

SB

231

AMENDMENT

#1

OFFERED IN THE SENATE

BY SENATOR AUSTERMAN

TO: SB 231

- 1 Page 2, line 6:
- 2 Delete "beds."
- 3 Insert "beds;
- 4 (8) Dillingham - construction of new facility with 25 beds;
- 5 (9) Kodiak - construction of new facility with 20 beds;
- 6 (10) Kotzebue - expansion of existing facility by 26 beds;
- 7 (11) North Slope Borough - construction of new facility with 20 beds."

AA
Tech: Line 12 ^{RS} facilities to read
"ies" to MAT-SU NO OBS
AA' NO OBS.

Amendment #2

OFFERED IN THE SENATE BY: *AUSTENMAN*

TO: SB 231 "An Act relating to correctional facilities."

- 1 Page 2, line 5
- 2 Delete Kenai Peninsula Borough
- 3 Insert City of Kenai

AA; NO OBS.

SITE: Kodiak LIO

COMMITTEE: Senate
Community & Regional
Affairs

DATE: 03-20-02

SUBJECT OF MEETING: SB 231 -
CORRECTIONAL FACILITY EXPANSION

UPDATE # 1



PLEASE SIGN IN

P R I N T YOUR NAME

ADDRESS (MAILING & ZIP)

REPRESENTING

**DO YOU WANT
TO TESTIFY?
Y or N**

P R I N T YOUR NAME	ADDRESS (MAILING & ZIP)	REPRESENTING	DO YOU WANT TO TESTIFY? Y or N
Linda Freed		City of Kodiak	Y
Email address:			
Email address:			
Email address:			

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A PROFESSIONAL CORPORATION

Mr. John Duffy
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owners of the Bonds) the right to receive rent from the State under the lease of the Project. The payments of rent from the State will be used to pay the principal and interest on the Bonds.

Each municipality will enter into the following principal documents in connection with the financing:

1. Loan Agreement. The municipality will enter into a loan agreement with AIDEA. Under the loan agreement, the municipality will agree to receive the bond proceeds, apply the bond proceeds to the design, construction management and construction of the Project, lease the Project to the State for an annual rent sufficient to pay debt service on the Bonds and related expenses, assign to AIDEA its right to receive rent under the lease, and enter into an agreement with DOT/PF for the design and construction of the Project. The loan agreement will obligate the municipality to repay the loan, but only from rent paid by the State under the lease. The municipality will not be obligated to repay the loan with its own funds.
2. Ground Lease. The State, as owner of the site on which the Project will be constructed, will enter into a ground lease of the site to the municipality. Under the ground lease, the State will assume responsibility for any preexisting defects in the title to the property, and any preexisting environmental contamination of the property.
3. Lease. The municipality will enter into a lease of the Project to the State. The lease will be for a term of years at least equal to the term of the Bonds. The rent payable by the State under the lease will be sufficient to pay debt service on the Bonds, and related financing expenses, and will be paid in exchange for the State's right to occupy the Project. The lease will not obligate the municipality to provide any services for the Project (utilities, janitorial, insurance, etc.). All costs associated with the operation and maintenance of the Project will be the responsibility of the State. The State's obligation to pay rent will be subject to annual appropriation. If the legislature fails to appropriate rent in any fiscal year, there will be no recourse against the State, except that AIDEA, as assignee of the municipality's interest under the lease, may repossess the Project.
4. Transfer of Responsibilities Agreement. The municipality as owner of the Project will enter into a transfer of responsibilities agreement with DOT/PF, under which DOT/PF will manage the design and construction of the Project. DOT/PF will contract with an architectural or engineering firm to design the Project, and the general contractor who will build the Project. DOT/PF will be responsible for all construction-related claims.

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5. **Assignment.** The municipality will enter into an assignment of all of its rights under the lease to AIDEA (or to a trustee for the owners of the Bonds). This will allow the assignee to receive the payments of rent under the lease, and to exercise all of the municipality's rights as lessor under the lease if the State fails to perform its obligations. The assignment will be without recourse. This means that if the State fails to perform under the lease, the owners of the Bonds cannot obtain any recovery from the municipality.

The agreements described above will be drafted to insulate a participating municipality from risks associated with the Project. The most significant of these risks, and the way in which the municipality is protected from each of them, are described below.

- **Construction Risks.** Under the transfer of responsibilities agreement, DOT/PF will be responsible for all construction-related claims. The lease with the State will provide for the municipality to provide a specified amount, derived only from Bond proceeds, to pay costs of the Project. The construction budget financed from Bond proceeds will include an amount for construction contingencies. In the event of a construction cost overrun exceeding the available contingency amount, the municipality will not be obligated to provide funds to complete the Project. Those funds must come from additional bonds that AIDEA would issue, secured by an agreement by the State to pay additional rent under the lease of the Project. The lease will provide that the State's obligation to pay rent commences not later than a specified date, regardless of whether the Project is ready for occupancy. Thus, the State assumes the risk of construction delays.
- **Ownership Risks.** Under the lease, the State would assume during the lease term all of the significant risks of ownership of the Project. The State will be required to provide insurance against casualty losses to the Project, such as from fire or earthquake, and the municipality will have no obligation to repair or reconstruct the Project after a casualty loss except from insurance proceeds. The State will be responsible for providing all building services, such as utilities and janitorial service, so that the municipality will incur no liability for those services. The State also will agree to indemnify the municipality from liabilities associated with the Project, including personal injury claims by inmates and State employees at the Project, and claims for environmental contamination.
- **Credit Risks.** The municipality will assume no responsibility for the payment of the Bonds from its own resources. Rent payments by the State will flow directly to AIDEA

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or a trustee for the owners of the Bonds. If the State fails to appropriate rent, or defaults in its obligation to pay rent that has been appropriated, a bond owner's recourse will be limited to a claim against the State or the Project. The municipality will have no obligation to pay the claim.

On balance, we expect each participating municipality will find that the economic benefits to its community from the Project far outweigh any potential risks or liability. We look forward to having the opportunity to explain this proposal to participating municipalities in greater detail, and to answer their questions about the proposal

Yours truly,

BIRCH, HORTON, BITTNER and CHEROT


Thomas F. Klinkner

TFK/cm

ALASKA STATE LEGISLATURE



Interim:
600 East Railroad Avenue
Wasilla, Alaska 99654
(907) 376-3370
(907) 376-3157 Fax

Session:
State Capitol
Juneau, Alaska 99801-1182
(907) 465-6600
(907) 465-3805 Fax

SENATOR LYDA GREEN SENATE DISTRICT N

Sponsor Statement SB 231

The need for additional prison beds in Alaska has been recognized by the Legislature for a number of years. Currently, there are hundreds of Alaskan prisoners being held in facilities outside of Alaska. The money that leaves Alaska to pay for the housing of these prisoners provides jobs and economic activity in Arizona, instead of Alaska.

Senate Bill 231 provides legislative authorization for the expansion of state prisons by local governments. Under the provisions of SB 231, local governments would finance the construction of new prison facilities and additional beds at facilities currently owned by the state. The State of Alaska would then enter into long-term leases and operate the facilities as part of the state correctional system. This financing mechanism allows the state to acquire facilities with no upfront capital costs. It benefits both the state and local economies with construction jobs and long-term jobs in the facilities. In many cases the existing facilities were designed with oversized core facilities that allow for expansion at a cost that is far less than that of building the same number of beds in a new facility.

The need for additional prison beds in Alaska is virtually uncontested. However, the location of facilities, the method of financing the construction and who will operate the new facilities all raise issues. In 1998, the Legislature authorized the construction of a privately constructed and operated prison with a minimum of 800 beds in Delta Junction. This prison was not built. In 2001, the Legislature passed HB 149, which provided for construction of a minimum of 800 private prison beds on the Kenai Peninsula. This prison also is not being built. By expanding currently existing facilities, very little energy must be spent on convincing a community that a prison should be constructed there. Expansion poses few of the obstacles that accompany new construction at new locations. Current correctional facilities are already integrated into and accepted by local communities.

Feb. 26. 2002 5:18PM CITY OF BETHEL

No. 8484 P. 2/2

Introduced by: Council Member Drake
Date: February 12, 2002
Action: Passed
Vote: Unanimous

CITY OF BETHEL, ALASKA

RESOLUTION #02-04

A RESOLUTION OF THE BETHEL CITY COUNCIL IN SUPPORT OF THE CONCEPT OF EXPANDING STATE OPERATED PRISONS WITHIN ALASKA MUNICIPALITIES

WHEREAS, The State of Alaska recognizes the pressing need to reduce overcrowding in its prisons and bring home the 800 plus prisoners that are presently housed in out-of-state correctional facilities, and;

WHEREAS, The State of Alaska expends approximately \$20 million annually to transport and house prisoners in out-of-state correctional facilities—funds that if expended in the State of Alaska could significantly benefit state and local economies, and;

WHEREAS, The development of expanded prisons in Alaska's municipalities would benefit Alaskans by providing much needed construction and permanent, year-round prison jobs, and;

WHEREAS, Maintaining prisoners within the State allows for them to be closer to their families and culture which enhances the potential for prisoner rehabilitation, and;

WHEREAS, Expansions of Alaska's existing prisons can be accomplished more cost effectively than by constructing new prisons, and;

WHEREAS, The State of Alaska Department of Corrections has a long-standing history of providing consistent correctional practices that protect the public's safety, allow for community participation through government-to-government transactions and address statewide and regional correction needs.

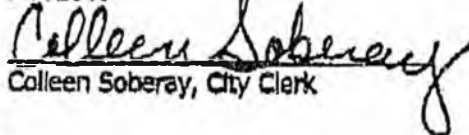
NOW, THEREFORE, BE IT RESOLVED that the Bethel City Council supports the general concept of a comprehensive statewide approach to prison development considering the significant financial and clinical benefits of expanding existing prisons.

PASSED AND APPROVED THIS 22nd DAY OF JANUARY 2002, by a unanimous voice vote.



Stanley "Turley" Rodgers, Mayor

ATTEST:


Calleen Soberay, City Clerk

Presented by: Assemblymember
Etheridge
Introduced: 02/25/2002
Drafted by:

RESOLUTION OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2142

A Resolution in Support of the Concept of Establishing Multiple, Municipally Owned, State Operated Prisons.

WHEREAS, the State of Alaska recognizes the pressing need to reduce overcrowding in its prisons and bring home the 800 plus prisoners that are presently housed in out-of-state correctional facilities, and

WHEREAS, the State of Alaska expends approximately \$18 million annually to transport and house prisoners in out-of-state facilities; funds that if expended in the State of Alaska could significantly benefit state and local economies, and

WHEREAS, the development of new or expanded prisons in Alaska's municipalities would benefit Alaskans by providing much needed construction and permanent, year-round prison jobs, and

WHEREAS, maintaining prisoners within the State allows for them to be closer to their families and culture which enhances the potential for prisoner rehabilitation, and

WHEREAS, expansions of many of Alaska's existing prisons can be accomplished more cost effectively than by constructing new prisons, and

WHEREAS, the State of Alaska Department of Corrections has a longstanding history of providing consistent correctional practices that protect the public's safety, allow for community participation through government to government transactions and address statewide and regional correction needs;


NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. That the City and Borough of Juneau supports the general concept of a comprehensive state-wide approach to prison development, whereby the financial and rehabilitative benefits of expanding existing prisons are equally considered with the development of new prisons.

Section 2. That new or expanded prisons may be owned by the municipalities and operated by the State of Alaska Department of Corrections under a long-term lease with the municipalities.

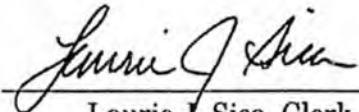
Section 3. Effective Date. This resolution shall be effective immediately upon adoption.

Adopted this 25th day of February, 2002.



Sally Smith, Mayor

Attest:



Laurie J. Sica, Clerk

KETCHIKAN GATEWAY BOROUGH**RESOLUTION NO. 1651****A RESOLUTION OF THE ASSEMBLY OF THE KETCHIKAN GATEWAY BOROUGH,
ALASKA, SUPPORTING THE CONCEPT OF ESTABLISHING AND/OR EXPANDING
MULTIPLE, MUNICIPALLY-OWNED, STATE-OPERATED CORRECTIONAL FACILITIES;
AND PROVIDING FOR AN EFFECTIVE DATE****RECITALS**

A. The State of Alaska recognizes the pressing need to reduce overcrowding in its correctional facilities and bring the 800 plus prisoners home who are presently housed in out-of-state correctional facilities.

B. The State of Alaska expends approximately \$20 million annually to transport and house prisoners in out-of-state facilities; funds which, if expended within the state of Alaska, could significantly benefit state and local economies.

C. The development of new or expanded correctional facilities in Alaska's municipalities would benefit Alaskans by providing much needed construction and permanent, year-round corrections jobs.

D. Maintaining prisoners within the state allows them to be closer to their families and culture, which enhances the potential for prisoner rehabilitation.

E. Expansions of many of Alaska's existing correctional facilities can be accomplished more cost effectively than constructing new correctional facilities.

F. Alaska State Department of Corrections has a long-standing history of providing consistent correctional practices that protect the public's safety, allow for community participation through government-to-government transactions and address statewide and regional correction needs.

NOW, THEREFORE, IN CONSIDERATION OF THE ABOVE FACTS, IT IS RESOLVED BY THE ASSEMBLY OF THE KETCHIKAN GATEWAY BOROUGH, ALASKA as follows:

Section 1. The Ketchikan Gateway Borough Assembly supports the general concept of a comprehensive statewide approach to correctional facility development, where the financial and clinical benefits of expanding existing correctional facilities are equally considered with the development of new correctional facilities.

Section 2. The Assembly further supports the concept that new or expanded correctional facilities be owned by the municipalities and operated by the Alaska State Department of Corrections under a long-term lease agreement with the relevant municipalities including the Ketchikan Gateway Borough.


RESOLUTION NO. 1651

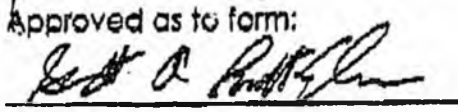
PAGE 2

Section 3. This resolution is effective upon adoption.

ADOPTED this 19th day of February, 2002.


BOROUGH MAYOR

ATTEST:

BOROUGH CLERK

Approved as to form:

BOROUGH ATTORNEY

EFFECTIVE DATE: February 19, 2002			
ROLL CALL	YES	NO	ABSENT
BERGERON	✓		
COOSE	✓		
LYBRAND	✓		
SALAZAR			✓
SALLER	✓		
SARBER	✓		
BURTON			✓
MAYOR (no Vote Only)			N/A
4 AFFIRMATIVE VOTES REQUIRED FOR PASSAGE			

CITY OF PALMER, ALASKA

RESOLUTION NO. 1264

A RESOLUTION OF THE CITY OF PALMER IN SUPPORT OF THE CONCEPT OF ESTABLISHING MULTIPLE, MUNICIPAL OWNED, STATE OPERATED PRISONS.

WHEREAS, the State of Alaska recognizes the pressing need to reduce overcrowding in its prisons and bring home the 800 plus prisoners that are presently housed in out-of-state correctional facilities; and

WHEREAS, the State of Alaska expends approximately \$20 million annually to transport and house prisoners in out-of-state facilities; funds if expended in the State of Alaska could significantly benefit state and local economies; and

WHEREAS, the development of new or expanded prisons in Alaska's municipalities would benefit Alaskans by providing much needed construction and permanent, year-round prison jobs; and

WHEREAS, maintaining prisoners within the state allows for them to be closer to their families and culture which enhances the potential for prisoner rehabilitation; and

WHEREAS, expansions of many of Alaska's existing prisons can be accomplished more cost effectively than by constructing new prisons; and

WHEREAS, Alaska State Department of Corrections has a long-standing history of providing consistent correctional practices that protect the public's safety, allow for community participation through government-to-government transactions and address statewide and regional correction needs.

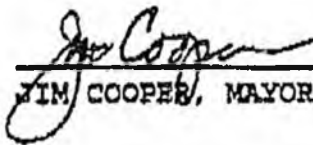
NOW, THEREFORE, BE IT RESOLVED, the City of Palmer supports the general concept of a comprehensive statewide approach to prison development, where the financial and clinical benefits of expanding existing prisons are equally considered with the development of new prisons; and

BE IT FURTHER RESOLVED, that new or expanded prisons be owned by the municipalities and operated by the Alaska State Department

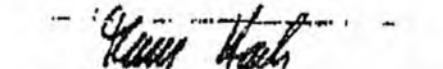
Resolution No. 1264 - Continued

of Corrections under a long-term lease with the relevant municipalities including the Matanuska-Susitna Borough.

Adopted by the City of Palmer this 26th day of February, 2002.



JIM COOPER, MAYOR



THOMAS HEALY, CITY CLERK

Adopted: 02/05/02

**MATANUSKA-SUSITNA BOROUGH
RESOLUTION SERIAL NO. 02-021**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY IN SUPPORT OF THE CONCEPT OF ESTABLISHING MULTIPLE, MUNICIPAL OWNED, STATE OPERATED PRISONS.

WHEREAS, the state of Alaska recognizes the pressing need to reduce overcrowding in its prisons and bring home the 800 plus prisoners that are presently housed in out-of-state correctional facilities; and

WHEREAS, the state of Alaska expends approximately \$20 million annually to transport and house prisoners in out-of-state facilities; funds that if expended in the state of Alaska could significantly benefit state and local economies; and

WHEREAS, the development of new or expanded prisons in Alaska's municipalities would benefit Alaskans by providing much needed construction and permanent, year-round prison jobs; and

WHEREAS, maintaining prisoners within the state allows for them to be closer to their families and culture which enhances the potential for prisoner rehabilitation; and

WHEREAS, expansions of many of Alaska's existing prisons can be accomplished more cost effectively than by constructing new prisons; and

WHEREAS, Alaska State Department of Corrections has a long-standing history of providing consistent correctional practices that protect the public's safety, allow for community participation

through government-to-government transactions and address statewide and regional correction needs.

NOW, THEREFORE, BE IT RESOLVED, that the Matanuska-Susitna Borough Assembly supports the general concept of a comprehensive statewide approach to prison development, where the financial and clinical benefits of expanding existing prisons are equally considered with the development of new prisons; and

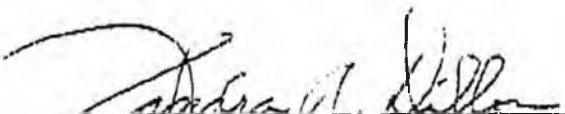
BE IT FURTHER RESOLVED, that new or expanded prisons be owned by the municipalities and operated by the Alaska State Department of Corrections under a long-term lease with the relevant municipalities including the Matanuska-Susitna Borough.

ADOPTED by the Matanuska-Susitna Borough Assembly this 5 day of February, 2002.



TIMOTHY L. ANDERSON, Borough Mayor

ATTEST:



SANDRA A. DILLON, Borough Clerk

(SEAL)

Sponsored by: Janke

**CITY OF SEWARD, ALASKA
RESOLUTION 2002-017**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEWARD,
ALASKA, IN SUPPORT OF THE CONCEPT OF ESTABLISHING MULTI-
PLE CITY OWNED, STATE OPERATED PRISONS**

WHEREAS, the State of Alaska recognizes the pressing need to reduce overcrowding in its prisons and bring home the 800 plus prisoners that are presently housed in out-of-state correctional facilities); and

WHEREAS, the State of Alaska expends approximately \$18 million annually to transport and house prisoners in out-of-state facilities; funds that if expended in the State of Alaska could significantly benefit state and local economies; and

WHEREAS, the development of new or expanded prisons in Alaska's municipalities would benefit Alaska ns by providing much needed construction and permanent, year-round prison jobs; and

WHEREAS, maintaining prisoners within the State allows for them to be closer to their families and culture which enhances the potential for prisoner rehabilitation; and

WHEREAS, expansions of many of Alaska's existing prisons can be accomplished more cost effectively than by constructing new prisons; and

WHEREAS, the State of Alaska Department of Corrections has a long standing history of providing consistent correctional practices that protect the public's safety, allow for community participation through government to government transactions and address statewide and regional correction needs:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SEWARD, ALASKA, that:

Section 1. The City of Seward supports the general concept of a comprehensive state-wide approach to prison development, where the financial and clinical benefits of expanding existing prisons are equally considered with the development of new prisons.

Section 2. The new or expanded prisons be owned by the City and operated by the State of Alaska Department of Corrections under a long-term lease with the City.

Section 3. The City of Seward supports the expansion of the Spring Creek Correction facility.

Section 4. This resolution shall take effect immediately upon its adoption.

**CITY OF SEWARD, ALASKA
RESOLUTION 2002-017**

PASSED AND APPROVED by the City Council of the city of Seward, Alaska, this 11th day of February, 2002.

THE CITY OF SEWARD, ALASKA

Edgar Blatchford
Edgar Blatchford, Mayor

AYES: Branson, Brossow, Clahoon, Orr, Shafer, Blatchford
NOES: None
ABSENT: Clark
ABSTAIN: None

ATTEST:

Patrick Reilly
Patrick Reilly
City Clerk

