PREWITT noted that he himself would address several questions asked at the prior hearing on HB 498 [February 28, 2002]. The first was a question by Representative Hayes concerning procurement. Mr. Prewitt noted that under state law there are two ways the Department of Corrections can acquire private correctional services in Alaska: the department could issue an RFP [request for proposals] under the state procurement code and, through a competitive bid process, secure private prison services in Alaska; in the alternative, the department could, without a competitive process, purchase those private services directly from another entity of government such as a city entity, a borough, or the federal government, if that government entity has put forward a competitive procurement process under its own procurement code. Under [HB 498], he noted, private prison services would be delivered through a competitive process that is used at the local government level.

Number 0336

MR. PREWITT explained that a disadvantage to the state's putting out an RFP to purchase those services directly is with regard to the state's power of eminent domain. He clarified as follows:

The state can build a prison wherever it wants, whenever it wants, and solicit a private company to manage it. The state can also solicit private companies to find [real estate] to build a prison ... and then buy the service from the provider. The Arizona prison is owned and operated by the Corrections Corporation of America. And while it's prudent to involve the local community, it's not required. ... All it takes is suitable zoning or [an] unrestricted parcel of land.

So, the public process that Whittier has gone through is easily circumvented under the scenario of the state

going directly out to a competitive bid for a prison. All the contractor has to do is find an unrestricted parcel of land or zoning and - bang! - you've got a prison.

Number 0456

MR. PREWITT noted that as Margot Knuth had testified at the previous hearing, the disadvantage to the process used in Delta, Kenai, and Whittier is that the state does not control where the prison is built, who builds it, or who operates it. Under the Kenai legislation and the legislation before the committee, he said, the state doesn't have to contract for the service unless the prison meets the Department of Corrections' standards and conditions well before construction. He continued:

Through the intergovernmental agreement that's effected between the state and between the city, one would think that those ... conditions that the department has - in terms of the quality of construction and the types of services that are delivered - would be made, or the state simply wouldn't go out and buy the service.

Under this process, which I think is ... a bit more advantageous process, the clear advantage is that the local community has a choice in the matter. Most communities don't have a choice in the matter of where a prison is located. Kenai opted not to have one. Whittier has opted to have one if that's the wish of the legislature to provide the Department of Corrections that option.

MR. PREWITT said he has been coming to Juneau for several years, representing one of what he believes are two "legitimate approaches to the delivery of correctional services in this state." One is cost-intensive, whereas the other is cost-effective; both satisfy correctional practices and can meet the highest standards of the industry.

Number 0625

MR. PREWITT noted that in the prior week, the administration had [proposed] a plan that he believes represents the cost-intensive approach to managing Alaska's prisons and jails. He referred to a handout, which he highlighted page by page:

As you can see by the first page of the handout, the administration proposes to spread 1,269 beds throughout the state, at a total capital cost of \$239 million. ... The other ... interesting information on this summary is that there's a quote out of that plan that says the state now has an overabundance of medium-custody inmates; I'll be addressing that later.

And on the next handout [page 2], you can see that the Whittier prison will add the same number of beds in one centralized facility for a total capital cost of \$110 million - \$239 million [versus] \$110 million. Both the state and the Whittier beds are designed to meet national and state standards.

So what accounts for the difference? The difference can be summed up in one sentence of the departments in that volume, under the Yukon-Kuskokwim Correctional Center [YKCC]. In the plan that the state passed out, under the YKCC ... , it says that "the additional 96 beds at Bethel will allow the Yukon-Kuskokwim Correctional Center to function as it was originally intended, to serve the needs of the region's sentenced defenders."

The administration's plan provides prison and jail services under one roof, and it intentionally avoids economy of scale by duplicating programs and services throughout the state. It's an acceptable practice. It's an expensive practice.

Jails are meant to hold prisoners, from arrest until sentencing - until sentencing. The mission of a jail is "safe and secure confinement" - no frills, no programs, just confinement. That's what a jail does. After sentencing, prisoners in other states are transferred to central prisons to meet their security and their program needs. And that can be for many years.

Toward the end of that sentence, the offenders hopefully will be returning closer to their communities, to ... pre-lease centers in the last year or two of confinement, to prepare them for reintegration back into society. It's not the job of a jail. The job of a prison is long-term confinement for sentenced offenders. So, in an ivory-towered

world where money is no objective, there's nothing wrong with the administration's plan. ... It simply swims against what I believe is conventional and affordable correctional practice.

Number 0803

MR. PREWITT offered that effective prison programs require access to mental health, adult educational opportunities, vocational training, and substance abuse resources; the latter are limited in most Alaskan communities. Duplicating these programs in regional facilities throughout the state is not only inefficient and cost-prohibitive, he said, but frequently cannot be done at all because quality control and program continuity are difficult to maintain in communities without those types of resources. That, he explained, is why a larger facility makes sense.

MR. PREWITT told the committee it is more efficient and effective to have long-term sentenced prisoners in larger centralized prisons, near communities with liberal resources. He noted that a 1,200-bed centralized prison in Alaska [would be] modest by national correctional standards; many prisons outside of Alaska are two to three times that size. He pointed out that Spring Creek [Correctional Facility], which is small by those standards, has over 500 prisoners now - [less than] half the size.

Number 0910

MR. PREWITT noted that over the past seven years there has been an impasse created by this "philosophical, but very practical, very pragmatic difference of opinion by qualified corrections providers," which has resulted in the worst prison overcrowding in the state's history. He drew attention to the third sheet of the handout, titled, "Instate Inmate Count - Alaska Department of Corrections - February 2002," which he said is a prison count. Every day of the year, he explained, the Department of Corrections, under "the Cleary order," is required to keep a prison population count. He noted that the state has an emergency capacity and a maximum capacity. He said, "The red is every day that one of these facilities - there's 15 state-operated correctional facilities - has been over emergency capacity." He added that when prisons are over capacity, inmates and staff get hurt, for example.

MR. PREWITT noted that the distinction [as shown in the chart] between maximum capacity and emergency capacity "isn't very much." The numbers show that the system is "maxed-out" and overflowing, he said. The state is nearly 200 beds over emergency capacity, not counting the 750 prisoners in Arizona. He stated, "The question isn't whether the beds are needed. The question is what kind of beds, and where."

Number 1060

MR. PREWITT noted that the department's plan shows that the state currently has an overabundance of "medium-custody" inmates, and it calls for adding 217 medium-security beds to Palmer and 256 to Kenai. He said, "When the 750 prisoners are factored into that demand, the state needs 1,223 medium-security beds and 'high-medium' beds in order to return those prisoners from Arizona." This is the population targeted by the Whittier facility and is classified by the department as "its greatest need," he said. Mr. Prewitt told the committee he believes the department does need more beds at other facilities, in other regions around the state; however, "until jails are used as jails and prisons are used as prisons, it's very difficult to assess what regional need is."

Number 1103

MR. PREWITT pointed out that the one thing that can be determined is cost. He said, "Under the plan that you were given last week, the state will deliver 473 medium-security beds in Palmer and Kenai ... at a total capital cost of \$94.5 million." For roughly the same money, he noted, the Whittier plan would deliver 1,200 beds - over twice as many. He continued, "The real difference is in comparing the combined capital and operating daily costs per bed at a state medium-security facility versus a private medium-security facility."

MR. PREWITT pointed to the handout titled "Difference Between State and Whittier Daily Costs Per Bed." He noted that the beds proposed in Palmer and Kenai, when combined, have an average daily operating cost of \$98 per day, a figure that is the institutional average, combined with "other line items that are centralized in the department's accounting system - inmate programs, [administration] and support, statewide and direct." He said if the \$94 million is amortized over the 25 years proposed under the Whittier legislation, there would be a capital cost per bed of \$36. The 473 state-proposed beds will cost the state \$134 a day, per bed, whereas the Whittier prison

is capped by the legislature at an \$89- to-\$91-dollar rate, which is the combined operating and capital rate. He continued as follows:

So a medium-security bed in Southcentral Alaska, at Whittier - which is no further away than Wasilla, from a commuting standpoint, with a tunnel that gives access, in the same region as Palmer and Kenai - costs us roughly \$90 a day per bed, combined capital and operating, versus \$134. Over 25 years, the savings is astronomical.

MR. PREWITT noted that Mr. Smith, who had testified at the previous hearing, called the Whittier plan a "welfare plan." He told the committee that Mr. Smith lives in Kansas, serves on the executive board of the retiree chapter of the Alaska State Employees' Association, has vigorously opposed privatization for the last five years, and is entitled to his opinion. Mr. Prewitt offered his own belief that the Whittier prison plan "is no welfare plan for Whittier." He said the benefits would be extreme for the entire state, and he noted that the handouts show just some of the benefits to the state.

Number 1307

MR. PREWITT offered that the Whittier plan would return \$18 million a year to Alaska's economy. He said, "If you take the multiplier effect of that \$18 million, it benefits all of Alaska." He listed some other benefits related to this proposed project: 325 union jobs, 228 indirect construction-related jobs that provide services, and 225-275 permanent prison jobs. Mr. Prewitt referred to criticism about the [pay] rates [heard at the previous hearing]. He suggested that Mr. Wiebe could talk about the budget that has been prepared by Cornell Companies. He said, "These are sound, private-sector wages. These are not halfway-house, \$8-an-hour jobs." He also said there would be 200 permanent, indirect jobs. He mentioned purchases of goods, materials, and services over 25 years from around the state. He suggested it would be 35 percent less costly to build this prison than to have "state-operated beds." It would mitigate the state's liability for prison overcrowding, he added.

MR. PREWITT told the committee that the department was released from Cleary oversight - from court oversight - about a year ago. Before that time, he noted, there were sanctions accruing at roughly \$2 million a year. He continued as follows:

I don't know what the prisoners' attorneys are doing about the situation that I just showed you. But you can tell that if this is worse than the conditions of while we were under Cleary oversight, somebody's got to be looking at this. And I think the state is very, very close to being ... sued once again, under prisoners' rights action, for overcrowded conditions of confinement, not to say the liability of a staff or an offender being hurt under these conditions.

... The Whittier plan returns Alaska prisoners closer to rehabilitation sources and to their families. No, it doesn't put them back next to their families if they live in Bethel and Nome. It's not intended to. Offenders with long sentences go back to their home communities for pre-release planning, to halfway houses, to pre-release centers, where for a year or two they're involved in community activities so that they can transition. You don't open the door of a prison and let a person just go back to the community with \$200 in their pocket. It doesn't work. They re-offend.

Number 1446

MR. PREWITT said this is the only plan with a focus on Alaska Natives and that talks about offering programs "for Natives, by Natives." He noted that there is a teaming agreement with the Alaska Native Brotherhood (ANB) and said "we've" been talking with other corporate entities. He stated: "There's a sincere commitment on the part of the City of Whittier and on the part of Cornell Companies - who operate these kind of programs Outside - to team with the Alaska Native communities to break this horrible cycle of recidivism."

MR. PREWITT noted that 37 percent of "our" prison population are Alaska Native men, although 7 percent of [Alaska's] general population consists of Alaska Native men; he called [those statistics] a "travesty." He added, "And I don't see anything going on that's going to try to address that problem. And whether it's successful or not, that's another story." Mr. Prewitt also offered his belief that only 6 or 7 percent of the Department of Corrections' correctional staff are Alaska Natives. He asked the committee [to consider what these statistics mean].

Number 1540

MR. PREWITT said this project would add value to a \$90-million tunnel that, when opened, "did the opposite of what the City of Whittier expected it to do." He referred to previous testimony by Mr. Butler, Mayor of Whittier, regarding the skyrocketing of sales taxes during the first year of the tunnel's operation and the nonuse of the tunnel the following year when a toll was charged. He said the community [of Whittier] desperately needs an "anchor tenant" to stimulate its economy. He added, "They don't have any other options, if you've ever been there." He said [Whittier] is within close proximity to Anchorage; therefore, the real beneficiary in terms of employee hire and the purchase of goods and services, for example, would probably be Anchorage and "communities in between." He reiterated that this project would add value to the \$90-million tunnel. He suggested it would perhaps justify more liberal access to Prince William Sound.

Number 1600

CHAIR COGHILL said [Mr. Prewitt's testimony] gave a balance to some of the testimony previously heard from the Department of Corrections.

Number 1616

REPRESENTATIVE CRAWFORD asked how, if the [prison] is going to be built [with union labor], the large amount of projected savings to the state is achievable while still getting a return on investment. He also inquired about the [projected rate of] return on investment.

MR. PREWITT deferred to Mr. Wiebe.

Number 1700

MARVIN WIEBE, Senior Vice President, Cornell Companies, testifying via teleconference, said he was not certain whether Representative Crawford's question referred to the construction phase and cost of the facility only, or whether it also addressed issues of operation. Specific to the construction issue and the use of union labor, he answered that private operators look at making the prison as efficient as possible, because every square foot costs money.

MR. WIEBE noted that he had seen some projections from the State of Alaska with estimates as high as 435 square feet per

prisoner, for example. He remarked, "In our world, which is the world of the American Correctional Association [ACC] and the standards that are set by the [ACC] at the national level, those kinds of footages are higher than we need to operate our prisons." He said it is not atypical for [ACC] to operate medium-security beds in a facility that has footages of 220-250 square feet. He mentioned one of [ACC's] facilities that has 175 square feet per inmate that, while tight, has operated efficiently for many years. He added that it was not a facility that "we" designed and built.

MR. WIEBE said there are economies of scale associated with constructing one large facility at one site, as opposed to constructing several facilities to achieve 1,200 beds across the state. He also said there are a variety of other factors regarding [cost efficiency] in construction techniques.

Number 1830

MR. PREWITT replied, "The short answer, on the operating side, is there is no intention to pay starting correctional officers the wage and benefits of starting correctional officers for the State of Alaska, so there are cost savings there." He added that it doesn't mean substandard wages would be paid. He asked Mr. Wiebe what the starting hourly [wage] is for a corrections officer with academy training but no experience in the field.

Number 1865

MR. WIEBE responded that there are a variety of wages for those who have already met the training requirement. Those requirements are equivalent to those for the State of Alaska and are higher than the national averages and certainly higher than the minimums required by the ACC. With respect to wages, he noted that the pay range, depending upon experience, would be \$13.50 to \$16.34 an hour, with an average estimated starting pay of a little over \$14.00 per hour.

Number 1930

REPRESENTATIVE CRAWFORD mentioned health and retirement benefits [for Cornell Companies].

Number 1940

MR. WIEBE explained that the benefit package is "pretty much" standardized, with slight variations from state to state. On

balance, he said, [Cornell Companies'] benefits match those of the private-sector industries around the country such as IBM. He noted that [Cornell Companies] provides a very good health package for its employees and their families; the portion paid for by the employee is a relatively small amount per month, and the portion the employee pays toward family coverage is "very low," he said. He indicated that a large amount, close to \$500 per month, is paid by the company. The reason for that, he explained, is that the company wants families of employees to be insured with "those kinds of benefits."

MR. WIEBE said the company has a different holiday and vacation package that it "just rolled out." The number of days off per year varies with the employee's experience; typically, however, the employee receives a minimum of two weeks' vacation for the first year, as well as 10 or 11 paid holidays, depending on the jurisdiction. Mr. Wiebe also said the company provides a sick-day policy and sick leave, covers pay during unlimited jury duty, and has a good package for those with commitments to the National Guard.

MR. WIEBE noted that typically in the private sector, 401(k) plans are currently being utilized; employees can enroll in those plans within one year of employment, which allows them to defer part of their [monetary] compensation. In addition, he said, there is a company match equivalent to 50 percent of the first 6 percent of contribution on an employee's wages. Furthermore, the company issues stock options periodically, based on performance for employees, and other incentive programs.

MR. PRUITT offered his understanding that the value of the package is 28 percent, on top of the wage.

MR. WIEBE concurred.

Number 2082

REPRESENTATIVE CRAWFORD reiterated his question regarding the expected return on the investment. He also mentioned a story that Cornell [Companies] had had trouble with its accounting practices, similar to those experienced by Enron. He asked where [the State of Alaska] would be left in this process, if at some point in the future Cornell Companies went out of business.

MR. WIEBE replied as follows:

Let me make a couple of comments about the issue of the accounting discussion. I'm probably, as an officer of the company, not at liberty to say a lot, because there's clearly some additional auditing that's going on, and that was asked for by our board of directors just to make sure that we are on ... sound ground.

But, clearly, these were audit decisions that were made in concert with our auditors at the time and with reviews by the SEC [Securities and Exchange Commission]. We've gone into a climate in our country - and probably a very healthy climate - where we're looking at - not just with Cornell and not just with Enron, but really many, many companies - ... a variety of accounting transactions, many of which were probably aggressive - and I'm not characterizing ours in that way, at all. But they were a function of the time and this belief that that was [an] acceptable practice.

I think, generally, the standards in accounting are going to become more rigid, and we're certainly going to see ... transactions accounted for differently in the future.

We're confident that we're on sound ground with respect to the accounting transaction that's being reviewed right now, and so we're comfortable with the outcome. But, nonetheless, Cornell is a strong company. Even if we restated earnings at some level, currently we're sitting on, I think, about \$80 million in cash that we are planning to use in investments, such as this facility in its operation, and to have reserves sufficient to take care of our business.

Number 2190

We're a strong company with a long history. Many of the elements of our company go back as far as 1973 and ... shortly thereafter. This is a company with programs that have operated well for many, many, many years, and we expect that continuity to continue.

With respect to the potential or the possibility that there could be a collapse of any company, for that matter, as a private operator, there are provisions in

the contracting agreement with the City of Whittier and Cornell ... which will be, I'm sure, dealt with and addressed in the ... agreement between the Department of Corrections in Alaska and the City of Whittier. With respect to bringing in replacement operators or, in emergencies, perhaps even having the state take over the facility, if that were the choosing or decision of the state to do that.

But, clearly, there are many competitive operators out there who are able to step up and operate these facilities, and so there's a way for these contracts to be (indisc.) and others to step in and operate if a private operator is preferred to come in and operate the facility, in the case of a collapse. That seems unlikely, given the assets of the company and the strength and history of the company, but that would be my response on that specific issue.

Number 2265

MR. WIEBE responded to Representative Crawford's question regarding the return on investment (ROI) by saying he didn't know that. He said he had worked for years on bids, but no longer does; he added, "Our ROIs were estimated to be about 3 percent." He said he is not currently looking at those numbers on the project, partly because the company is still working on the numbers. He explained that this process is atypical, although not unusual, in that it begins with a cap - for instance, the company's \$89-\$91 cap - and works backward into the company's numbers in order to determine feasibility. He said a variety of issues are still being addressed; however, the company would not be moving ahead on this project if it didn't think it was feasible.

MR. WIEBE said it is difficult to estimate what the margins will be. Referring to mention that quality staff may not be attracted by wages lower than those paid by the state, he said, "Our experience has not been that." If, hypothetically, that were the case, he said, [Cornell Companies] would expect to pay whatever wages were needed to ensure that the facility was run properly. "That would be within the \$89-\$91 cap," he added. He reiterated that it is difficult to predict what the company's return will be.

Number 2383

VICTOR WELLINGTON, Sr., Mayor, Metlakatla Indian Community, testifying via teleconference, pointed out that Metlakatla also is interested in having a prison and is working very hard on putting a package together to bring to the state. He added, "And the funding would be on our side."

Number 2450

ELSIE HENDRIX, Vice President, Kenai Native Association, testified via teleconference on behalf of the Whittier private prison. She said her prime interest is in bringing Alaska's Native people back to their state. She opined that Whittier would be a good location; because it is close to Anchorage, it would cut down on transportation costs. [The prisoners] would also be closer to their families, and she suggested it would be a benefit in their treatment programs.

Number 2500

JAMES PRICE, testifying via teleconference as a private citizen, told the committee he was formerly the chairman of Peninsula Citizens Against Private Prisons, the organization that fought to bring the prison issue in Kenai up for a vote of the people. He noted that every time a community [in Alaska] has voted on having a private prison, it has been soundly defeated, by about 3-1. Most of the time, he said, when people have really taken a look at a privately operated public facility, they have "chosen not to desire this type of an arrangement."

MR. PRICE said he really feels that having a private operator doing a job traditionally done by the state is a mistake. He offered his belief that "a lot of history" shows that this type of arrangement is not beneficial to the people of Alaska. He encouraged the committee to look at what has happened in other communities and what the public sentiment is towards this type of an arrangement. Mr. Price clarified that he strongly opposes any publicly funded private prison, anywhere in Alaska.

Number 2596

VALERIE McCANDLESS, testifying via teleconference as a private citizen from Wrangell, told members she would prefer that there not be private prisons within the state. She said she believes this is an arrangement that will cost the state more in its resources and, ultimately, its tax dollars. She noted that [Wrangell's] Representative Peggy Wilson has had public meetings to discuss the shortfalls of the state budget and possible

solutions such as "dipping into the permanent fund" and establishing a state income tax. The latter, she said, would mean that people throughout the state would be supporting the privately run [Whittier prison].

MS. McCANDLESS noted that the community of Wrangell recently held a special election regarding the prison issue; it was voted down by over 70 percent. She said this was an issue that the city council had almost moved forward on, without a vote of the people. She referred to the testimony of Mr. Prewitt that it is prudent, but not required, to involve the local community. She said she thinks it is instructive that when other communities have studied the issue and had the opportunity to vote, the people have overwhelmingly voted against this. She suggested there should be "an educational opportunity" and a feasibility study before any decision is made.

Number 2689

SHARI MIETHE, testifying via teleconference as a private citizen, told the committee she is opposed to the privatization of prisons in Alaska. She asked permission to read her written testimony, which she estimated to be 2.5 minutes in length.

CHAIR COGHILL asked Ms. Miethe to summarize her testimony and fax the full text to the committee.

MS. MIETHE presented her testimony as follows:

The process generated from a private prison located in Whittier will primarily go to the Houston, Texas-based prison corporation, Cornell, and its stockholders. Taxpayers in the State of Alaska will have to fund it to the tune of a minimum of \$40 million per year, for 25 years, according to HB 498.

Representative Peggy Wilson reported in the Wrangell Sentinel of February 28, 2002, that the State of Alaska has "three pots of money or accounts" that the state draws from to pay its bills: the constitutional budget reserve [CBR], which serves as a shock absorber for the state general fund, and the earnings reserve account [ERA], where the permanent fund [dividend] is located. And she stated that the CBR only has enough funds in it for another two years, and that if we don't close the fiscal gap, the ERA or permanent fund account will be the next pot that's dipped into.

[Representative Wilson] had further stated that Alaskans have only three choices to choose from in resolving our fiscal problem or gap. And one choice would be to cut programs statewide. And I'm quoting: "It seems to me a greater fiscal responsibility would be gained by not initiating projects that will incur a minimum yearly cost of \$40 million."

And it seems that if we're so eager to spend this additional \$40 million a year, I'd like to see us look to the needs of Alaskan communities and keep the revenue in our state - like senior health care, port expansion, fisheries enhancement, job placement services, et cetera, et cetera. The list is endless.

My question is this: How does the state justify legislating another multimillion-dollar project while we're seeking ways to save money, generate revenue, and close the fiscal gap?

MS. MIETHE mentioned SB 336, which she said would allow for the expansion of existing public prison facilities and would make the private prison investment a [moot] point. She said she does not want the legislature to enact further legislation that will incur long-range expense and export millions of dollars out of state, while becoming another case of poor fiscal budgeting that will ultimately cost Alaskan citizens their permanent fund [dividend] revenues, "and much more."

Number 2840

KEVIN WYATT, testifying via teleconference as a private citizen, told the committee that "the private-versus-public debate" was hashed out extensively on the Kenai Peninsula, and "once again, when the people voted, ... I think it was a 3-1 thing." He offered his belief that it is a fundamental responsibility of state government to incarcerate and rehabilitate people who break the law. He spoke against shirking this responsibility by including third-party [contractors] in carrying out the responsibility.

MR. WYATT, in regard to [HB 498], suggested deleting the language "third-party operator[s]". He explained:

I just think it has no place in the ... debate of the good of the public. ... I appreciate the work you guys

do, and I also support both the administration and both House bills coming out that have a very cost-effective plan to just add to existing state facilities.

Number 2916

MIKE YOURKOWSKI, City Council Member, City of Homer, testifying via teleconference, mentioned making certain that all the state's costs are included, among them the transportation of prisoners, medical costs, and court-ordered programs. Having looked briefly at the fiscal note, Mr. Yourkowski said he hopes there will be a more competent analysis. He opined that "we should be throwing our weight behind SB 261 or HB 388," which he believes would do a much better job of keeping prisoners in their communities. He suggested that rehabilitation should come first, and profits should not be a consideration when looking at the welfare of [Alaska's] prisoners.

CHAIR COGHILL responded that the fiscal notes would be scrutinized.

Number 2990

GEORGE AVILA, testifying via teleconference, told the committee that although he was a correctional officer for the Department of Corrections, he was speaking as a private citizen.

TAPE 02-22, SIDE B  
Number 2990

MR. AVILA noted that currently there is a shortage of correctional officers, and he indicated that a 350-bed facility is being opened in Anchorage, which [the department] must endeavor to staff along with its existing facilities. He stated that it would be an incredible stretch for the Department of Corrections to take over a 1,200-bed facility now, or in the future, without pre-planning and hiring [in] stages. Mr. Avila said he doesn't think it is sound resource management to build a facility in Whittier and expect that people from Fairbanks, which is on the road system, would go there [for family visitation].

MR. AVILA mentioned SB 231 and the governor's bill, [SB] 336. He noted that both would allow expansion of facilities around the state, which would allow families "better access to their ... prisoners when they come back."

Number 2932

JIM LECROWE, Retired Corrections Sergeant; Retired Air Force Pilot and Parachutist, testifying via teleconference, told the committee he has spent much of his life planning ahead for emergencies. He expressed concern that if there were a tsunami warning in the Whittier area, for example, either 1,200 inmates would have to be moved or the decision not to move them would have to be made. Moving 1,200 inmates without transport-qualified staff is impossible, he said; the endeavor would require thirty 40-person buses, 1,200 sets of handcuffs, and 1,200 sets of leg irons, for example. He said it isn't feasible.

MR. LECROWE indicated an opportunity in "the other bills" to impact numerous regions and communities, not just one. He referred to the testimony of Mr. Prewitt with regard to generating \$18 million a year for the Alaskan economy. He pointed out that it would be generated regardless of whether [the prison] is built in Whittier or somewhere else.

MR. LECROWE offered that it is a fallacy to consider Alaskan inmates to be closer to home in Whittier than they would be in many other localities. He concluded by saying, "I'm against it. And, at the very least, you should look at increased construction costs in Whittier to withstand an avalanche and tsunami."

Number 2852

LEONARD JONES, Director of Public Facilities, City of Whittier, testifying via teleconference, referred to a two-page letter he'd faxed to the committee; he offered a synopsis. An Alaskan resident for 33 years, Mr. Jones said he was a corrections professional for the Department of Corrections for 28 years; he was a contract administrator, at the executive level, for the ten community residential centers or halfway houses operated throughout the state. He'd resigned on November 16 [2001], however, and had gone to work for the City of Whittier.

MR. JONES told members he has seen a need for effective programming and Native cultural programs for offenders, and has helped to develop those programs in Nome, Barrow, and Southeast [Alaska]. He mentioned the vision for the Department of Corrections and read from his written testimony, which stated: "To be partners with the public in the delivery of a continuum

of correctional services with integrity and a commitment to excellence." He said he wouldn't read the mission statement, but has learned over the last 90 days that "the City of Whittier is prepared to work with the Department of Corrections to develop fully and completely this same mission and vision concerning ... the return of prisoners to Alaska." He stated his full support of this concept and said he believes it is important to bring [Alaska's] prisoners home, somewhere within the state.

Number 2769

MR. JONES referred to testimony the previous week from a gentleman from Homer who suggested that "family [members], loved ones, and others who may visit this prison site are 'not the kind of people you want in your community.'" Mr. Jones recalled that the testifier had spoken of increased crime and negative ideations that would be caused by having these people visiting prisoners. Mr. Jones emphasized that he disagreed, because each prisoner incarcerated, whether in Arizona or Alaska, "is someday going to be released and is going to come back and be your neighbor." He mentioned effective programming and Cornell [Companies], suggesting that with some oversight from the city, the needs of the state and all Alaskan citizens can be met.

Number 2665

DAVID KATZEEK, Juneau Alaska Native Brotherhood (ANB) Camp 2, began his testimony [interspersing short segments spoken in Tlingit] as follows:

My Tlingit name is "King-gees-teh" (ph). ... I want to express my appreciation for giving me this opportunity to present to you our position. Noble and honorable people of the land - ... this is the way the Tlingit culture has always been regarding our people, or any people, that we look at them as noble people. We don't classify them as criminals. We don't classify them as bad people. We look at them for who they are, and we work with them in a way that brings back an individual who may have violated some boundaries and things of that nature.

And to me, when you're talking finances and so forth, I think you're rightly talking about the right thing. But ... how much can you put on a child who sees his dad come out of prison and is rehabilitated and is

restored, and comes back into the community when, one, the public is safe; two, ... the recidivism rate is reduced; and three, that individual is rehabilitated and is contributing to the community.

We look at it as an opportunity - from me, from the Alaska Native Brotherhood, Camp II - that there's an opportunity in private prisons to be able to do the kind of things that would help restore our people. It isn't whether you're spending millions and millions of dollars, but it's saving money if you develop a program, ... whether it's a state prison or within the ... structure of a private prison. And we favor the private prison, because we understand some of the types of things: there are special-interest-type groups that are happening here. And we're talking economics.

But I want to bring to your attention that we need to address the issue with respect to broken homes and broken hearts and broken spirits. How much money can you put on that? And so, I just say to you that we support bringing back our families together - not from down [in] Arizona, but from Juneau, from Hoonah, from Yakutat, from Metlakatla, and Sitka - to bring them together back as a family. ... That's the way it was always, with your families and our families, across this world.

MR. KATZEEK concluded by saying 96 percent of individuals who re-offend use alcohol. Many are incarcerated in Arizona, which, he opined, is no different from the [detention, after the terrorist attacks on September 11, 2001, of purported members of] Al Qaeda at Guantanamo Bay. He urged the committee, when thinking about money, to include other values that have a positive impact "for all of us, as a people."

Number 2470

DON ETHERIDGE, Lobbyist for AFL-CIO [American Federation of Labor and Congress of Industrial Organizations], testified on behalf of the public employees sector of the AFL-CIO. He said, "We oppose it for many, many of the reasons you already heard." He stated support for expansion of existing facilities, which would allow [prisoners] far away from home to be closer to where they came from. Referring to testimony during a prior hearing on HB 498, when a testifier commented that "it wasn't heard in

Juneau," Mr. Etheridge said "it" has been heard in Juneau, just not in the capitol. He noted that the local assembly had passed a resolution in support of the expansion of the existing facilities.

Number 2400

CHARLES CAMPBELL came forward to testify. A resident of Juneau, he told the committee that he came to Juneau 22 years ago as "Director of Corrections in Alaska." He indicated he'd also served for two and one half years as [a monitor] for Cleary [a legal case that had been settled pertaining to prisoners' rights]. Beginning in 1950, he said, he'd filled a wide variety of roles and worked in seven different federal prisons.

MR. CAMPBELL said he loves [Alaska] and wants the state to have a good corrections program. He assured the committee that the proposal in [HB 498] is not a tenable one; it would not allow Alaska to continue to have its currently good correction system. He noted that [Alaska] is one of the few states that continues to have "a reasonably good correctional program, despite ... its ... limited resources." He remarked, "Frank Prewitt is certainly right in saying that there are states down south that have prisons with three and four times as many beds as ... anticipated in this plan. They've had to throw ... in the sponge."

MR. CAMPBELL offered that a 1,200-bed prison in Whittier would not be much of an improvement over [the facility located in] Florence, Arizona, as far as accessibility to families is concerned. The only way a 1,200-bed prison could work, he opined, is by way of a unit system whereby the prison is divided into perhaps four or five separate units, each individually staffed and programmed. He suggested that would be impossible for Cornell Companies to do, however, because of cost considerations. With 1,200 beds, he said, prisoners begin to have more influence than staff over what happens at the prison.

MR. CAMPBELL referred to previous comments by Mr. Prewitt regarding community resources. He stated that community resources are enormously important to a good prison. He told the committee that it is important to remember that the Alaska State Constitution requires that correctional administration be based on principles of reformation. Whittier, he said, would not be able to provide, even remotely, the types of community resources that are needed. He clarified that he was not

referring to contractual resources and said, "a good volunteer cadre is essential to a good program."

MR. CAMPBELL said he sees no possibility of [a facility in Whittier] being staffed; there is still a deficit of officers at Spring Creek [Correctional Center] who don't have to commute. Cornell proposes to pay less money, with a less favorable package, he said, adding that the leadership of the facility is in question because it has "an inescapable conflict of interest." Calling [HB 498] an "atrocious bill," Mr. Campbell concluded by expressing confidence that the prison will never be built but that the bill will be moved forward, causing a long delay in addressing the serious problem of having 800 prisoners in Arizona.

Number 2119

CHAIR COGHILL closed public testimony. He indicated there were many questions regarding the bill - philosophical, practical, legal, contractual, and economical. He offered his intention of letting the House Finance Committee address economic issues. He indicated the current committee needed to consider the policy decision regarding a city's asking [the legislature] to do "an authorization for contracts on private corrections."

Number 2062

REPRESENTATIVE JAMES commented on the sincerity of the testifiers, but indicated she didn't share the concerns. In regard to Mr. Campbell's last comment, she said, "We don't make it happen; we only allow it." She mentioned the proposal for Kenai and the Alaska Native participation. She said she thinks it is worth the chance to go ahead with this. She concluded that she was happy with the legislation and would support it.

Number 1998

REPRESENTATIVE FATE noted that other communities are interested in [a prison as well]. In addition, while [Mr. Katzeek's] testimony cited the Tlingit culture, people from other cultures are in prisons across the state. He questioned whether the Alaska Native Brotherhood [members] would take up permanent residence [in Whittier] or would have to commute. He said he was concerned about visitation to such a remote area because it is a major factor in rehabilitation "for friends and relatives to come and reinforce those inmates," especially in the "medium" facilities. He noted that he has seen this firsthand.

REPRESENTATIVE FATE said he was questioning the choice of a private prison when the state did not come out with a request for proposals to find out if any other communities were interested in the prison or to see what private contractors were available. He said he needed answers to questions before he would vote for a city that he wasn't sure had the infrastructure to provide the type of facility that "we" want.

Number 1845

REPRESENTATIVE CRAWFORD voiced concern that 1,200 beds is two and one half times [the size] of any facility currently in the state. He said he believed [building this prison in Whittier] would "preclude us from constructing any other facilities in the state over the next 25 years." He explained that he is concerned about having "one monolithic structure" in Whittier, when there are needs and concerns all over the state. He said he favors a regional approach to this, and although there are some economies of scale, [the committee] should be concerned with rehabilitating [prisoners] to re-enter society. He concluded that this [legislation] would be a bad idea.

Number 1765

CHAIR COGHILL announced that HB 498 would be held over.

#### **ADJOURNMENT**

Number 1728

The House State Affairs Standing Committee took a brief at-ease to prepare for the overview regarding actuarials and the Division of Retirement and Benefits. [For the overview, see the 9:25 a.m. minutes for this date.]