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**FISCAL NOTE**

**STATE OF ALASKA**  
**1992 LEGISLATIVE SESSION**

**BILL NO. SB 215**

Revision Date: \_\_\_\_\_ Department Affected: Public Safety  
 Title: Prison Population Management BRU: DPS Statewide Support  
 Component: Contract Jails

Sponsor: Rules Committee  
 Requestor: Senate HESS COMPONENT SERIAL NO. 

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**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

<b>CAPITAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
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<b>REVENUE FUND SOURCE:</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
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**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE:						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

**POSITIONS:**

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: \_\_\_\_\_

**ANALYSIS: (Attach a separate page if necessary.)**

No fiscal impact anticipated.

Prepared By: Gayle A. Horetski Phone: 465-4322  
 Division: Office of the Commissioner Date: 1/16/92  
 Approved by Commissioner: *Gayle Horetski for* Richard L. Burton  
 Agency: Department of Public Safety Date: 1/16/92

**FISCAL NOTE**

**STATE OF ALASKA**  
**1992 LEGISLATIVE SESSION**

**BILL NO. S.B. 215**

Revision Date: January 9, 1992 Department Affected: Department of Corrections  
 Title: "An Act relating to population management in the...correctional system." BRU: Statewide Operations  
 Component: Various  
 Sponsor: Senate Rules  
 Requestor: Senate HESS COMPONENT SERIAL NO. 

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**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

<b>CAPITAL</b>						
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<b>REVENUE</b>						
<b>FUND SOURCE:</b>						

**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE:						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: \_\_\_\_\_

**ANALYSIS: (Attach a separate page if necessary.)**

Passage of the bill may result in savings by delaying the necessity for prison construction.

Prepared By: Carl Nickel, Director *Carl Nickel* Phone: 465-3376  
 Division: Administrative Services Date: 01-09-92  
 Approved by Commissioner: Lloyd Hames, Commissioner *Lloyd Hames*  
 Agency: Department of Corrections Date: 01-09-92

# STATE OF ALASKA

## DEPARTMENT OF LAW

### CRIMINAL DIVISION

26 Apr 1991

WALTER J. HICKEL, GOVERNOR

REPLY TO:

CRIMINAL DIVISION CENTRAL OFFICE  
P.O. BOX KC  
JUNEAU, ALASKA 99811-0310  
PHONE: (907) 465-3428

OFFICE OF SPECIAL PROSECUTIONS  
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1031 WEST 4TH AVENUE, SUITE 318  
ANCHORAGE, ALASKA 99501-5993  
PHONE: (907) 279-7424

March 29, 1991

The Honorable Arliss Sturgulewski  
Chairperson  
Health, Education, & Social Services Committee  
Alaska State Senate  
P.O. Box V  
Juneau, Alaska 99811

Re: SB 215 (An act relating to population management in the state  
correctional system)

Dear Senator Sturgulewski,

I am writing to you in my role as counsel to the Alaska Department of Corrections on behalf of the Administration regarding SB 215. This bill, which deals with a proposed short-term solution to prison crowding in Alaska, has been referred to the Senate HESS Committee for a hearing.

On behalf of the Administration, I respectfully request that you set the bill on for a hearing before your committee. To assist you and the members of your committee in better understanding SB 215, I have prepared and enclosed a sectional analysis of the bill as well as a flow chart which displays how the provisions of the bill will be implemented. While the concept of SB 215 is relatively simple, the mechanics of the bill are a bit complicated; thus I look forward to testifying before the committee to explain its provisions.

In addition, I have enclosed a proposed amendment to SB 215 which the Administration respectfully requests that you consider at the time that SB 215 is calendared for a hearing. The proposed amendment is self-explanatory, and is addressed in the sectional analysis.

The Honorable Arliss Sturgulewski

March 29, 1991  
Page 2

Thank you for your anticipated response to this request to calendar SB 215 for a hearing.

Very truly yours,

CHARLES E. COLE  
ATTORNEY GENERAL

By: Michael J. Stark  
Michael J. Stark  
Assistant Attorney General

Enclosures

cc: Commissioner Lloyd Hames (w/enclosures)  
Commissioner Richard Burton (w/enclosures)  
Malcolm Roberts (w/enclosures)  
Bruce Kendall (w/enclosures)  
Jeff Bush (w/enclosures)  
Alaska Sentencing Commission (w/enclosures)

MJS:ew-048

SECTIONAL ANALYSIS FOR AN ACT  
RELATING TO POPULATION  
MANAGEMENT IN THE STATE  
CORRECTIONAL SYSTEM (SB 215)

Introduction

This Act is a recognition of the universal view of corrections experts that a correctional system cannot adequately function when every prison bed is full. When all areas of correctional facilities designed for housing prisoners are full, violence is much more likely to occur, and correctional administrators have no flexibility to respond to the ever-changing demands of a growing prison population. Rehabilitative resources are stretched too thin to effectively fulfill their purpose of reforming offenders; and the public safety is thus adversely affected upon the release of prisoners from a crowded correctional system.

Because the prison population in Alaska is continuing to increase, this Act represents an effort to provide short term assistance in managing the prison population during overcrowding emergencies while more long term solutions to prison crowding can be explored by the legislative and executive branches of government. Recommendations that will address this problem in a more comprehensive way are anticipated to come from the Alaska Sentencing Commission over the next few years.

Under this Act, when the prison population in the correctional system exceeds its maximum capacity for an extended period, the Commission must notify the governor and parole board,

and certain offenders not otherwise eligible for parole become eligible after serving at least half their sentences. If the parole board, after careful scrutiny, deems such a prisoner a safe risk to the public, then he or she may be released on discretionary parole subject to supervision by a parole officer and conditions set by the board.

If the correctional system has not been provided adequate relief such that the prison population has dropped below its maximum capacity within 120 days of the notification to the governor, then certain low risk offenders within 120 days of their release date would be released early into supervised probation or parole.

This two step proposal is similar to ones utilized in a number of states with prison crowding problems. Following is a brief analysis of each section of the bill.

#### Section 1. Legislative Findings And Purpose.

This section is a statement of the purpose of the bill: to manage the population in state correctional facilities so as to better enable state correctional officials to achieve the dual constitutional goals of reformation of the offender and protection of the public. See, Alaska Constitution, Art. I, § 12.

Those offenders affected by this Act are deemed to present a lesser risk to the public than those whose release are not affected.

Section 2. AS 12.55.125(q).

This section cross references the provisions which provide the authority for special discretionary parole and early release of eligible prisoners when crowding conditions persist.

Section 3 & 4. AS 33.16.090(b); AS 33.16.090(c).

These sections cross reference the provision which provides that after prolonged prison crowding conditions, a limited exception may be made to the general rule that presumptively sentenced prisoners are not eligible for parole.

Section 5. AS 33.16.100(c).

This section does the same thing as sections 3 and 4; and, in addition, makes two technical amendments to better clarify existing law.

Section 6. AS 33.25.010 -- 33.25.090, Prison Population Management Act.

This section adds a new chapter to Title 33 in Alaska's statutes. The sections in this chapter provide the statutory scheme to help manage Alaska's prison population when overcrowding conditions persist. A brief analysis of each section and its intent follows:

## CHAPTER 25. PRISON POPULATION MANAGEMENT ACT

### Section 33.25.010. Capacity of Correctional System.

This section requires the commissioner of corrections to adopt regulations under the Administrative Procedure Act (AS 44.62) specifying the maximum capacity of each state correctional facility and of the correctional system. The term "maximum capacity" is defined in proposed AS 33.25.910(5) as the maximum number of prisoners that can be accommodated in areas of a correctional facility designed for the general housing of prisoners. This excludes temporary holding areas. The commissioner will utilize generally accepted principles of correctional management in setting the maximum capacities including such factors as square footage in common and living areas, time out of living units, inmate/staff ratios, physical plant limitations, custody levels of inmates, and program resources. These factors are set out in the Final Settlement Agreement and Order in Cleary v. Smith, 3AN-81-5274 Civ.

### Section 33.25.020. Duties of the Commissioner.

This section sets out the duties of the commissioner so as to implement the provisions of this chapter. If the average daily prisoner population exceeds the maximum capacity of the system for a 30-day period, the commissioner is required to notify the governor and parole board; prepare a list of prisoners who would be eligible for special discretionary parole under AS 33.25.030; and explore alternatives for reducing prison

crowding, including increasing the maximum capacity, with executive and legislative branch leaders.

Under subsection (b), if the population continues to exceed the maximum capacity, the prisoners on the list become eligible for special discretionary parole, and the commissioner must notify the prisoners of their eligibility.

Under subsection (c), if the provisions regarding special discretionary parole are implemented, and the prison population nonetheless continues to exceed maximum capacity, the commissioner shall again notify the governor and parole board and immediately prepare a list of prisoners eligible for early release under AS 33.25.070.

If the early release of prisoners into supervised probation or parole under AS 33.25.050 does not reduce the prison population below maximum capacity, then the commissioner is obliged to again perform the duties relating to special discretionary parole consideration.

Finally, subsection (d) provides that this statutory population management tool (i.e., special discretionary parole consideration and early release) may not be utilized and the relevant time periods begin to run anew if the prison population falls below maximum capacity during certain relevant time periods.

Section 33.25.030. Special Discretionary Parole Eligibility.

This section sets out actual periods of eligibility and eligibility requirements for special discretionary parole for

classes of prisoners set out in AS 33.25.040.

Subsection (b) recognizes the due process right of a prisoner to retain his or her parole eligibility once it is achieved, even if the prison population falls below maximum capacity. Subsection (c) provides that, notwithstanding other provisions, no prisoner will become eligible for special discretionary parole if, at the time prisoners would otherwise become eligible, the commissioner determines that the maximum capacity of the prison system will be increased within the next 45 days such that it will exceed the prison population.

Section 33.25.040. Classes of Prisoners Eligible for Special Discretionary Parole.

A state prisoner who has not previously been revoked after being released on special discretionary parole or early release under this chapter is eligible for special discretionary parole when prison crowding conditions warrant, if the prisoner is serving a sentence of at least 181 days (minimum eligibility for parole under AS 33.16.090(a)) for a crime other than an unclassified or A Felony under AS 11, an equivalent offense under Alaska's former criminal code, or certain serious class B felonies (any B felony against a person under AS 11.41, arson in the second degree, criminal mischief in the first degree, and attempt or solicitation to commit a class A felony offense); and the prisoner is not otherwise eligible for parole due to the service of a presumptive sentence.

The critical element in this section which serves to

protect the public, in addition to excluding the most serious felons, is that a prisoner eligible for special discretionary parole may not be released on parole unless the parole board determines, with reasonable probability, that the prisoner will not violate the law or otherwise pose a threat to the public. AS 33.16.100(a). This provision along with AS 33.25.030 provides the opportunity, after prison crowding conditions persist, for certain less serious felons who have served one half of their sentences and who are not otherwise eligible for parole, and who have demonstrated a strong commitment toward rehabilitation, to be considered for discretionary parole.

Section 33.25.050 Early Release And Probation or Parole Supervision.

Subsection (a) requires the commissioner to release early each prisoner eligible under AS 33.25.070 into supervised probation or parole if crowding conditions still exist 120 days after eligible prisoners have been considered for special discretionary parole. A prisoner may not be released early until he or she agrees in writing to follow the conditions of behavior required while on supervision.

Subsection (b) dictates whether a person released early is to be under parole or probation supervision. Each prisoner released early will be under either parole or probation supervision except for a prisoner who has less than 10 days remaining to serve on a sentence at the time of early release, and who is not subject to probation or parole after the term of incarceration. Such a

prisoner requires no supervision upon release.

Subsection (c) makes clear that the prohibition in AS 12.55.090(c) against probation lasting more than five years does not apply to a prisoner released early under (a) of this section.

Section AS 33.25.060. Violation of Conditions of Early Release.

This section provides authority for a court to revoke the probation resulting from early release and the probation following early release, if a prisoner on early release violates a law or condition of probation. The same authority is provided to the parole board for a prisoner on parole resulting from early release.

Section 33.25.070. Prisoners Eligible for Early Release.

This section lists seven requirements that must be met for a prisoner to be released early under AS 33.25.050. As in AS 33.25.040 (eligibility for special discretionary parole), the most serious offenders are not eligible for early release. The seven requirements are self-explanatory and are aimed at releasing early only those prisoners who have served at least one-half of their period of confinement, are least likely to endanger the public and who are very close to the end of their sentences.

Section 33.25.080. Limitation on Civil Action.

This section prohibits anyone from bringing a civil action against the state or a state employee for failure to comply with any of the time limits established in this chapter. If this

Act is adopted, it is possible that time pressures caused by prison crowding and an effort to safeguard the public while complying with the provisions in this chapter may result in missing certain time frames. No liability will flow from such an occurrence.

Section 33.25.900. Definitions.

This section defines the terms in AS 33.25.

Section 7.

With the Administration's proposed amendment, this section provides for this chapter to be repealed in four years. This sunset provision is a recognition that the relief provided to prison crowding by this chapter is a short-term emergency measure that should no longer be needed after the comprehensive recommendations of the Alaska Sentencing Commission (AS 44.19.561 - - 44.19.577) are presented to the legislature, and long-term solutions to prison crowding are implemented.

Section 8. Immediate Effective Date.

This section provides for an immediate effective date for this Act.

Proposed Amendment To SB 215

*Amendment requested  
by a donor*

Page 7 line 11: Move the effective date clause to new section 8 on  
line 12, and replace with the following: "AS  
33.25 is repealed July 1, 1995." ✓

Amendment

Proposed Amendment to SB 215

Page 1 line 10: Add the following language to this line: The legislature views the provisions of AS 33.25 as establishing an extraordinary remedy to reduce prison crowding. Accordingly, it is expected that the commissioner of corrections will exhaust all available options for reducing prison crowding so as to minimize the necessity of utilizing this remedy.

maximum capacity and  
CR

Proposed Amendments to SB 215

*att  
admitted by  
House HRS.*

Page 5 line 4: Insert the following language between the words "section" and "shall": is subject to the provisions in (c) of this section and

Page 5 line 20: Replace the language in (c) with the following language and renumber existing subsection (c) as (e): Notwithstanding (b) of this section, a prisoner released early under (a) of this section, who has 30 days or longer remaining to serve at the time of early release, shall be required, as a condition of probation or parole, to reside at a community residential center and follow the rules of the center during the period of supervision resulting from early release. If there is insufficient space at community residential centers to accommodate the number of prisoners released early under (a) of this section, the commissioner shall determine which prisoners shall reside at a center and which prisoners may be permitted to reside outside a center. In making this determination, the commissioner shall consider such factors as the time remaining to be served on each prisoner's sentence, protection of the public, and the proximity of community residential centers to the correctional facilities from which prisoners will be released.

Page 6 line 29: Insert the following definition on this line and renumber the remaining definitions as (4) through (9): "community residential center" means a residential facility with varying levels of supervision and services, made available to the department of corrections by contract, designed to facilitate the reintegration of prisoners back into society;

*Emergency overcrowding  
Required by Cleary  
Passage - Preclude it from going orders. Keep  
it system out leave leg + admin to  
manage system.*

**SENATE BILL NO. 215**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**SEVENTEENTH LEGISLATURE - FIRST SESSION**

**BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

Introduced: 3/20/91  
Referred: HES and Judiciary

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to population management in the state correctional system; and providing  
2 for an effective date."

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

4 \* **Section 1. LEGISLATIVE FINDINGS AND PURPOSE.** The purpose of this Act is to manage the  
5 population in state correctional facilities so as to better enable state correctional officials to achieve the  
6 dual constitutional goals of protection of the public and reformation of the offender. The classes of  
7 prisoners eligible for parole or early release under this Act are considered by the legislature to present  
8 a lesser risk to the public safety than those classes whose release is unaffected. The legislature finds  
9 that the purposes of this Act can be best accomplished by differentiating between these classes of  
10 prisoners.

11 \* **Sec. 2.** AS 12.55.125(g) is amended to read:

12 (g) If a defendant is sentenced under (c), (d)[(1), (d)(2)], (e)[(1), (e)(2)], or (i) of this  
13 section, except to the extent permitted under AS 12.55.155 - 12.55.175, AS 33.25.030, and  
14 AS 33.25.050:

- 1 (1) imprisonment may not be suspended under AS 12.55.080;
- 2 (2) imposition of sentence may not be suspended under AS 12.55.085;
- 3 (3) terms of imprisonment may not be otherwise reduced.

4 \* Sec. 3. AS 33.16.090(b) is amended to read:

5 (b) Except as provided in AS 33.25.030, a [A] prisoner is not eligible for discretionary  
6 parole during the term of a presumptive sentence; however, a prisoner is eligible for discretionary  
7 parole during a term of sentence enhancement imposed under AS 12.55.155(a) or during the term  
8 of a consecutive or partially consecutive presumptive sentence imposed under AS 12.55.025(e)  
9 or (g).

10 \* Sec. 4. AS 33.16.090(c) is amended to read:

11 (c) Except as provided in AS 33.25.030, a [A] prisoner eligible for discretionary parole  
12 during a period of sentence enhancement imposed under AS 12.55.155(a) or during a consecutive  
13 or partially consecutive presumptive sentence imposed under AS 12.55.025(e) or (g) shall serve  
14 the unenhanced portion of the sentence or the initial presumptive sentence before being otherwise  
15 eligible for discretionary parole under AS 33.16.100(c) or (d). For purposes of this subsection,  
16 the sentence for the most serious offense in the case of consecutive or partially consecutive  
17 presumptive sentences shall be considered the initial presumptive sentence. The unenhanced  
18 sentence or the initial presumptive sentence is considered served for purposes of discretionary  
19 parole on the date the unenhanced or initial presumptive sentence is due to expire less good time  
20 earned under AS 33.20.010.

21 \* Sec. 5. AS 33.16.100(c) is amended to read:

22 (c) Except as provided in (d) of this section and AS 33.25.030, a prisoner may not be  
23 released on discretionary parole until the prisoner has served at least one-fourth of the period of  
24 confinement imposed, one-fourth of an enhanced or consecutive or partially consecutive period  
25 of confinement imposed under AS 12.55.155(a) or AS 12.55.025, or any minimum term set under  
26 AS 12.55.115 at sentencing, whichever is greater.

27 \* Sec. 6. AS 33 is amended by adding a new chapter to read:

28 CHAPTER 25. PRISON POPULATION MANAGEMENT ACT.

29 Sec. 33.25.010. CAPACITY OF CORRECTIONAL SYSTEM. The commissioner shall  
30 specify, by regulations adopted under the Administrative Procedure Act (AS 44.62), the  
31 maximum capacity of each state correctional facility and the maximum capacity of the correct-

1       ional system.

2               Sec. 33.25.020. DUTIES OF THE COMMISSIONER. (a) If the average daily prisoner  
3 population exceeds the maximum capacity of the system for a 30-day period, the commissioner  
4 shall,

5                       (1) on the next working day, notify the governor and the board of parole;

6                       (2) within 15 days, prepare a list of prisoners who would be eligible under  
7 AS 33.25.030 for special discretionary parole consideration; and

8                       (3) with representatives from the executive and legislative branches, explore  
9 alternatives for reducing the prison population, or increasing the maximum capacity of the  
10 system.

11               (b) The commissioner shall notify prisoners of their eligibility under AS 33.25.030 for  
12 special discretionary parole.

13               (c) If the provisions in AS 33.25.030(a) are implemented but the average daily prisoner  
14 population exceeds the maximum capacity of the system for the 30-day period ending 120 days  
15 after the commissioner's notification of the governor under (a)(1) of this section, the  
16 commissioner shall again notify the governor and board of parole and immediately prepare a list  
17 of prisoners eligible under AS 33.25.070 for early release. If prisoners are released early under  
18 AS 33.25.050(a) but the average daily prisoner population exceeds the maximum capacity of the  
19 system for the 15-day period ending 30 days after the commissioner's notification of the governor  
20 under this subsection, the commissioner shall again perform the duties set out in (a)(1) - (3) of  
21 this section.

22               (d) A subsequent 30-day period that might require notification of the governor under (a)  
23 of this section begins to run

24                       (1) 15 days after a determination is made by the commissioner under  
25 AS 33.25.030(c) or AS 33.25.050(d); or

26                       (2) the day after the prison population falls below the maximum capacity of the  
27 system for either of the time periods in (c) of this section.

28               Sec. 33.25.030. SPECIAL DISCRETIONARY PAROLE ELIGIBILITY. (a) If the  
29 average daily prisoner population exceeds the maximum capacity of the system for the 15-day  
30 period following the commissioner's notification to the governor under AS 33.25.020(a)(1), a  
31 prisoner who is in, or within the next 105 days falls into, the class of prisoners eligible under

1 AS 33.25.040 for special discretionary parole is eligible for special discretionary parole if, by the  
2 end of the 105-day period, the prisoner will have served the greater of

3 (1) one-half of the unenhanced portion of the presumptive sentence for the most  
4 serious offense for which the prisoner is sentenced, plus the period of time equal to one-quarter  
5 of an enhanced, consecutive, or partially consecutive sentence;

6 (2) any minimum term required by law; or

7 (3) any minimum term set by the court under AS 12.55.115.

8 (b) Unless special discretionary parole under this chapter is revoked, a prisoner who  
9 becomes eligible for parole under (a) of this section remains eligible despite decreases in the  
10 prison population or increases in the maximum capacity of the system.

11 (c) Notwithstanding (a) of this section, no prisoner becomes eligible for special  
12 discretionary parole if, at the end of the 15-day period described in AS 33.25.020(a)(2), the com-  
13 missioner has determined that the maximum capacity of the system will be increased, or  
14 additional space will become available by contract, so that the average daily prisoner population  
15 will be less than the maximum capacity of the system within 45 days.

16 Sec. 33.25.040. CLASS OF PRISONERS ELIGIBLE FOR SPECIAL DISCRETIONARY  
17 PAROLE. A state prisoner whose special discretionary parole or early release under this chapter  
18 has not previously been revoked, and who is serving a sentence of at least 181 days for a crime  
19 other than one of the following, is in the class of prisoners eligible for special discretionary  
20 parole under AS 33.25.030(a):

21 (1) an unclassified or class A felony under AS 11;

22 (2) a felony against a person under former AS 11.15, arson under former  
23 AS 11.20.010 or AS 11.20.020, or a felony attempt to commit one of these offenses;

24 (3) a class B felony:

25 (A) against a person under AS 11.41;

26 (B) arson under AS 11.46.410;

27 (C) criminal mischief under AS 11.46.480; or

28 (D) attempt or solicitation to commit an offense under AS 11.31.100 or  
29 AS 11.31.110.

30 Sec. 33.25.050. EARLY RELEASE AND PROBATION OR PAROLE SUPERVISION.

31 (a) Except as provided in (d) of this section, within five working days after notifying the

1 governor under AS 33.25.020(c), the commissioner shall release each prisoner eligible under  
2 AS 33.25.070 after the prisoner agrees in writing to abide by the conditions of supervision set  
3 out in (b) of this section.

4 (b) A prisoner released early under (a) of this section shall be placed on supervised  
5 probation or parole as follows:

6 (1) if the prisoner's sentence provides for probation to follow incarceration, the  
7 prisoner is on probation during the period of supervision resulting from early release, subject to  
8 the same conditions of probation ordered by the court and, if the prisoner is serving a sentence  
9 for a felony offense, subject to the reasonable conditions set by the prisoner's probation officer;

10 (2) if the prisoner is scheduled to be released on parole during the period of early  
11 release or after the term of incarceration, the prisoner is on parole during the period of  
12 supervision resulting from early release, subject to the same conditions of parole imposed by the  
13 board of parole; or

14 (3) if the prisoner is not subject to probation or parole after the term of  
15 incarceration, and the prisoner has more than 10 days remaining to serve on the sentence at the  
16 time of early release, the prisoner is on parole during the period of supervision resulting from  
17 early release, subject to conditions imposed by the board of parole; if the prisoner has 10 days  
18 or less remaining to serve on the sentence at the time of early release, the prisoner is  
19 unconditionally discharged.

20 (c) AS 12.55.090(c) does not apply to a prisoner being released early under (a) of this  
21 section.

22 (d) No prisoner may be released early if, during the five-working-day period following  
23 the commissioner's notification of the governor under AS 33.25.020(c), the commissioner  
24 determines that the maximum capacity of the system will be increased, or additional space will  
25 become available by contract, so that the average daily prisoner population will be less than the  
26 maximum capacity of the system within 45 days.

27 Sec. 33.25.060. VIOLATION OF CONDITIONS OF EARLY RELEASE. (a) The court  
28 may revoke the probation resulting from early release under AS 33.25.050 and the probation  
29 following early release, for violation of a state or federal law or municipal ordinance for which  
30 violation is punishable by imprisonment, or for violation of a condition of probation imposed by  
31 the court or the prisoner's probation officer.

1 (b) The board of parole may revoke the parole resulting from early release under  
2 AS 33.25.620 and the parole following early release, for violation of a state or federal law or  
3 municipal ordinance that is punishable by imprisonment, or for violation of a condition imposed  
4 by the board of parole.

5 Sec. 33.25.070. PRISONERS ELIGIBLE FOR EARLY RELEASE. A state prisoner is  
6 eligible for early release under AS 33.25.050 if the prisoner

7 (1) is serving a sentence for an offense other than one listed in AS 33.25.040(1) -  
8 (3);

9 (2) has not had his or her special discretionary parole or early release under this  
10 chapter revoked previously;

11 (3) at the end of the five-working-day period described in AS 33.25.050(a)

12 (A) will have no more than 120 days remaining to serve; and

13 (B) will have served at least one-half of the period of confinement;

14 (4) has no outstanding detainers; and

15 (5) in the preceding six months, has not been convicted of a disciplinary infraction  
16 for which good time may be forfeited; a prisoner charged with such a disciplinary infraction is  
17 not eligible for early release until the prisoner is found not guilty of the infraction.

18 Sec. 33.25.080. LIMITATION ON CIVIL ACTION. No person may commence a civil  
19 action against the state or any employee of the state for failure to comply with the time limits  
20 established in this chapter.

21 Sec. 33.25.900. REGULATIONS. The commissioner may adopt regulations necessary  
22 to carry out the provisions of this chapter.

23 Sec. 33.25.910. DEFINITIONS. In AS 33.25.010 - 33.25.910, unless the context requires  
24 otherwise,

25 (1) "average daily prisoner population" means the total of the daily morning  
26 prisoner counts at each state correctional facility divided by the number of days in the period  
27 under observation;

28 (2) "commissioner" means the commissioner of the Department of Corrections;

29 (3) "detainer" means a written request from another jurisdiction seeking  
30 notification of a prisoner's pending release in order to facilitate securing the prisoner's presence  
31 in that jurisdiction to answer to criminal charges or satisfy a sentence;

1 (4) "felony" has the meaning given in AS 11.81.900(b);

2 (5) "maximum capacity" means the maximum number of prisoners, as determined  
3 by the commissioner under AS 33.25.010, that can be accommodated in areas of a correctional  
4 facility designed for the housing of prisoners, excluding segregation and other temporary holding  
5 areas;

6 (6) "maximum capacity of the system" means the sum of the maximum capacities  
7 for all state correctional facilities;

8 (7) "misdemeanor" has the meaning given in AS 11.81.900(b); and

9 (8) "state correctional facility" means a correctional facility owned or operated  
10 by the state which holds persons charged with or convicted of violations of law.

11 \* Sec. 7. This Act takes effect immediately under AS 01.10.070(c).

# STATE OF ALASKA

## DEPARTMENT OF LAW

### CRIMINAL DIVISION

WALTER J. HICKEL, GOVERNOR

REPLY TO

CRIMINAL DIVISION CENTRAL OFFICE  
P.O. BOX KC  
JUNEAU, ALASKA 99811-0310  
PHONE: (907) 465-3428

OFFICE OF SPECIAL PROSECUTIONS  
AND APPEALS  
1031 WEST 4TH AVENUE, SUITE 318  
ANCHORAGE, ALASKA 99501-5993  
PHONE: (907) 279-7424

February 5, 1992

The Honorable Arliss Sturgulewski  
Chairperson  
Health, Education, & Social Services Committee  
Alaska State Senate  
P.O. Box V  
Juneau, Alaska 99811

Re: SB 215 (An act relating to population management in the state  
correctional system)

Dear Senator Sturgulewski,

On behalf of the Administration I appreciate the brief opportunity you gave me to discuss SB 215 this morning. Enclosed for your information is an updated flow chart which displays how the provisions of the bill will be implemented. The enclosed version of the flow chart corrects a couple of minor errors that were on the original, which should be discarded.

In addition I have enclosed a copy of the January 1992 inmate count sheet for the Department of Corrections, which I hope will help make clear the need for SB 215. While it is true that the prison population in Alaska has leveled off in the last year or so, the January count sheet shows that many of Alaska's correctional facilities operate in excess of their emergency capacities (shaded areas); while others frequently operate in excess of their maximum capacities.

The last time your committee addressed SB 215, it was my understanding that when the bill was taken up again, a working draft of a committee substitute (which incorporated the amendments adopted by the House HESS committee in CSHB 224 (HESS)) would be available. I look forward to appearing before the committee at your convenience, although I will be traveling from Friday February 14th through Wednesday January 19th.

The Honorable Arliss Sturgulewski

February 5, 1992  
Page 2

Again, thank you for your courtesy.

Very truly yours,

CHARLES E. COLE  
ATTORNEY GENERAL

By: Michael J. Stark  
Michael J. Stark  
Assistant Attorney General

Enclosures

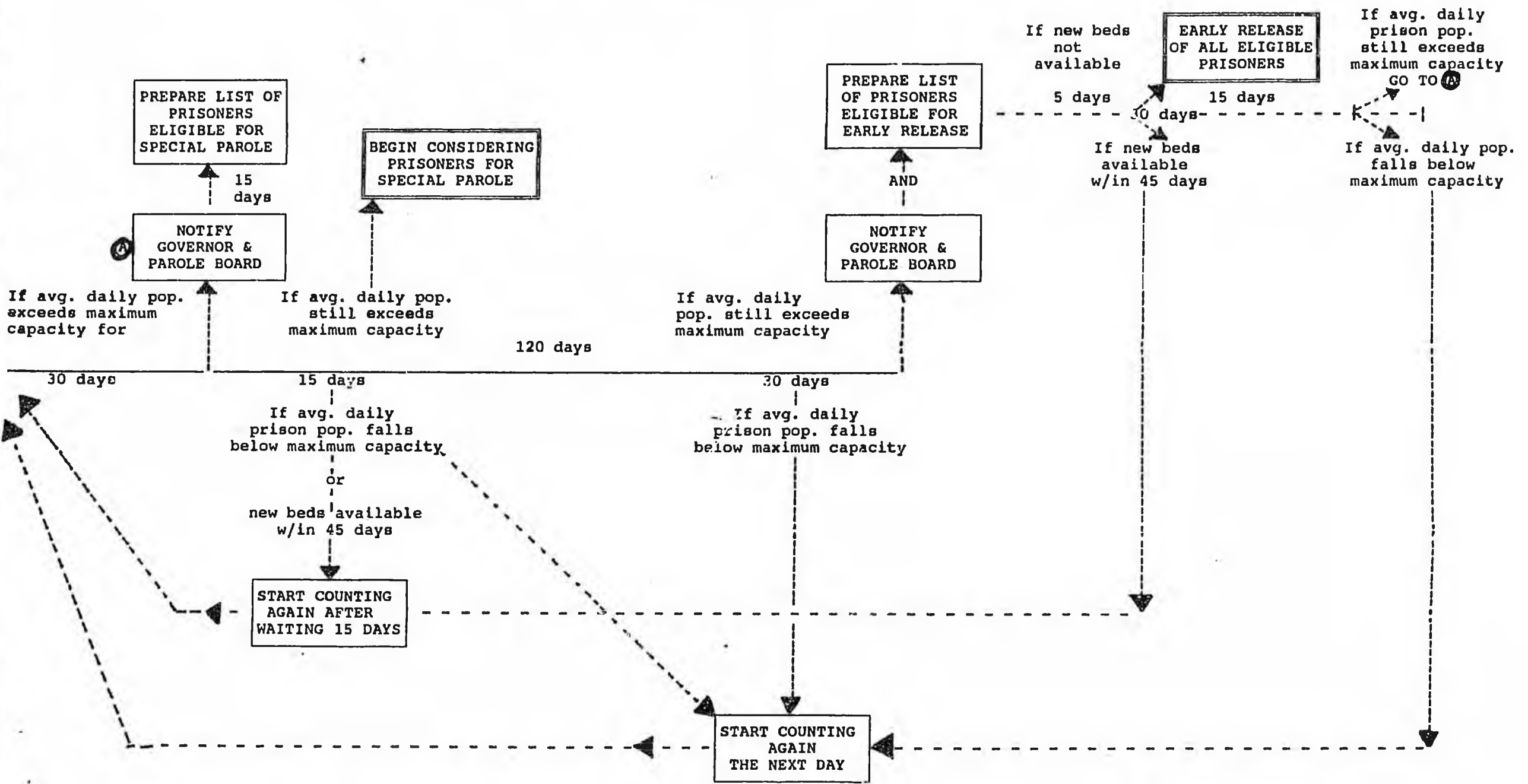
cc: Paul Fuhs (w/enclosures)  
Deborah Behr (w/enclosures)  
Diane Schenker (w/enclosures)  
J. Frank Prewitt (w/enclosures)

Instate Inmate Count -- Alaska Department of Corrections -- January 1992

	104	403	194	230	59	170	79	58	170	176	108	428	210	113	92	Emergency Capacity		
	102	397	183	225	53	164	76	62	165	176	104	412	204	112	88	Maximum Capacity	2523	
Day	AMCC	CPT	FCC	HMCC	KCC	LCCC	MSPT	MCCC	PCC/MED	PCC/MIN	SIXTH	SOCC	NWCC	WMPT	YKCC	Emerg. Cap.	Totals	%
1	77	396	181	228	44	146	76	60	169	167	97	422	204	80	75	2602	2422	93%
2	75	395	182	226	45	150	77	60	168	159	97	419	206	83	72	2602	2414	93%
3	73	390	182	226	46	151	75	59	167	170	102	419	206	85	78	2602	2429	93%
4	73	392	187	224	48	157	78	59	167	170	97	419	206	85	78	2602	2440	94%
5	73	397	185	223	49	156	78	59	167	170	105	419	206	88	82	2602	2457	94%
6	72	414	189	220	49	155	74	59	167	171	106	418	204	86	84	2602	2468	95%
7	70	406	194	220	50	161	83	58	166	173	108	419	203	86	86	2602	2481	95%
8	74	399	185	224	52	158	78	59	168	172	108	426	203	82	85	2602	2472	95%
9	74	397	181	222	53	158	82	57	165	176	110	426	202	81	84	2602	2468	95%
10	75	388	181	221	57	163	70	59	169	175	112	425	204	80	92	2602	2471	95%
11	76	390	183	219	58	170	71	59	169	175	112	425	204	83	92	2602	2486	96%
12	76	390	188	219	57	172	73	59	169	175	113	425	203	81	95	2602	2495	96%
13	76	387	188	224	57	174	75	59	167	176	100	425	203	79	84	2602	2482	95%
14	75	387	186	221	55	172	72	59	167	176	97	425	204	80	92	2602	2468	95%
15	76	386	181	225	57	168	69	59	167	173	93	425	204	83	90	2602	2456	94%
16	78	391	194	224	59	170	72	59	162	175	93	424	204	86	93	2602	2484	95%
17	78	391	197	226	57	163	74	59	161	174	91	427	202	92	93	2602	2485	96%
18	78	393	203	225	54	168	79	59	161	173	101	426	204	88	99	2602	2509	96%
19	78	393	199	225	52	167	80	63	161	173	100	426	204	85	94	2602	2500	96%
20	80	389	204	224	52	164	78	62	168	171	102	426	202	89	95	2602	2503	96%
21	78	394	195	221	52	166	75	62	163	172	100	426	204	86	94	2602	2468	96%
22	85	392	180	225	54	166	74	61	163	170	104	426	203	86	89	2602	2478	95%
23	86	396	187	222	54	165	72	65	163	171	110	425	203	90	97	2602	2506	96%
24	89	399	194	227	54	163	73	65	163	171	94	425	203	87	79	2602	2486	96%
25	88	399	193	226	54	166	78	65	163	170	101	425	204	85	80	2602	2495	96%
26	88	393	192	225	53	169	75	62	163	170	113	425	204	86	79	2602	2496	96%
27	91	390	187	223	53	166	71	61	169	171	101	424	203	85	80	2602	2475	95%
28	92	391	185	223	54	167	68	62	169	173	101	424	203	85	82	2602	2479	95%
29	90	399	184	221	52	162	65	62	166	173	97	424	203	84	83	2602	2465	95%
30	91	398	180	220	53	165	67	60	167	172	99	424	202	87	82	2602	2467	95%
31	93	392	184	217	53	165	61	58	167	172	103	428	200	85	77	2602	2455	94%
Avg	79.558	394	187.87	223.1	52.806	163.32	73.903	60.29	165.839	171.903	102.03	423.94	203.55	84.774	85.29	2502	2473.6	95%
																10 day rule		
			3	17	3	6	9	3		8		6				16	Nov 30/30 as of 11 01 31	

Counts as of January 01, 1992 are provided by the institutions of 6am daily.

# FLOW CHART FOR PRISON POPULATION MANAGEMENT ACT



STATE OF ALASKA  
THE LEGISLATURE

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Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

Senate HESS

5-4-91