

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8626 HOUSE JUDICIARY

1 teleconference that it is past the time this committee runs
2 already, and I have convinced my members to stay here till 3:30,
3 which is a half an hour into other commitments, including mine and
4 Representative Green's; but we will do that. But that is far as we
5 can go today. We will continue Friday with this one, since we are
6 on such a roll. And, hopefully, anybody that can be with us on
7 Friday that isn't able to testify today can do that.

8 Representative Green, go ahead and ask one more question.
9 But what I am going to ask after that is, if there is anybody here
10 in Juneau that is here from out-of-town to testify on this bill --
11 after this question -- please raise your hand and I will try to get
12 you in and out so that you can go.

13 REP. GREEN: You mentioned -- and I am sure this can
14 be accomplished -- the difference between the cost that is being
15 shown for incarceration now out-of-state and what the additional
16 medical and transportation, what that boils down to. Was that like
17 a five-dollar or a fifteen-dollar bid, some rational number that we
18 could add onto shipping them outside?

19 I know you may not have it now, but can you get that for
20 us?

21 ANTRIM: I can probably get that for you, yes, I
22 could. Yes, Representative Green.

23 REP. GREEN: We've been doing it, so --

24 ANTRIM: Yeah, okay. I will try to get that to you
25 as soon as I can.

26 REP. GREEN: Okay.

27 ANTRIM: Thank you again.

28 CHAIRMAN PORTER: Marc, thank you very much.

29 (end of excerpt/bhc)
30
31
32

EXCERPTS OF TESTIMONY

LEGISLATIVE TELECONFERENCE 1/31/96 and 2/2/96

RE: HB428 AND HB429

DAY 1

(Tape 1, R2587, 3:25 p.m.)

CHAIRMAN PORTER: Okay. We've got ten minutes. What I will try to do is ask -- go around the state here, and in ten minutes ask if you could just keep your comments to about two minutes. And we will first start just at the top of my list, we have Gary Sampson in Seward.

Gary, are you still there?

SAMPSON: Yes, I am.

CHAIRMAN PORTER: Gary, could we have your testimony and your affiliation, please.

TESTIMONY OF GARY SAMPSON, COII, ASEA/AFSCME Local 52

SAMPSON: Yes. My name is Gary Sampson. I am the Corrections Representative for the Alaska State Employees Association.

The introduction of these bills is a cause of great alarm for us, and should be for all citizens of the state. As we see the costs of prisons' operations rising everywhere across the country, we realize that there is no quick, cheap fix for correctional problems. The desire to cut costs, however, should not be, cannot be the primary concern of Corrections. Quality of service, safety and security must be the primary concerns.

I've traveled throughout the country talking to Correctional officials and I am confident to state that the quality of service provided by the Alaska Department of Corrections is the best in the country. They operate a safe, secure prison system, which is free of corruption, and treat the prisoners humanely, and has a very high caliber employee. It is doubtful that this

1 standard will be matched by any private company. Incidents in
2 private facilities across the country require that you look beyond
3 the pie-in-the-sky sales pitches of private corporations. You need
4 to look at the facts.

5 Throughout the country it has been noted that privately
6 run facilities are frequently compromised on security in an effort
7 to maximize profit. Since labor makes up about 60 percent of the
8 operational costs of a correctional facility, reducing staff and
9 limiting training seems to be a vital part of the strategy of
10 private corporations that operate prisons. There are often
11 dramatic increases in escapes and assaults in privately run
12 facilities. This is caused by the lack of sufficient, well-trained
13 and competent employees, again in an attempt to increase profits at
14 the public expense. It is not possible to reduce labor cost
15 without debasing the quality of the workforce and, with it, the
16 conditions of confinement for prisoners. In an effort to reduce
17 costs, inmates services are cut, often in violation of the
18 contracts which they have made with the state. These programs are
19 often essential for the reformation of prisoners. Many times,
20 inmate medical services have been cut, which have led to many
21 lawsuits.

22 On top of all this is the basic fact that there is little
23 evidence that a privately run facility saves any money over a
24 publicly run facility. Numerous studies by the National Institute
25 of Justice, the National Institute of Corrections, the General
26 Accounting Office among others, have concluded that there were no
27 significant savings in going private. And in fact, many private
28 prisons may well cost more in the long run, not only in dollars but
29 also in the health and safety of prison staff and other law
30 enforcement officers.

31 Remember that the primary purpose of Corrections is to
32 provide a public service and to provide for the public security.

1 The primary purpose of a private company is to make a profit; and
2 these two purposes are contradictory. The one has served our
3 citizens well; the other will put our society in jeopardy.

4 As we have indicated, our organization, ASEA and AFSCME,
5 will be happy to work with you in providing alternatives that may
6 be a more viable solution to the problem than looking to private
7 companies.

8 Thank you very much.

9 CHAIRMAN PORTER: Thank you, Gary.

10 (end of excerpt/bhc)

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ALASKA STATE EMPLOYEES ASSOCIATION
AFSCME Local 52, AFL-CIO

FAX COVER

(11) PAGES INCLUDING COVER 465-3834

To: Rep. Brian Porter, Chair Fax: 258-5511
House Judiciary Committee

From: Chuck O'Connell, Business Manager
ASEA/AFSCME Local 52

Date: 2-3-96 Time: 11:30 (a.m./p.m.)

Re: HB 428 - Gary Dameron Testimony

Message: As promised yesterday this
is Correctional Officer Dameron's
testimony.

Please share with the rest
of your committee.

Chuck O'Connell

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TESTIMONY
OF
GARY DAMRON, COIII

before the
House Judicial Committee
February 2, 1996
Re: HB428 and HB429

1 **Testimony presented via**
2 **Legislative Teleconference**
3 **February 2, 1996**
4

5 OFFICER DAMRON: My name is Gary Damron. I am
6 currently a Correctional Officer III at Hiland Mountain
7 Correctional Center. I am the shift supervisor there. I have ten
8 years with the Department of Corrections, and today I am here on
9 behalf of the 800 members of ASEA, and nearly 75,000 Correctional
10 Officers of AFSCME in AFSCME Corrections United.

11 If you will indulge me for a few minutes, I would like to
12 give the Committee a brief history lesson on privatization in the
13 Corrections arena. It has a long history of failure. And as
14 someone spoke on Wednesday, we either have to remember history or
15 we are doomed to repeat it.

16 In 1780 the Walnut Street Jail in Philadelphia was opened
17 by the Church of Pennsylvania. Then about 1810 it had to be taken
18 over by the city because of abuses against prisoners.

19 Louisiana was the first state in the mid-1800s to
20 privatize a prison. It is now known as Angola and, as you know, it
21 is run by the State of Louisiana.

22 New York's most prominent prisons, both Auburn and Sing-
23 Sing were once private facilities run by companies. In the late
24 1880s private prisons were so popular, they were the norm, not the
25 exception. But around 1900, due to the abuse complaints from the
26 private sector, both business and labor, the states were forced to
27 accept responsibility from the private companies to manage and
28 operate these facilities. That's our history lesson; we know that.
29 We also know that we're thinking about doing it again.

30 Some of the things about privatization that I would like
31 to point out is (1) there is a very substantial conflict of
32 interest for a private company to run a public prison. The first

*Testimony of Gary Damron
before the Judiciary Committee
Re: HB428 and 429*

1 is that the state is charged by the Alaska Constitution with the
2 reformation of the offender and deterrence. The private companies
3 want to keep the cells full, to keep profits up. What incentive is
4 there for them to run quality rehabilitation programs? Well,
5 there's not. Because, if you reform the offender, he or she
6 becomes a productive member of society and you lose your revenue.
7 The other thing is, rehabilitation programs are very expensive.

8 Another conflict of interest comes to disciplinary
9 problems inside of prisons. One of our best management tools that
10 we have today is the forfeiture of statutory good time. If I were
11 running a private prison and I thought I could take a few days or
12 a few months away from a prisoner and keep him in my jail, I would
13 jump on it in a heartbeat. It means more money.

14 I would like to talk to you a little bit, too, about the
15 two companies that seem to be at the forefront of Alaska's
16 privatization efforts, Wackenhut and CCA.

17 Wackenhut runs the Savannah River and Rock Flats Nuclear
18 Test Facilities. The employees there have been used to repress
19 peaceful demonstrations and gather intelligence, quote/unquote, on
20 U.S. citizens. And we all know about their reputation in Alaska.
21 Unlicensed investigators in Alaska were used to quiet Alyeska
22 Pipeline Service Company critics. They broke the law in three
23 states, and they even went so far to investigate a U.S.
24 Congressman.

25 CCA, on the other hand, while not doing this kind of
26 activity, was linked to possible corruption over its relationship
27 to state and local officials in its home state of Tennessee. A
28 U.S. Attorney in Nashville is currently investigating charges of a
29 bribery kick-back surrounding a \$1 million contract to CCA to
30 operate the Southcentral Correctional Center in Pipeville,
31 Tennessee.

32 CHAIRMAN PORTER: Gary, can you hear me?

1 OFFICER DAMRON: Yes, sir.

2 CHAIRMAN PORTER: I am going to have to ask you to
3 summarize. You are little over the three minutes already.

4 OFFICER DAMRON: Well, basically, my presentation
5 today is that this is major public policy shift; there is no safe
6 public interest in privatizing our facilities.

7 Thank you.

8 CHARLES L. O'CONNELL (Business Manager for
9 ASEA/AFSCME Local 52): Chairman Porter, we will give you the
10 remainder of his testimony in writing tomorrow.

11 CHAIRMAN PORTER: That will be fine. We have -- the
12 fax number should be there for you to obtain. Just send it to the
13 Judiciary Committee fax number here in Juneau --

14 O'CONNELL: Thank you.

15 CHAIRMAN PORTER: -- your testimony and anyone
16 else's that had it in writing, that would like it to be part of the
17 record.

18 (Follows is written testimony "in progress,"
19 to complete Officer Damron's presentation
20 to the Judiciary Committee)

21 OFFICER DAMRON: In 1992 the State of Tennessee
22 awarded a \$60 million contract for a prison in Wayne County,
23 Tennessee. This was \$10 million higher than the other bidder. The
24 Tennessee-based company received the contract through a process
25 that allows a favored business to score high enough on the proposal
26 to win a contract, even if it offers the highest bid.

27 And now I would like to get into private prison
28 performance. The cost savings of private prisons is negligible at
29 best, if there is any at all. In 1985 the National Institute of
30 Corrections and the American Correctional Association audited two
31 Florida youthful offender prisons. One was run by the Eckerd
32 Foundation, as private for-profit corporation, and one was run by

1 the State of Florida. The results of the NIC and ACA audit were
2 that there was, "No significant reduction in costs."

3 And in 1989 the National Institute of Justice and the
4 Urban Institute studied the Blackburn, Kentucky, Corrections
5 Complex and the Marion Adjustment Center run by the U. S.
6 Corrections Corporation. Costs were the same, despite the fact
7 that Marion received only model prisoners. This was also despite
8 of the fact that Marion paid staff less and gave fewer benefits.

9 The CCA in the State of Tennessee audit in 1995 reported
10 that the cost savings was only about 1% between the CCA facility
11 (Marion) and the state-operated facility (Blackburn).

12 Dennis Colombo, Criminal Justice Professor of Arizona
13 State University states, "Private prisons may well cost more in the
14 long run, not only in terms of taxpayer but also in the health and
15 safety of prison staff and other law enforcement officers." This
16 is from The Christian Science Monitor.

17 Now, to security, escapes, and public safety. The CCA
18 Hamilton County, Tennessee, Penal Farm in 1985 to 1986 had 64
19 prisoners escape from the facility and road crews. In 1989 the CCA
20 Hernando County, Florida, Jail, from June 1989 to January 1990 had
21 7 escapes. The CCA Bay County, Florida, Jail in 1989 had 5
22 escapes, including 1 maximum security prisoner, leaving the
23 St. Petersburg Times to remark, "The Bay County episode has yet
24 another question mark about prisons and profits." 1992, in the
25 Southcentral Correctional Center, Wayne County, Tennessee (a medium
26 security facility, and that's what they want to build here), there
27 was one stabbing which killed one prisoner and seriously injured
28 two others. A handgun was found during a routine search, and they
29 had eight escapes between March and October of 1992.

30 A 1995 audit of the Clifton Prison, versus two state
31 facilities in Tennessee, there were 214 incidents of injury over a
32 15-month period versus 72 in the two other facilities combined.

1 The report also stated that the CCA staff used force more often:
2 30 incidents in the CCA facility versus 10 in the other two
3 facilities combined.

4 And just recently in Elizabethtown, New Jersey, at the
5 Immigration Detention Center, there was a riot. The GAO laid the
6 cause of the riot to poor staffing, abuse and mistreatment by the
7 rent-a-guards, and cost-cutting in basic human services, such as
8 quality food service and poor health care.

9 Alaska Correctional Officers are Class I employees and
10 have no right to strike. We have to come to work, regardless of
11 the circumstances. Is that going to be applicable to private
12 employees? I heard about a no-strike clause in their contract, but
13 I don't see how under the National Labor Relations Act someone can
14 implement that.

15 And what happens in an adverse job action for a riot in
16 Alaska? Who is going to respond? It is going to be other State
17 COs from around the state; the National Guard; the Troopers; and,
18 if this facility is built in Anchorage, the Anchorage Police
19 Department. Do they have such a training contingent? I don't
20 believe so.

21 I want to move on to some comments about staffing private
22 facilities, and some audits and things like that that were brought
23 to my attention.

24 In 1990 an audit by the State of Texas of four
25 correctional corporations of American and Wackenhut facilities
26 stated, "Understaffing is a major problem." At the Hernando County
27 Jail, when Corrections Corporation of America took over, they
28 slashed staff by 17%, cutting the staff of 94 Correctional Officers
29 to 78. The National Institute of Corrections stated that a minimum
30 of 10 new Correctional Officers needed to be hired to meet even the
31 minimum standard.

32 On Wednesday you heard Sgt. Antrim, of the Lemon Creek

1 Correctional Center, talk about what you are not going to get; and
2 I will briefly touch on those, and I have some more to add to that.

3 ● You are not going to have mental health prisoners
4 needing treatment going to this facility because it is
5 too cost-prohibitive.

6 ● You are not going to have pre-trial prisoners for
7 two reasons: (1) It's too expensive, and (2) they are
8 not yet classified. (And by Bill 428, they are not
9 classified yet when they are pre-trial.)

10 ● You are not going to have misdemeanants simply
11 because they are too expensive and they are too short-
12 term. There are many different things that need to be
13 taken care of in terms of misdemeanants. One of those is
14 time-accounting, and that is a very time-consuming task.

15 ● You are not going to have booking. You are not
16 going to have geriatric patients, which is the second-
17 largest growing offender population that we have right
18 now.

19 ● You are not going to have chronically ill people,
20 people with cancer, people with asthma, things like that
21 because the medical treatment is so expensive.

22 ● You are not going to have prisoners who need
23 detoxification, because that is expensive and it is
24 dangerous. People coming off drugs and alcohol do weird
25 things, they fight, etc.

26 ● You are not going to have maximum security
27 prisoners. That's been ruled out by this bill
28 specifically. Many prisoners just coming into this
29 system are also going to be classified maximum security
30 for several reasons.

31 ● You are not going to have females. When I left my
32 shift Thursday morning at Hiland Mountain Correctional

1 Center, there were 65 female prisoners housed there.
2 Twelve are pregnant, and of these all were high-risk
3 pregnancies due to the lifestyle of the prisoner
4 population.

5 ● You are not going to have sex offender treatment at
6 this plant, because sex offender treatment is very, very
7 expensive.

8 The impact upon employees is great. You have reduced
9 salaries and benefits for private prisons, and you are comprising
10 on the quality of employees.

11 I would like to tell you some things that AFSCME, ASEA,
12 and our members feel that Alaska does not need, and these are also
13 my personal views -- take them as you will.

14 What Alaska doesn't need is a 1000-bed facility that
15 won't serve the needs of the Bush and outlying communities. It
16 won't house prisoners that need booking, intake, mental health
17 treatment, detoxification, long-term medical care, or sex offender
18 treatment; and it won't hold prisoners that are pre-trial,
19 misdemeanants, geriatric, maximum security, or female. What you
20 will have is a 1000-bed empty prison.

21 What Alaska does need, however, is expansion of existing
22 facilities. This leads to several cost reductions, including
23 reduced capital costs, reduced transportation costs, better use of
24 current staffing, and it brings about an economy of scale.

25 The second thing we need is a new pre-trial detention
26 center in Anchorage to replace the Sixth Avenue Jail.

27 And here are some things that I feel that Alaska already
28 has. Alaska has a model system for the rest of the nation. We
29 have very few escapes. We have overcrowding, but it is still not
30 to the extent of other systems. We have a well-trained, educated,
31 and motivated staff, both in Correctional Staff and Administrative
32 Support. We have an excellent rehabilitation program. We have the

1 sex offender treatment programs at Hiland Mountain and Lemon Creek
2 Correctional Centers, for which the Hiland program is the model for
3 the rest of the nation. We have drug and alcohol treatment that
4 are second to none. These are also provided by contractors. We
5 have vocational educational training. We have several
6 apprenticeship programs, including a bakery in Palmer, metal
7 working and furniture-making shops in Seward and Kenai, and we have
8 sewage treatment plants where prisoners are learning how to handle
9 waste water at both Palmer and Hiland Mountain Correctional Center.

10 We also have a model prison industry program. Several of
11 the industries included there are meatpacking, laundry, clothing
12 manufacturing in Fairbanks, and metal and furniture-making in
13 Seward and Kenai.

14 We have a safe system. We had no homicides by prisoner-
15 on-prisoner, prisoner-on-staff, and we've had no staff terminate
16 prisoner life in our history. We have very few prisoner assaults
17 on other prisoners, and we have very few prisoner assaults on
18 staff.

19 In conclusion, I would like to say that privatization is
20 not the answer, despite the rush to that arena. One thousand beds
21 in Anchorage will still not solve our problem; it will be empty.
22 Transportation costs from the Bush for sentenced prisoners to the
23 Anchorage area is exorbitant and needs to be considered.

24 It will not reduce the liability of the State. When we
25 incarcerate someone, it doesn't matter whether it is a private
26 facility or a public facility. The state is still liable for the
27 care and custody of that prisoner.

28 What is needed is a new state jail in Anchorage. It is
29 cost-effective. It will accept all prisoners, and it is
30 considerably smaller than 1000 beds. We desperately need expansion
31 of existing facilities, to meet the regional needs of the State,
32 specifically in Bethel, Nome, Mat-Su, and the Anchorage area.

*Testimony of Gary Damron
before the Judiciary Committee
Re: HB429 and 429*

10

1 Thank you for this opportunity to present this testimony
2 before you.
3 (end of testimony/GD:bhc)

*Testimony of Gary Damron
before the Judiciary Committee
Re: HB428 and 429*

Revision Date: _____ Dept. Affected: Revenue
 Title: Lease Purchase Correctional Facility BRU: Revenue Operations
 Component: Treasury Management
 Sponsor: House Finance Committee
 Requestor: (H) JUD COMPONENT SERIAL NO. 121

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (FY96) cost \$ _____

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

(See Attached Analysis)

Prepared by: Forrest Browne, Debt Manager
 Division: Treasury
 Approved by Commissioner: [Signature]
 Agency: Department of Revenue

Phone: 465-3750
 Date: 1/25/96
 Date: 1/25/96

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House Bill No. 428 approves a lease-purchase agreement for the financing, construction, and operation of a correctional facility.

Operating Budget

The legislation would have no impact on the Treasury Division's operating budget.

Debt Financing Issues

Our comments are based on several assumptions. First, the lease will be long-term. Second, the lease-purchase agreement terms will be in part based on the contractor borrowing up to \$100,000,000 for designing, constructing, and equipping the facility. And finally, the financing, construction, and operation of the facility will be bundled into a single contract.

If the assumptions are correct, several issues come to mind that may need to be considered.

- 1) This lease-purchase will be considered debt from a bond rating perspective and will be recorded as such in the State's financial statements.
- 2) The contractor may want to securitize the State's lease and offer this debt in the domestic or international financial markets in order to obtain the funds necessary for construction. This process raises several more questions.
- 3) Securitizing the lease over a period of time beyond the expected Prudhoe Bay Curve may have an effect on the State's current bond rating. We are working with our financial advisor to convince the market that the State is working on a plan to fill the fiscal gap and reduce our dependence on oil revenues.
- 4) Consideration should be given to an overall strategy dealing with infrastructure and capital needs of the State. Agreements as outlined in HB No. 428 are only a portion of the total picture. This agreement will reduce the State's debt capacity as we offer our credit to a private contractor and at the same time give up the right to have any control over the debt issuing process.

Can a private contractor issue securitized state leases cheaper than the State? The answer is probably not. We can access tax exempt markets using our existing contracts with our own financial advisor and bond counsel and borrow money at very competitive rates.

Advantages of securing our own financing include the ability to refinance at any time favorable market conditions provide savings. Also, we eliminate the need to unbundle the lease-purchase from the construction and operating contracts should problems arise due to non-performance or default on the part of the contractor.

FISCAL NOTE

STATE OF ALASKA
 1996 LEGISLATIVE SESSION
 ANALYSIS: (continued)

BILL NO. HB 428

1. ASSUMPTIONS:

- 1.1. Dept. of Corrections will furnish requirements for the number of beds and location criteria.
- 1.2. Dept. of Corrections will establish operational criteria for the facility.
- 1.3. DOT&PF will identify potential sites for the facility, and will develop a building space program, conceptual design and performance specifications suitable for use in the design/construction RFP.
- 1.4. A site will be made available by a political subdivision, at no cost to the state. In the event that a suitable site is not made available, additional funding will need to be appropriated to acquire a sufficient interest in a site.
- 1.5. An agency of the state is granted authority in law to conduct the issuance of financial instruments as tax exempt financing.
- 1.6. DOT&PF will provide construction administration and inspection services from award to occupancy.
- 1.7. Lease payments will begin in the first year of operation (estimated to be 2003). Based on a 20 year term, \$100 million principal, and 6% interest (based on discussion with the Dept. of Revenue), the approximate annual payment is estimated to be \$8.7 million.
- 1.8. Time schedule for performance is per Dept. of Correction draft schedule.

2. DEPARTMENT OF ADMINISTRATION RESPONSIBILITIES AND COSTS:

2.1. Site Acquisition

2.1.1. Prepare acquisitic agreement, site survey \$25,000

2.2. Prepare RFP for construction of the facility

2.2.1. Prior to award - \$225,000 (FY 98 - 99).

Legal: \$50,000

Financial: \$25,000

Develop RFP: \$50,000

1/2 Project Manager, R 21 for 24 mo. \$100,000

2.3. Prepare RFP for the operation of the facility. Assumes 9 months to reach an award.

2.3.1. Prior to award - \$125,000 (FY 99 - 00)

Legal: \$25,000

RFP development & preparation: \$50,000

1/2 Project Manager, R 21 for 24 months: \$100,000

2.3.2. After award - 2 years startup effort (FY 01 & 02).

1 Contracting Officer for contract administration \$180,000

2.4. Annual cost to administer the lease-purchase agreement, and the operation agreement after occupancy. Begin in FY 03

1/8 Contracting Officer for life of lease: \$11,250

See attached spreadsheet for allocation of costs by fiscal year and fund source







Allocate Fiscal Note HB 428

	GF Capital Funds			Bond Proceed Funds			Total Capital Funds	Annual Operating Funds FY 03
	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02		
2.1 Site Acquisition		25.0					25.0	
2.2 Prepare RFP for construction of the facility								
			Legal:				50.0	
			Financial:				25.0	
			Develop RFP:				50.0	
			1/2 Project Manager R21 for 24 months				100.0	
2.3 Prepare RFP for the operation of the facility.								
2.31 <u>Prior to award</u>								
			Legal:				25.0	
			RFP development & preparation:				50.0	
			1/2 Project Manager, R 21 for 24 months:			50.0	100.0	
2.32 <u>After award</u>								
			1 Contracting Officer for 2 years startup effort:			90.0	90.0	
2.4 Annual cost to administer the lease-purchase agreement, and the operation agreement. Begin in FY 03								
			1/4 Contracting Officer for life of lease:					11.3
			Sub-total				605.0	11.3
			Personal Services					11.3
			Contractual					

**Corrections Expansion Program
House Bill 428**

ID	Name	1996	1997	1998	1999	2000	2001	2002	2003
1	Legislative Authorization								
2	Prepare & Solicit Master Plan RFP	■							
3	Prepare Master Plan Update		■						
4	Draft Operational Standards		■						
5	Finalize Operational Standards			■					
6	Solicit A/E Professional Services Agreement	■							
7	Site Selection/Approval		■						
8	Land Acquisition			■					
9	Functional Space Programming	■							
10	Conceptual Design			■					
11	Draft Lease Purchase RFP	■							
12	Finalize Lease Purchase RFP				■				
13	Advertise/Award Lease Purchase RFP					■			
14	Prepare Operational RFP						■		
15	Solicit/Award Operational RFP						■		
16	Construction					■	■	■	■
17	Commence Operations								■
18	Bond Committee Preparatory Work	■							
19	Obtain Financing	■							

Project:
Date: 1/22/98

Critical  Noncritical  Progress  Milestone  Summary  Rolled Up 

AMENDMENT

BY REPRESENTATIVE FINKELSTEIN /#1

OFFERED IN HOUSE JUDICIARY
TO: CSHB 428 (JUD)

Page 1, line 1 following "Act" through page 4, line 30:
Delete all material

Insert the following:

"requiring the Department of Corrections to consider a lease-purchase option for the construction and operation of a correctional facility.

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

Section 1. The Department of Corrections shall consider a lease-purchase option for the construction and operation of a new correctional facility in order to relieve overcrowding of existing correctional facilities."

AMENDMENT

BY REPRESENTATIVE FINKELSTEIN /#2

OFFERED IN HOUSE JUDICIARY
TO: CSHB 428 (JUD)

Page 2, line 9 following "in this state":
Delete "or in another state"

AMENDMENT

BY REPRESENTATIVE FINKELSTEIN / #3

OFFERED IN HOUSE JUDICIARY
TO: CSHB 428 (JUD)

Page 2, line 22 following "misdemeanors":

Delete ", without regard to the custody classifications for prisoners as determined by the commissioner, unless the security of the facility is inconsistent with those custody classifications"

AMENDMENT

BY REPRESENTATIVE FINKELSTEIN / #4

OFFERED IN HOUSE JUDICIARY
TO: CSHB 428 (JUD)

Page 3, following line 26:

Insert a new subsection: "(3) may not be used to house prisoners not convicted in an Alaskan court;"

Renumber the following subsections accordingly.

AMENDMENT

BY REPRESENTATIVE FINKELSTEIN #5

OFFERED IN HOUSE JUDICIARY
TO: CSHB 428 (JUD)

Page 3, line 30:

Delete "a no-strike and no-slowdown pledge by the union or unions;

Adjust the following subsections accordingly.

AMENDMENT

BY REPRESENTATIVE FINKELSTEIN /#6

OFFERED IN HOUSE JUDICIARY
TO: CSHB 428 (JUD)

Page 4, line 5 following "except":
Delete "temporarily"

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE FINKELSTEIN / # 7

TO: Draft CSHB 428()

1 Page 4, line 5:

2 Delete "temporarily"

3 Page 4, line 8:

4 Delete "or"

5 Page 4, line 9, after "contractor":

6 Insert "; or

7 (C) the state is able to operate the correctional facility at less
8 cost than a third-party contractor"

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE FINKELSTEIN / #8

TO: Draft CSHB 428()

1 Page 4, line 5:

2 Delete "except temporarily"

3 Insert "or by a political subdivision or public corporation of the state except"

4 Page 4, line 8:

5 Delete "or"

6 Page 4, line 9, after "contractor":

7 Insert "; or

8 (C) the state determines that it is in the best interests of the
9 state for the correctional facility to be operated by the state or by the political
10 subdivision or public corporation of the state"

AMENDMENT

BY REPRESENTATIVE FINKELSTEIN /#9

OFFERED IN HOUSE JUDICIARY
TO: CSHB 428 (JUD)

Page 4, following line 15:

Insert new subparagraph:

"(1) The Department of Corrections shall establish procedures for background and records checks on any personnel hired to staff the correctional facility and shall establish new regulations for verifying that guards and other corrections' staff have received proper training consistent with AS 18.65.130 - 18.65.290 to work with incarcerated felons."

AMENDMENT

BY REPRESENTATIVE FINKELSTEIN /#10

OFFERED IN HOUSE JUDICIARY
TO: CSHB 428 (JUD)

Page 4, line 23 following "facilities":
Delete "not more stringent than"
Insert "equal to"

CS FOR HOUSE BILL NO. 428(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): HOUSE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the authority of the Department of Corrections to contract
2 for facilities for the confinement and care of prisoners, and annulling a regulation
3 of the Department of Corrections that limits the purposes for which an agreement
4 with a private agency may be entered into; and giving notice of and approving
5 a lease-purchase agreement for construction and operation of a correctional facility
6 in the Third Judicial District, and setting conditions and limitations on the
7 facility's construction and operation."

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

9 * Section 1. AS 33.30.031(a) is amended to read:

10 (a) The commissioner shall determine the availability of state correctional
11 facilities suitable for the detention and confinement of persons held under authority of
12 state law or under agreement entered into under (e) of this section. If the
13 commissioner determines that suitable state correctional facilities are not available, the

1 commissioner may enter into an agreement with a public or private agency to provide
2 necessary facilities, subject to the following:

3 (1) the commissioner may not enter into an agreement with a
4 public or private agency that is unable to provide a degree of custody, care, and
5 discipline to the extent required by the laws of this state, including the standards
6 of custody, care, and discipline that are required by order of a court;

7 (2) correctional [. CORRECTIONAL] facilities provided through
8 agreement with a public agency for the detention and confinement of persons held
9 under authority of state law may be in this state or in another state;

10 (3) correctional [. CORRECTIONAL] facilities provided through
11 agreement with a private agency

12 (A) must be located in this state unless the commissioner finds
13 in writing that

14 (i) [(1)] there is no other reasonable alternative for
15 detention in the state; and

16 (ii) [(2)] the agreement is necessary because of health
17 or security considerations involving a particular prisoner or class of
18 prisoners, or because an emergency of prisoner overcrowding is
19 imminent;

20 (B) may provide for the detention and confinement of all
21 persons held by the commissioner under authority of state law, whether
22 charged with or convicted of felonies or misdemeanors, without regard to
23 the custody classifications for prisoners as determined by the
24 commissioner, unless the security of the facility is inconsistent with those
25 custody classifications; and

26 (C) may not be administratively restricted or limited by the
27 commissioner to use only for prisoners involved in certain rehabilitative or
28 treatment programs authorized by law. [THE COMMISSIONER MAY
29 NOT ENTER INTO AN AGREEMENT WITH AN AGENCY UNABLE TO
30 PROVIDE A DEGREE OF CUSTODY, CARE, AND DISCIPLINE SIMILAR
31 TO THAT REQUIRED BY THE LAWS OF THIS STATE.]

1 * Sec. 2. NOTICE AND APPROVAL OF LEASE-PURCHASE AGREEMENT. (a) To
2 provide for the construction and operation of a new correctional facility in order to relieve
3 overcrowding of existing correctional facilities, the Department of Administration, on behalf
4 of the Department of Corrections, may enter into a lease-purchase agreement with a private
5 third-party contractor under AS 33.30.031 for the construction and operation of a correctional
6 facility in the Third Judicial District that will house persons who are committed to the custody
7 of the commissioner of corrections. The project approval given by this subsection is subject
8 to the conditions of (b) of this section and to the following limitations:

9 (1) the total construction and related costs of establishing the correctional
10 facility may not exceed \$100,000,000;

11 (2) the total lease payments for the full term of the agreement may not exceed
12 \$200,000,000 and the anticipated annual amount of the rental obligation to be paid by the
13 Department of Corrections under the lease must be reasonably commensurate with that total;
14 and

15 (3) at the end of the term of the lease-purchase agreement, the state shall own
16 the correctional facility.

17 (b) The correctional facility to be constructed and operated under the notice and
18 approval given in (a) of this section

19 (1) must be designed and constructed so as to house, in separate housing,

20 (A) female prisoners; and

21 (B) male prisoners held under conditions that are appropriate for
22 prisoners who have been classified under AS 33.30.011(2) as other than maximum
23 custody; the correctional facility may not be constructed to house prisoners who are
24 classified as maximum custody;

25 (2) may not contain a total population of more than 1,000 prisoners, but must
26 be designed and constructed so as to allow expansion of the facility to a greater capacity; and

27 (3) may not be operated by the state except temporarily when

28 (A) the private third-party contractor with whom the state has entered
29 into an agreement to operate defaults in performance under the contract and state
30 operation is reasonably necessary to ensure the facility's continued operation; or

31 (B) the state is unable to contract with a private third-party contractor.

1 (c) If required by the commissioner of corrections as a condition of the correctional
2 facility's operation, in the award of a contract for the operation of the correctional facility to
3 be constructed and operated under the notice and approval given in (a) of this section, the
4 Department of Administration shall require that persons employed by the contractor as
5 correctional officers in the facility meet the requirements of AS 18.65.130 - 18.65.290 that are
6 applicable to correctional officers.

7 (d) If directed by the commissioner of corrections as a condition of the correctional
8 facility's operation, in the award of a contract for the operation of the correctional facility to
9 be constructed and operated under the notice and approval given in (a) of this section, the
10 Department of Administration shall require the contractor to seek, obtain, and maintain
11 accreditation of the correctional facility. This requirement is effective only when, as a matter
12 of policy, the commissioner of corrections seeks and obtains accreditation of state correctional
13 facilities. Accreditation under this subsection shall be under standards of accreditation
14 applicable to correctional facilities that are not more stringent than those applicable to state
15 correctional facilities operated by the Department of Corrections.

16 (e) Subsection (a) of this section constitutes the notice and approval required by
17 AS 36.30.085.

18 * Sec. 3. CONSTRUCTION OF CORRECTIONAL FACILITY UNDER PROJECT
19 LABOR AGREEMENT. (a) The purpose of this section is to enable the state to meet its
20 obligation to improve the care and custody of the prisoners for which it is responsible at an
21 early date through the completion of construction of a major correctional facility by structuring
22 labor relations at the job site of the correctional facility in the interests of industrial harmony
23 and in a way that makes optimal use of construction resources.

24 (b) Notwithstanding any restrictions that may be applicable under AS 36.30, the
25 correctional facility described in sec. 2 of this Act may be constructed only under a public
26 construction project labor agreement between the building construction contractor and one or
27 more building trade unions; the labor agreement must provide

28 (1) a no-strike and no-slowdown pledge by the union or unions;

29 (2) a commitment on the part of the construction contractor to hire through
30 local union hiring halls; and

31 (3) a provision allowing not more than 15 percent of the construction

1 contractor's workforce on the public construction project to be composed of persons who are
2 not members of the union or unions.

3 * Sec. 4. Nothing in sec. 2 of this Act precludes operation of the correctional facility
4 described in sec. 2(a) of this Act by a private third-party contractor comprised of persons
5 employed by the Department of Corrections.

6 * Sec. 5. 22 AAC 05.300(e) is annulled.

Alaska State Legislature



House of Representatives
House Judiciary Committee

State Capitol, Room 120
Juneau, Alaska 99801-1182
(907) 465-4990

February 1, 1996

TO: House Judiciary Committee members

FROM: Tom Meyer, aide

RE: Materials for 2/2/96 meeting

Attached are materials for your consideration on HB 428 and HB 154.

9-LS1338R ✓
Chenoweth
2/2/96

CS FOR HOUSE BILL NO. 428(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

**Offered:
Referred:**

Sponsor(s): HOUSE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the authority of the Department of Corrections to contract
2 for facilities for the confinement and care of prisoners, and annulling a regulation
3 of the Department of Corrections that limits the purposes for which an agreement
4 with a private agency may be entered into; and giving notice of and approving
5 a lease-purchase agreement for construction and operation of a correctional facility
6 in the Third Judicial District, and setting conditions and limitations on the
7 facility's construction and operation."

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

9 * Section 1. AS 33.30.031(a) is amended to read:

10 (a) The commissioner shall determine the availability of state correctional
11 facilities suitable for the detention and confinement of persons held under authority of
12 state law or under agreement entered into under (c) of this section. If the
13 commissioner determines that suitable state correctional facilities are not available, the

1 commissioner may enter into an agreement with a public or private agency to provide
2 necessary facilities, subject to the following:

3 (1) the commissioner may not enter into an agreement with a
4 public or private agency that is unable to provide a degree of custody, care, and
5 discipline to the extent required by the laws of this state, including the standards
6 of custody, care, and discipline that are required by order of a court:

7 (2) correctional [. CORRECTIONAL] facilities provided through
8 agreement with a public agency for the detention and confinement of persons held
9 under authority of state law may be in this state or in another state;

10 (3) correctional [. CORRECTIONAL] facilities provided through
11 agreement with a private agency

12 (A) must be located in this state unless the commissioner finds
13 in writing that

14 (i) [(1)] there is no other reasonable alternative for
15 detention in the state; and

16 (ii) [(2)] the agreement is necessary because of health
17 or security considerations involving a particular prisoner or class of
18 prisoners, or because an emergency of prisoner overcrowding is
19 imminent;

20 (B) may provide for the detention and confinement of all
21 persons held by the commissioner under authority of state law, whether
22 charged with or convicted of felonies or misdemeanors, without regard to
23 the custody classifications for prisoners as determined by the
24 commissioner, unless the security of the facility is inconsistent with those
25 custody classifications; and

26 (C) may not be administratively restricted or limited by the
27 commissioner to use only for prisoners involved in certain rehabilitative or
28 treatment programs authorized by law. [THE COMMISSIONER MAY
29 NOT ENTER INTO AN AGREEMENT WITH AN AGENCY UNABLE TO
30 PROVIDE A DEGREE OF CUSTODY, CARE, AND DISCIPLINE SIMILAR
31 TO THAT REQUIRED BY THE LAWS OF THIS STATE.]

1 * **Sec. 2. NOTICE AND APPROVAL OF LEASE-PURCHASE AGREEMENT.** (a) To
2 provide for the construction and operation of a new correctional facility in order to relieve
3 overcrowding of existing correctional facilities, the Department of Administration, on behalf
4 of the Department of Corrections, may enter into a lease-purchase agreement with a private
5 third-party contractor under AS 33.30.031 for the construction and operation of a correctional
6 facility in the Third Judicial District that will house persons who are committed to the custody
7 of the commissioner of corrections. The project approval given by this subsection is subject
8 to the conditions of (b) of this section and to the following limitations:

9 (1) the total construction and related costs of establishing the correctional
10 facility may not exceed \$100,000,000;

11 (2) the total lease payments for the full term of the agreement may not exceed
12 \$200,000,000 and the anticipated annual amount of the rental obligation to be paid by the
13 Department of Corrections under the lease must be reasonably commensurate with that total;
14 and

15 (3) at the end of the term of the lease-purchase agreement, the state shall own
16 the correctional facility.

17 (b) The correctional facility to be constructed and operated under the notice and
18 approval given in (a) of this section

19 (1) must be designed and constructed so as to house, in separate housing,

20 (A) female prisoners; and

21 (B) male prisoners held under conditions that are appropriate for
22 prisoners who have been classified under AS 33.30.011(2) as other than maximum
23 custody; the correctional facility may not be constructed to house prisoners who are
24 classified as maximum custody;

25 (2) may not contain a total population of more than 1,000 prisoners, but must
26 be designed and constructed so as to allow expansion of the facility to a greater capacity; and

27 (3) may not be operated by the state except temporarily when

28 (A) the private third-party contractor with whom the state has entered
29 into an agreement to operate defaults in performance under the contract and state
30 operation is reasonably necessary to ensure the facility's continued operation; or

31 (B) the state is unable to contract with a private third-party contractor.

1 (c) If required by the commissioner of corrections as a condition of the correctional
2 facility's operation, in the award of a contract for the operation of the correctional facility to
3 be constructed and operated under the notice and approval given in (a) of this section, the
4 Department of Administration shall require that persons employed by the contractor as
5 correctional officers in the facility meet the requirements of AS 18.65.130 - 18.65.290 that are
6 applicable to correctional officers.

7 (d) If directed by the commissioner of corrections as a condition of the correctional
8 facility's operation, in the award of a contract for the operation of the correctional facility to
9 be constructed and operated under the notice and approval given in (a) of this section, the
10 Department of Administration shall require the contractor to seek, obtain, and maintain
11 accreditation of the correctional facility. This requirement is effective only when, as a matter
12 of policy, the commissioner of corrections seeks and obtains accreditation of state correctional
13 facilities. Accreditation under this subsection shall be under standards of accreditation
14 applicable to correctional facilities that are not more stringent than those applicable to state
15 correctional facilities operated by the Department of Corrections.

16 (e) Subsection (a) of this section constitutes the notice and approval required by
17 AS 36.30.085.

18 * **Sec. 3. CONSTRUCTION OF CORRECTIONAL FACILITY UNDER PROJECT**
19 **LABOR AGREEMENT.** (a) The purpose of this section is to enable the state to meet its
20 obligation to improve the care and custody of the prisoners for which it is responsible at an
21 early date through the completion of construction of a major correctional facility by structuring
22 labor relations at the job site of the correctional facility in the interests of industrial harmony
23 and in a way that makes optimal use of construction resources.

24 (b) Notwithstanding any restrictions that may be applicable under AS 36.30, the
25 correctional facility described in sec. 2 of this Act may be constructed only under a public
26 construction project labor agreement between the building construction contractor and one or
27 more building trade unions; the labor agreement must provide

28 (1) a no-strike and no-slowdown pledge by the union or unions;

29 (2) a commitment on the part of the construction contractor to hire through
30 local union hiring halls; and

31 (3) a provision allowing not more than 15 percent of the construction

1 contractor's workforce on the public construction project to be composed of persons who are
2 not members of the union or unions.

3 * Sec. 4. Nothing in sec. 2 of this Act precludes operation of the correctional facility
4 described in sec. 2(a) of this Act by a private third-party contractor comprised of persons
5 employed by the Department of Corrections.

6 * Sec. 5. 22 AAC 05.300(e) is annulled.

AMENDMENT

BY REPRESENTATIVE FINKELSTEIN /#1

OFFERED IN HOUSE JUDICIARY
TO: CSHB 428 (JUD)

Page 1, line 1 following "Act" through page 4, line 30:
Delete all material

Insert the following:

"requiring the Department of Corrections to consider a lease-purchase option for the construction and operation of a correctional facility.

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

Section 1. The Department of Corrections shall consider a lease-purchase option for the construction and operation of a new correctional facility in order to relieve overcrowding of existing correctional facilities."

F

AMENDMENT

BY REPRESENTATIVE FINKELSTEIN /#2

OFFERED IN HOUSE JUDICIARY
TO: CSHB 428 (JUD)

Page 2, line 9 following "in this state":
Delete "or in another state"

F

AMENDMENT

BY REPRESENTATIVE FINKELSTEIN / #3

OFFERED IN HOUSE JUDICIARY
TO: CSHB 428 (JUD)

Page 2, line 22 following "misdemeanors":

Delete ", without regard to the custody classifications for prisoners as determined by the commissioner, unless the security of the facility is inconsistent with those custody classifications"

AMENDMENT

BY REPRESENTATIVE FINKELSTEIN / #4

OFFERED IN HOUSE JUDICIARY
TO: CSHB 428 (JUD)

Page 3, following line 26:

Insert a new subsection: "(3) may not be used to house prisoners not convicted in an Alaskan court;"

Renumber the following subsections accordingly.

AMENDMENT

BY REPRESENTATIVE FINKELSTEIN #5

OFFERED IN HOUSE JUDICIARY
TO: CSHB 428 (JUD)

Page ²⁸ 3, line 30:
Delete "a no-strike and no-slowdown pledge by the union or unions;

Adjust the following subsections accordingly.

AMENDMENT

BY REPRESENTATIVE FINKELSTEIN / #6

OFFERED IN HOUSE JUDICIARY
TO: CSHB 428 (JUD)

Page ³~~2~~, line ²⁷~~5~~ following "except":
Delete "temporarily"

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE FINKELSTEIN /# 7

TO: Draft CSHB 428()

3 27
1 Page 4, line 5:

2 Delete "temporarily"

3 3 30
3 Page 4, line 8:

4 Delete "or"

3
5 Page 4, line 9, after "contractor":

6 Insert "; or

7 (C) the state is able to operate the correctional facility at less

8 cost than a third-party contractor"

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE FINKELSTEIN / #8

TO: Draft CSHB 428()

1 Page 4, line 5:

2 Delete "except temporarily"

3 Insert "or by a political subdivision or public corporation of the state except"

4 Page 4, line 8:

5 Delete "or"

6 Page 4, line 9, after "contractor":

7 Insert "; or

8 (C) the state determines that it is in the best interests of the
9 state for the correctional facility to be operated by the state or by the political
10 subdivision or public corporation of the state"

AMENDMENT

BY REPRESENTATIVE FINKELSTEIN /#9

OFFERED IN HOUSE JUDICIARY
TO: CSHB 428 (JUD)

Page 4, following line 15:

Insert new subparagraph:

"(1) The Department of Corrections shall establish procedures for background and records checks on any personnel hired to staff the correctional facility and shall establish new regulations for verifying that guards and other corrections' staff have received proper training consistent with AS 18.65.130 - 18.65.290 to work with incarcerated felons."

AMENDMENT

BY REPRESENTATIVE FINKELSTEIN /#10

OFFERED IN HOUSE JUDICIARY
TO: CSHB 428 (JUD)

Page 4, line ¹⁴23 following "facilities":
Delete "~~not more stringent than~~^{apparent as}"
Insert "equal to"

Alaska State Legislature



House of Representatives House Judiciary Committee

State Capitol, Room 120
Juneau, Alaska 99801-1182
(907) 465-4990

3.

COMMITTEE SCHEDULE, WEEK OF FEBRUARY 5, 1996

MEETING TIME: 1:00

MEETING PLACE: ROOM 120, CAPITOL BUILDING

MONDAY, FEBRUARY 5, 1996

- + HB 419 Firearms Disposal by Public Agencies
- + HJR 52 12th Circuit Court of Appeals
- + HB 75 Increased Penalties for Joyriding

Bills held from previous calendars

WEDNESDAY, FEBRUARY 7, 1996

Appointment considerations: Barbara Miklos to Board of Governors of the Alaska Bar Ass'n.; Vicki A. Otte to Alaska Judicial Council

- *+ HB 446 Nuisance Injunctions by Home Rule Muni's.

Bills held from previous calendars

FRIDAY, FEBRUARY 9, 1996

- *+ HB 459 Trusts and Property Transfers in Trusts
- + HB 293 Use of Force in Defending Person/Property

Bills held from previous calendars

(+ Teleconference)

(* First public hearing)

9-LS1338MR

Chenoweth

2/2/96

CS FOR HOUSE BILL NO. 428(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): HOUSE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the authority of the Department of Corrections to contract
2 for facilities for the confinement and care of prisoners, and annulling a regulation
3 of the Department of Corrections that limits the purposes for which an agreement
4 with a private agency may be entered into; and giving notice of and approving
5 a lease-purchase agreement for construction and operation of a correctional facility
6 in the Third Judicial District, and setting conditions and limitations on the
7 facility's construction and operation."

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

9 * Section 1. AS 33.30.031(a) is amended to read:

10 (a) The commissioner shall determine the availability of state correctional
11 facilities suitable for the detention and confinement of persons held under authority of
12 state law or under agreement entered into under (e) of this section. If the
13 commissioner determines that suitable state correctional facilities are not available, the

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commissioner may enter into an agreement with a public or private agency to provide necessary facilities, subject to the following:

(1) the commissioner may not enter into an agreement with a public or private agency that is unable to provide a degree of custody, care, and discipline to the extent required by the laws of this state, including the standards of custody, care, and discipline that are required by order of a court;

(2) correctional [CORRECTIONAL] facilities provided through agreement with a public agency for the detention and confinement of persons held under authority of state law may be in this state or in another state;

(3) correctional [CORRECTIONAL] facilities provided through agreement with a private agency

(A) must be located in this state unless the commissioner finds in writing that

(i) [(1)] there is no other reasonable alternative for detention in the state; and

(ii) [(2)] the agreement is necessary because of health or security considerations involving a particular prisoner or class of prisoners, or because an emergency of prisoner overcrowding is imminent;

(B) may provide for the detention and confinement of all persons held by the commissioner under authority of state law, whether charged with or convicted of felonies or misdemeanors, without regard to the custody classifications for prisoners as determined by the commissioner, unless the security of the facility is inconsistent with those custody classifications; and

(C) may not be administratively restricted or limited by the commissioner to use only for prisoners involved in certain rehabilitative or treatment programs authorized by law. [THE COMMISSIONER MAY NOT ENTER INTO AN AGREEMENT WITH AN AGENCY UNABLE TO PROVIDE A DEGREE OF CUSTODY, CARE, AND DISCIPLINE SIMILAR TO THAT REQUIRED BY THE LAWS OF THIS STATE.]

1 * Sec. 2. NOTICE AND APPROVAL OF LEASE-PURCHASE AGREEMENT. (a) To
2 provide for the construction and operation of a new correctional facility in order to relieve
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4 of the Department of Corrections, may enter into a lease-purchase agreement with a private
5 third-party contractor under AS 33.30.031 for the construction and operation of a correctional
6 facility in the Third Judicial District that will house persons who are committed to the custody
7 of the commissioner of corrections. The project approval given by this subsection is subject
8 to the conditions of (b) of this section and to the following limitations:

9 (1) the total construction and related costs of establishing the correctional
10 facility may not exceed \$100,000,000;

11 (2) the total lease payments for the full term of the agreement may not exceed
12 \$200,000,000 and the anticipated annual amount of the rental obligation to be paid by the
13 Department of Corrections under the lease must be reasonably commensurate with that total;
14 and

15 (3) at the end of the term of the lease-purchase agreement, the state shall own
16 the correctional facility.

17 (b) The correctional facility to be constructed and operated under the notice and
18 approval given in (a) of this section

19 (1) must be designed and constructed so as to house, in separate housing,

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21 (B) male prisoners held under conditions that are appropriate for
22 prisoners who have been classified under AS 33.30.011(2) as other than maximum
23 custody; the correctional facility may not be constructed to house prisoners who are
24 classified as maximum custody;

25 (2) may not contain a total population of more than 1,000 prisoners, but must
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27 (3) may not be operated by the state except temporarily when

28 (A) the private third-party contractor with whom the state has entered
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30 operation is reasonably necessary to ensure the facility's continued operation; or

31 (B) the state is unable to contract with a private third-party contractor.

1 (c) If required by the commissioner of corrections as a condition of the correctional
2 facility's operation, in the award of a contract for the operation of the correctional facility to
3 be constructed and operated under the notice and approval given in (a) of this section, the
4 Department of Administration shall require that persons employed by the contractor as
5 correctional officers in the facility meet the requirements of AS 18.65.130 - 18.65.290 that are
6 applicable to correctional officers.

7 (d) If directed by the commissioner of corrections as a condition of the correctional
8 facility's operation, in the award of a contract for the operation of the correctional facility to
9 be constructed and operated under the notice and approval given in (a) of this section, the
10 Department of Administration shall require the contractor to seek, obtain, and maintain
11 accreditation of the correctional facility. This requirement is effective only when, as a matter
12 of policy, the commissioner of corrections seeks and obtains accreditation of state correctional
13 facilities. Accreditation under this subsection shall be under standards of accreditation
14 applicable to correctional facilities that are not more stringent than those applicable to state
15 correctional facilities operated by the Department of Corrections.

16 (e) Subsection (a) of this section constitutes the notice and approval required by
17 AS 36.30.085.

18 * Sec. 3. CONSTRUCTION OF CORRECTIONAL FACILITY UNDER PROJECT
19 LABOR AGREEMENT. (a) The purpose of this section is to enable the state to meet its
20 obligation to improve the care and custody of the prisoners for which it is responsible at an
21 early date through the completion of construction of a major correctional facility by structuring
22 labor relations at the job site of the correctional facility in the interests of industrial harmony
23 and in a way that makes optimal use of construction resources.

24 (b) Notwithstanding any restrictions that may be applicable under AS 36.30, the
25 correctional facility described in sec. 2 of this Act may be constructed only under a public
26 construction project labor agreement between the building construction contractor and one or
27 more building trade unions: the labor agreement must provide

28 (1) a no-strike and no-slowdown pledge by the union or unions:

29 (2) a commitment on the part of the construction contractor to hire through
30 local union hiring halls; and

31 (3) a provision allowing not more than 15 percent of the construction

1 contractor's workforce on the public construction project to be composed of persons who are
2 not members of the union or unions.

3 * Sec. 4. Nothing in sec. 2 of this Act precludes operation of the correctional facility
4 described in sec. 2(a) of this Act by a private third-party contractor comprised of persons
5 employed by the Department of Corrections.

6 * Sec. 5. 22 AAC 05.300(e) is annulled.

CS FOR HOUSE BILL NO. 428(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the authority of the Department of Corrections to contract
2 for facilities for the confinement and care of prisoners, and annulling a regulation
3 of the Department of Corrections that limits the purposes for which an agreement
4 with a private agency may be entered into; and giving notice of and approving
5 a lease-purchase agreement for construction and operation of a correctional facility
6 in the Third Judicial District, and setting conditions and limitations on the
7 facility's construction and operation."

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

9 * Section 1. AS 33.30.031(a) is amended to read:

10 (a) The commissioner shall determine the availability of state correctional
11 facilities suitable for the detention and confinement of persons held under authority of
12 state law or under agreement entered into under (e) of this section. If the
13 commissioner determines that suitable state correctional facilities are not available, the

1 commissioner may enter into an agreement with a public or private agency to provide
2 necessary facilities, subject to the following:

3 (1) the commissioner may not enter into an agreement with a
4 public or private agency that is unable to provide a degree of custody, care, and
5 discipline to the extent required by the laws of this state, including the standards
6 of custody, care, and discipline that are required by order of a court;

7 (2) correctional [. CORRECTIONAL] facilities provided through
8 agreement with a public agency for the detention and confinement of persons held
9 under authority of state law may be in this state or in another state;

10 (3) correctional [. CORRECTIONAL] facilities provided through
11 agreement with a private agency

12 (A) must be located in this state unless the commissioner finds
13 in writing that

14 (i) [(1)] there is no other reasonable alternative for
15 detention in the state; and

16 (ii) [(2)] the agreement is necessary because of health
17 or security considerations involving a particular prisoner or class of
18 prisoners, or because an emergency of prisoner overcrowding is
19 imminent;

20 (B) may provide for the detention and confinement of all
21 persons held by the commissioner under authority of state law, whether
22 charged with or convicted of felonies or misdemeanors, without regard to
23 the custody classifications for prisoners as determined by the
24 commissioner, unless the security of the facility is inconsistent with those
25 custody classifications; and

26 (C) may not be administratively restricted or limited by the
27 commissioner to use only for prisoners involved in certain rehabilitative or
28 treatment programs authorized by law. [THE COMMISSIONER MAY
29 NOT ENTER INTO AN AGREEMENT WITH AN AGENCY UNABLE TO
30 PROVIDE A DEGREE OF CUSTODY, CARE, AND DISCIPLINE SIMILAR
31 TO THAT REQUIRED BY THE LAWS OF THIS STATE.]

1 * Sec. 2. NOTICE AND APPROVAL OF LEASE-PURCHASE AGREEMENT. (a) To
2 provide for the construction and operation of a new correctional facility in order to relieve
3 overcrowding of existing correctional facilities, the Department of Administration, on behalf
4 of the Department of Corrections, may enter into a lease-purchase agreement with a private
5 third-party contractor under AS 33.30.031 for the construction and operation of a correctional
6 facility in the Third Judicial District that will house persons who are committed to the custody
7 of the commissioner of corrections. The project approval given by this subsection is subject
8 to the conditions of (b) of this section and to the following limitations:

9 (1) the total construction and related costs of establishing the correctional
10 facility may not exceed \$100,000,000;

11 (2) the total lease payments for the full term of the agreement may not exceed
12 \$200,000,000 and the anticipated annual amount of the rental obligation to be paid by the
13 Department of Corrections under the lease must be reasonably commensurate with that total;
14 and

15 (3) at the end of the term of the lease-purchase agreement, the state shall own
16 the correctional facility.

17 (b) The correctional facility to be constructed and operated under the notice and
18 approval given in (a) of this section

19 (1) must be designed and constructed so as to house, in separate housing,

20 (A) female prisoners; and

21 (B) male prisoners held under conditions that are appropriate for
22 prisoners who have been classified under AS 33.30.011(2) as other than maximum
23 custody; the correctional facility may not be constructed to house prisoners who are
24 classified as maximum custody;

25 (2) may not contain a total population of more than 1,000 prisoners, but must
26 be designed and constructed so as to allow expansion of the facility to a greater capacity;

27 (3) may be constructed only under a public construction project labor
28 agreement between the building construction contractor and one or more building trade unions;
29 the labor agreement must provide

30 (A) a no-strike and no-slowdown pledge by the union or unions;

31 (B) a commitment on the part of the construction contractor to hire

1 through local union hiring halls; and

2 (C) a provision allowing not more than 15 percent of the construction
3 contractor's workforce on the public construction project to be composed of persons
4 who are not members of the union or unions; and

5 (4) may not be operated by the state except temporarily when

6 (A) the private third-party contractor with whom the state has entered
7 into an agreement to operate defaults in performance under the contract and state
8 operation is reasonably necessary to ensure the facility's continued operation; or

9 (B) the state is unable to contract with a private third-party contractor.

10 (c) If required by the commissioner of corrections as a condition of the correctional
11 facility's operation, in the award of a contract for the operation of the correctional facility to
12 be constructed and operated under the notice and approval given in (a) of this section, the
13 Department of Administration shall require that persons employed by the contractor as
14 correctional officers in the facility meet the requirements of AS 18.65.130 - 18.65.290 that are
15 applicable to correctional officers.

16 (d) If directed by the commissioner of corrections as a condition of the correctional
17 facility's operation, in the award of a contract for the operation of the correctional facility to
18 be constructed and operated under the notice and approval given in (a) of this section, the
19 Department of Administration shall require the contractor to seek, obtain, and maintain
20 accreditation of the correctional facility. This requirement is effective only when, as a matter
21 of policy, the commissioner of corrections seeks and obtains accreditation of state correctional
22 facilities. Accreditation under this subsection shall be under standards of accreditation
23 applicable to correctional facilities that are not more stringent than those applicable to state
24 correctional facilities operated by the Department of Corrections.

25 (e) Subsection (a) of this section constitutes the notice and approval required by
26 AS 36.30.085.

27 * Sec. 3. Nothing in sec. 2 of this Act precludes operation of the correctional facility
28 described in sec. 2(a) of this Act by a private third-party contractor comprised of persons
29 employed by the Department of Corrections.

30 * Sec. 4. 22 AAC 05.300(e) is annulled.

ALASKA JOB CORPS CENTER

MEMORANDUM

DATE: February 1, 1996

TO: Mike Williams
Business Advisor, Chugach Alaska Corporation

FROM: Roger Erdell, Manager, Educational Services
Alaska Job Corps Center, Phone: 746-8881

SUBJECT: Legislative Hearings, CS for HB 428 and 429

1. On January 31, several individuals testified during Judiciary Committee hearings on the above bill, that they believed it would be wise to expand existing state correctional centers rather than build a major new facility. Unfortunately perhaps, the expansion of existing state correctional centers would be a very expensive proposition. In fact, most of the infrastructures of existing facilities will not support expansion.

Simply adding on to existing correctional centers by adding a wing here or there is neither wise from a correctional management perspective, nor from an infrastructural perspective. Sewer, heating, ventilation, food service, library, classroom, shop and all other spaces have to be sized to handle expansion. For example, the sewer treatment plant at the Hiland Mountain/Meadow Creek complex near Eagle River is at maximum capacity; the Juneau, Cook Inlet Pretrial (Anchorage), Hiland Mountain, Palmer and Fairbanks correctional centers have already been previously expanded, Juneau and Fairbanks a couple different times. Further expansions at these sites will likely require totally new "stand alone" facilities in order to function safely.

Only the Spring Creek facility at Seward and the Palmer Pre-trial facility were designed for relatively easy expansion with utilities and layouts anticipating the doubling of population space.

2. Secondly, several individuals testified that they had strong doubts or concerns about whether the state correctional system should contract with the private sector for the provision of space and supervision for Alaska's criminal offender population. In fact, the state has a long history of such contracts.

The Alaska Department of Corrections currently has 455 prisoners held in-state under private sector contracts and 205 held out-of-state under private management services contracts.

Mike Williams
February 1, 1996
Page 2

The total of 660 Alaska prisoners now in privately operated space is not a new concept in Alaska, or elsewhere. The proposed legislation merely clarifies that larger facilities can also be utilized under contracts with private sector service providers.

3. A third and final point should be addressed. The largest single category of prisoners that continue to clog the Alaska correctional systems' chain of small local and regional jails is the male sentenced felony population. This is the group which must be targeted in order to unclog the entire system.

There are currently 1,501 sentenced male felons held in-state and 247 out-of-state for a total of 1,748 sentenced male felons. If even half of these prisoners were removed from the existing facilities where they now reside, the state correctional system would be uncrowded overnight! The local and regional jail facilities would then be able to manage unsentenced local misdemeanants and felons awaiting trial and local sentenced misdemeanants serving short sentences. Until the long-term sentenced male felon population is properly housed, there cannot be any viable solution to uncrowding the states' correctional system. The C.S. for HB 148 and 149 could provide a substantial step toward the correct solution.

428 429

AMENDMENT

V. 2

BY REPRESENTATIVE FINKELSTEIN

OFFERED IN HOUSE JUDICIARY
TO: CSHB 428 (JUD)

Page 1, line 1 following "Act" through page 4, line 30:
Delete all material

Insert the following:

"requiring the Department of Corrections to consider a lease-purchase option for the construction and operation of a correctional facility.

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

Section 1. The Department of Corrections shall consider a lease-purchase option for the construction and operation of a new correctional facility in order to relieve overcrowding of existing correctional facilities."

Sponsor Statement
House Bill 428
by
The House Finance Committee

HB 428, by the House Finance Committee, allows the Department of Corrections to contract with a private party to construct and operate a prison in the Third Judicial District. The Department of Corrections is authorized to enter into a lease purchase agreement and own the facility after 20 years. A group of employees from the Department of Corrections could be the private contractor if they bid competitively for the construction and operation of the facility.

The facility will

- include a maximum of 1000 beds
- be designed to allow expansion
- include housing for female prisoners
- not exceed a cost of \$100,000,000
- be constructed under a project labor agreement
- be accredited if state facilities are accredited
- will have correctional officers with the same training as state correctional officers

It is obvious that we need additional prison capacity in Alaska. The Department of Corrections reports that it is regularly exceeding the maximum and emergency capacity under the Cleary Agreement by over 100 prisoners. It also has 206 prisoners in a contract facility in Arizona. This proposal will address those needs and at a lower cost to the state, both in the operating and capital budget. It will also bring over \$6 million we spend outside back to Alaska, providing jobs for Alaskans and improving our economy.

The state has a need to improve its facilities for female prisoners. We have them housed in Lemon Creek, Fairbanks, Sixth Avenue, and Highland Mountain. Only Highland Mountain was designed to house both males and females. The state needs to address this problem, and HB 428 does that by requiring that the new facility be designed to house women.

The House Finance Committee on Corrections held interim hearings on the topic of privatization. It found that many states have entered into agreements with the private sector to construct and operate prisons. They have been successful in reducing the costs of incarceration and have maintained the level of security for residents of the state.

Sponsor Statement

HB 428

Page 2

Since February of 1995, Alaska has had 206 prisoners in a private facility in Arizona. We have had a very positive experience. The facility has operated without any negative incidents. The savings have been significant. The daily cost at the Arizona facility is \$59.00 per day per inmate. Alaskan facilities average \$107.00 per day per inmate, not including the cost of construction or other capital appropriations.

The advantage of a private facility is significant. There is a strong possibility that the per day cost of a private facility in Alaska will be within \$10.00 of the cost of the Arizona facility. In other states where private prisons have been built, there has been a very positive effect on state facilities. The entry of competition has reduced the cost of many state operated prisons.

A new contractor can bring new ideas to our state. If it happens to end up a national chain, it will bring the experience it gains in many other states and many other facilities. If a national chain teams up with local contractors, we will get the benefit of designs that work in prisons and construction techniques that fit the Alaska environment. We are told that a private sector contractor can begin serving prisoners as soon as 18 months after contract award and securing property for the facility.

HB 428 responds to concerns raised by public employees at the interim hearings. It requires that the correctional officers in the private institution will be trained to the same standards as state correction officers. It also requires the private facility will be accredited by any standards required of state facilities. We believe that these two provisions will protect the integrity of the prison system while taking advantage of the lower costs and innovative management techniques.

HB 428 requires the construction contractor build the facility under a project labor agreement, to assure the maximum possible Alaska hire.

HB 428

- Addresses the prison capacity problem
- Creates construction jobs
- Creates on going prison jobs for Alaskans
- Brings Alaska money back into Alaska's economy
- Provides an innovative opportunity to address Alaska's needs

HB 428/HB 429
Probable Support and Opposition

Probable Supporters

Private Prison Operators

Construction Trades Unions

Native Corporations involved in construction and management operations,
such as ASRC, Chugach, Ahtna, etc.

Alaskan Construction Companies

Business community Chamber of Commerce, Common Sense for Alaska, etc.

Municipality of Anchorage

Probable Opponents

Public Employee Unions

9-LS1338M ✓
Chenoweth
1/24/96

CS FOR HOUSE BILL NO. 428()
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the authority of the Department of Corrections to contract**
2 **for facilities for the confinement and care of prisoners, and annulling a regulation**
3 **of the Department of Corrections that limits the purposes for which an agreement**
4 **with a private agency may be entered into; and giving notice of and approving**
5 **a lease-purchase agreement for construction and operation of a correctional facility**
6 **in the Third Judicial District, and setting conditions and limitations on the**
7 **facility's construction and operation."**

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

9 *** Section 1. AS 33.30.031(a) is amended to read:**

10 (a) The commissioner shall determine the availability of state correctional
11 facilities suitable for the detention and confinement of persons held under authority of
12 state law or under agreement entered into under (e) of this section. If the
13 commissioner determines that suitable state correctional facilities are not available, the

1 commissioner may enter into an agreement with a public or private agency to provide
2 necessary facilities, subject to the following:

3 (1) the commissioner may not enter into an agreement with a
4 public or private agency that is unable to provide a degree of custody, care, and
5 discipline to the extent required by the laws of this state, including the standards
6 of custody, care, and discipline that are required by order of a court;

7 (2) correctional [. CORRECTIONAL] facilities provided through
8 agreement with a public agency for the detention and confinement of persons held
9 under authority of state law may be in this state or in another state;

10 (3) correctional [. CORRECTIONAL] facilities provided through
11 agreement with a private agency

12 (A) must be located in this state unless the commissioner finds
13 in writing that

14 (i) [(1)] there is no other reasonable alternative for
15 detention in the state; and

16 (ii) [(2)] the agreement is necessary because of health
17 or security considerations involving a particular prisoner or class of
18 prisoners, or because an emergency of prisoner overcrowding is
19 imminent;

20 (B) may provide for the detention and confinement of all
21 persons held by the commissioner under authority of state law, whether
22 charged with or convicted of felonies or misdemeanors, without regard to
23 the custody classifications for prisoners as determined by the
24 commissioner, unless the security of the facility is inconsistent with those
25 custody classifications; and

26 (C) may not be administratively restricted or limited by the
27 commissioner to use only for prisoners involved in certain rehabilitative or
28 treatment programs authorized by law. [THE COMMISSIONER MAY
29 NOT ENTER INTO AN AGREEMENT WITH AN AGENCY UNABLE TO
30 PROVIDE A DEGREE OF CUSTODY, CARE, AND DISCIPLINE SIMILAR
31 TO THAT REQUIRED BY THE LAWS OF THIS STATE.]

1 * Sec. 2. NOTICE AND APPROVAL OF LEASE-PURCHASE AGREEMENT. (a) To
2 provide for the construction and operation of a new correctional facility in order to relieve
3 overcrowding of existing correctional facilities, the Department of Administration, on behalf
4 of the Department of Corrections, may enter into a lease-purchase agreement with a private
5 third-party contractor under AS 33.30.031 for the construction and operation of a correctional
6 facility in the Third Judicial District that will house persons who are committed to the custody
7 of the commissioner of corrections. The project approval given by this subsection is subject
8 to the conditions of (b) of this section and to the following limitations:

9 (1) the total construction and related costs of establishing the correctional
10 facility may not exceed \$100,000,000;

11 (2) the total lease payments for the full term of the agreement may not exceed
12 \$200,000,000 and the anticipated annual amount of the rental obligation to be paid by the
13 Department of Corrections under the lease must be reasonably commensurate with that total;
14 and

15 (3) at the end of the term of the lease-purchase agreement, the state shall own
16 the correctional facility.

17 (b) The correctional facility to be constructed and operated under the notice and
18 approval given in (a) of this section

19 (1) must be designed and constructed so as to house, in separate housing,

20 (A) female prisoners; and

21 (B) male prisoners held under conditions that are appropriate for
22 prisoners who have been classified under AS 33.30.011(2) as other than maximum
23 custody; the correctional facility may not be constructed to house prisoners who are
24 classified as maximum custody;

25 (2) may not contain a total population of more than 1,000 prisoners, but must
26 be designed and constructed so as to allow expansion of the facility to a greater capacity;

27 (3) may be constructed only under a public construction project labor
28 agreement between the building construction contractor and one or more building trade unions;
29 the labor agreement must provide

30 (A) a no-strike and no-slowdown pledge by the union or unions;

31 (B) a commitment on the part of the construction contractor to hire

1 through local union hiring halls; and

2 (C) a provision allowing not more than 15 percent of the construction
3 contractor's workforce on the public construction project to be composed of persons
4 who are not members of the union or unions; and

5 (4) may not be operated by the state except temporarily when

6 (A) the private third-party contractor with whom the state has entered
7 into an agreement to operate defaults in performance under the contract and state
8 operation is reasonably necessary to ensure the facility's continued operation; or

9 (B) the state is unable to contract with a private third-party contractor.

10 (c) If required by the commissioner of corrections as a condition of the correctional
11 facility's operation, in the award of a contract for the operation of the correctional facility to
12 be constructed and operated under the notice and approval given in (a) of this section, the
13 Department of Administration shall require that persons employed by the contractor as
14 correctional officers in the facility meet the requirements of AS 18.65.130 - 18.65.290 that are
15 applicable to correctional officers.

16 (d) If directed by the commissioner of corrections as a condition of the correctional
17 facility's operation, in the award of a contract for the operation of the correctional facility to
18 be constructed and operated under the notice and approval given in (a) of this section, the
19 Department of Administration shall require the contractor to seek, obtain, and maintain
20 accreditation of the correctional facility. This requirement is effective only when, as a matter
21 of policy, the commissioner of corrections seeks and obtains accreditation of state correctional
22 facilities. Accreditation under this subsection shall be under standards of accreditation
23 applicable to correctional facilities that are not more stringent than those applicable to state
24 correctional facilities operated by the Department of Corrections.

25 (e) Subsection (a) of this section constitutes the notice and approval required by
26 AS 36.30.085.

27 * Sec. 3. Nothing in sec. 2 of this Act precludes operation of the correctional facility
28 described in sec. 2(a) of this Act by a private third-party contractor comprised of persons
29 employed by the Department of Corrections.

30 * Sec. 4. 22 AAC 05.300(e) is annulled.

HB

433

CS FOR HOUSE BILL NO. 433(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR
A BILL

FOR AN ACT ENTITLED

1 "An Act relating to an exemption to the unauthorized publication or use of
2 communications and the prohibition against eavesdropping for certain law
3 enforcement activities."

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

5 * Section 1. AS 42.20.320(a) is amended to read:

6 (a) The following activities are exempt from the provisions of AS 42.20.300 and
7 42.20.310:

8 (1) listening to a radio or wireless communications of any sort where the
9 same are publicly made;

10 (2) hearing conversation when heard by employees of a common carrier
11 by wire incidental to the normal course of their employment in the operation,
12 maintenance, or repair of the equipment of the common carrier by wire, [;] provided the
13 information obtained is not used or divulged in any manner by the hearer;

14 (3) a broadcast by radio or other means whether it is a live broadcast or

1 recorded for the purpose of later broadcasts of any function where the public is in
2 attendance and the conversations that are overheard are incidental to the main purpose
3 for which the broadcast is then being made;

4 (4) recording or listening with the aid of any device to an emergency
5 communication made in the normal course of operations by a federal, state, or local law
6 enforcement agency or institutions dealing in emergency services, including [BUT NOT
7 LIMITED TO] hospitals, clinics, ambulance services, fire fighting agencies, a public
8 utility emergency repair facility, civilian defense establishment, or military installations;

9 (5) inadvertent interception of telephone conversations over party lines;

10 (6) a peace officer, or a person acting at the direction or request of a
11 peace officer, engaging in conduct authorized by or under AS 12.37;

12 (7) interception, listening, or recording of communications by a peace
13 officer, or a person acting under the direction or request of a peace officer, in an
14 emergency where the communications are received from a device that intercepts the
15 communications of a person

16 (A) barricaded and not exiting or surrendering at the
17 direction or request of a peace officer;

18 (B) holding another person hostage; or

19 (C) threatening the imminent illegal use of an explosive.

20 * Sec. 2. AS 42.20.320 is amended by adding a new subsection to read:

21 (c) In this section, "explosive" has the meaning given in AS 11.81.900.

(7)
Date Referred to Committee: February 9, 1996

FURTHER REFERRALS:

Finance

Date of Committee Action: 2/26/96

The JUDICIARY Committee considered:

HB 433

HOUSE BILL NO. 433

POLICE CAN INTERCEPT SOME COMMUNICATIONS

"An Act relating to an exemption to the unauthorized publication or use of communications and the prohibition against eavesdropping for certain law enforcement activities."

recommends it be replaced with the following committee substitute CSHB 433 (JUD) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) _____ fiscal note(s) _____

zero fiscal note(s) _____ zero fiscal note(s) Corr (2/9/96) PS
Law, CST, Adm (2) (1/19/96)

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<u>Brian Porter</u>	<input checked="" type="checkbox"/>			
<u>Carol Embelste</u>			<input checked="" type="checkbox"/>	
<u>Betty Davis</u>			<input checked="" type="checkbox"/>	
<u>John B. ...</u>			<input checked="" type="checkbox"/>	
<u>Don Bende</u>	<input checked="" type="checkbox"/>			
<u>[Signature]</u>	<input checked="" type="checkbox"/>			

CHAIR'S SIGNATURE Brian Porter



Alaska State Legislature

Please enter into the record my testimony to the H Judiciary
^{11B} committee name
committee on 433, dated Feb 19, 1996.

bill/ subject

This bill goes against the BILL OF RIGHTS of the United States of America, Article I. It also goes against Article I, section I, Article I, Section II, Article I Section II and Article I, Section XXII of the Alaska Constitution.

We have the right to privacy and yet the legislation appears to want to take that right away and give the LAW ENFORCEMENT GROWTH INDUSTRY (FORCE OFFICERS masquerading as PEACE OFFICERS) the right to listen in a well easedrop on private communication. It is not necessary for this type of legislation unless you the legislation are trying to put this state under POLICE STATE MEASURES and/or Communistic Rule.

People have the right to think and speak what they think, whether it be over the phone, in letters, on the radio or airwaves.

Why pass legislation (unconstitutional statutes) to give more power to Police and like Departments?

Where are our "PEACE OFFICERS"? Did they not take an oath to uphold the Constitution of the United States of America as well as the Constitution of the State of Alaska? Did you not also take an oath to do the same?

Do you want PEACE OFFICERS intercepting your private communications? When you say something you probably shouldn't on a off day because it wasn't a "politically correct" form of speech? Do you want to be spied on? Well neither does the general populace!

Wireless telephones, C.B.'s and the like already bleed over radio and T.V. Station reception. Is it necessary to to destroy the people's faith in the government? The general populace doesn't trust the government even if they won't admit it, due to fear tactics being introduced by the legislation and passed by the legislation, so it appears.

It is not necessary for the government to have Control of everything going on in a persons life. Do you want the Control in your life?, or do you feel that you are exempt from the laws you pass? I'd really like some answers to these questions. I want to understand, but don't like being lied to or placated. Try Honesty sometime, yes it can be brutal but it doesn't have to be. This Bill and many others appear to be following:

THE COMMUNIST MANIFESTO, where citizens are mislead into believing they should give up their RIGHTS for the sake of the "common good" but it always ends in being a POLICE STATE. You claim you give more freedoms, but in actuality it is called Preventive Justice, AND Bondage. Reservation of Rights without Prejudice under UCC 1-207

Signed: Jeanne Marie Phipps
Testifier

Representing (Optional)
Fourth Judicial District % P.O. Box 544
Address
Delta Junction, Alaska Republic
Phone No. (907) 895-4805



Alaska State Legislature

Please enter into the record my testimony to the House ~~State Affairs~~ Judiciary
 committee on HB 433, dated 19 Feb 96
 bill/ subject

There should be no Eavesdropping by Police what so ever.
 There are no Peace officers in Alaska, we have Force
Officers. They Force you to do things. a police officer
 operating outside of Constitutional Guide Lines is a criminal.
 Stop making all these Statute Laws, and go back to
 Common Law. all the state does by making statute law
 is make The State budget larger, and control the
 Citizen.

I believe we live in a police state because The
 Troopers Take an oath to uphold The constitution of The
 United States + The constitution of The State of Alaska
 Then go out and ignore both Constitutions and Think
 Nothing of it.

Signed: Bernard Goodno
 Testifier

Representing (Optional) 4th Judicial District
90 Box 92
 Address Delta Jet, Alaska
Republic
 Phone No. 895-4000



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary
 committee on HB 433, dated 7-19-96.
 bill/ subject committee name

I Am against this bill due to the fact
 that its up to the force officers discession
 whether or not He wants to intercept
 communications.

Lets stick to the constitution and
 do things legal

Signed:

Gene Allentown
 Testifier Self

Representing (Optional)
Fourth Judicial District

Address C/O PO Box 1059
Delta Junction Alaska Republic

Phone No. 895 4805

TONY KNOWLES
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

HB 433
P O Box 110001
Juneau Alaska 99811-0001
(907) 465-3500
Fax (907) 465-3532

January 19, 1996

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

Dear Speaker Phillips:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that amends statutes regarding the unauthorized publication or use of communications and eavesdropping, in order to allow law enforcement officers to intercept communications in certain emergency situations.

Current law prohibits surreptitious eavesdropping on a private conversation without the consent of one of the parties to the conversation. In an emergency (for example, where a suspect is barricaded with a hostage), law enforcement officers need to communicate with the suspect and, if possible, monitor the suspect's communications with others. Monitoring such communications can give valuable information to law enforcement officers to help defuse potentially dangerous situations.

This bill provides the exemption necessary for law enforcement officers to surreptitiously monitor these communications. It allows the interception of communications of a suspect barricaded and refusing to surrender, holding a victim hostage, or threatening the imminent illegal use of an explosive. The exemption in the bill is limited to serious police emergencies; it will not otherwise affect the privacy of individual Alaskans.

This legislation will support law enforcement agencies in making Alaska a safer place for our citizens. I urge your prompt consideration and passage of this bill.

Sincerely,

A handwritten signature in cursive script that reads "Tony Knowles".

Tony Knowles
Governor

1996 LEGISLATIVE SESSION

Revision Date: _____
Title: Eavesdropping
Sponsor: Rules Committee
Requestor: Governor

Dept. Affected: Public Safety
Component: DPS Statewide Support
Commissioner's Office
COMPONENT SERIAL NO. 0523

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

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-
Code Revenue						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 96) impact: \$ _____

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact is anticipated to the Department of Public Safety

Prepared By: Sandy Perry-Provost, Special Assistant to the Commissioner

Phone: 465-4322

Division: Commissioner's Office

Date: 1/3/96

Approved by Commissioner: *Dee Smith*
for Ronald L. Otte, Dept. of Public Safety

Date: 1/3/96

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FISCAL NOTE

No. 5
 Bill Version: HB 433
 (H) Publish Date: 1/19/96

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Department of Law
 Title: "...unauthorized publication or use of
communications and the prohibition against eavesdropping..." BRU: Criminal Division
 Sponsor: Rules/By Request of the Governor Component: Criminal Division
 Requester: Governor's Office/OMB COMPONENT SERIAL NO. 2085

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

POSITIONS	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill would give the police emergency authority to eavesdrop on persons who are barricaded in buildings or holding hostages. This is a police tool that will have no impact on the Department of Law.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Division Date: 12/5/95
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 12/5/95
 Agency: Department of Law

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FISCAL NOTE

No. 4
 Bill Version: HB 433
 (H) Publish Date: 1/19/96

STATE OF ALASKA
 1996 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Corrections
 Title: An act relating to ...the prohibition against BRU: _____
 Eavesdropping _____ Component: _____
 Sponsor: Rules Committee
 Requester: Governor COMPONENT SERIAL NO. _____

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ _____

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill will have no fiscal impact on the DOC

Prepared by: Jerry Shriner
 Division: _____

Phone: 485-4640
 Date: 1/12/96

Approved by Commissioner: Margaret M. Pugh
 Agency: Department of Corrections

Date: 1/12/96

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FISCAL NOTE

No. 3
 Bill Version: HB 433
 (H) Publish Date: 1/19/96

**STATE OF ALASKA
 1995 LEGISLATIVE SESSION**

Revision Date: January 12, 1996 Department: Commerce and Economic Development
 Title: An Act relating to eavesdropping for certain law enforce- BRU: Alaska Public Utilities Commission
 ment activities. Component: _____
 Sponsor: Rules
 Requestor: Governor COMPONENT SERIAL NO. 364

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES	
---------------------------	--

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: \$ _____

POSITIONS	
FULL-TIME	
PART-TIME	
TEMPORARY	

ANALYSIS: (Attach a separate page if necessary)
 This legislation will have no fiscal impact on the Alaska Public Utilities Commission.

Prepared by: Guy Bell, Director Phone: 465-2505
 Division: Division of Administrative Services Date: 12/5/95
 Approved by Commissioner: William L. Hensley Date: 1-16-96
 Agency: Commerce and Economic Development

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FISCAL NOTE

No. 2

Bill Version: HB 433

(H) Publish Date: 1/19/96

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Revision Date: _____

Title: "An Act relating to eavesdropping..."

Department Affected: Administration

BRU: Office of Public Advocacy

Component: Office of Public Advocacy

Sponsor: Rules Committee

Requestor: Governor

COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

FUND SOURCE:

(Thousands of Dollars)

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

Estimate of any current year (FY 96) cost: \$ 0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

There is no fiscal impact on the Office of Public Advocacy.

Prepared by: Brant McGee, Public Advocate

Division: Office of Public Advocacy

Phone: 274-1684

Date: _____

Approved by Commissioner: Mark Bover

Agency: Administration

Date: 1/5/96

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STATE OF ALASKA
1996 LEGISLATIVE SESSION

Revision Date: _____

Title: "An Act relating to eavesdropping..."

Sponsor: Rules Committee

Requestor: Governor

Department Affected: Administration

BRU: Public Defender Agency

Component: Public Defender Agency

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 95) cost: \$ _____

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

There is no fiscal impact to the Public Defender Agency.

Prepared by: John B. Salemi, Director

Division: Public Defender Agency

Phone: (907) 264-4412

Date: _____

Approved by Commissioner: Mark Bover

Agency: Department of Administration

Date: 1/13/96

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