

*same & indefinitely 3/19/02*

Submitted by: Assemblymember FAIRCLOUGH

Prepared by: Department of Assembly

For reading: March 19, 2002

ANCHORAGE, ALASKA

AR NO. 2002-87

A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY SUPPORTING HB 498, "AN ACT EXPRESSING LEGISLATIVE INTENT REGARDING PRIVATELY OPERATED CORRECTIONAL FACILITY SPACE AND SERVICES; RELATING TO THE DEVELOPMENT AND FINANCING OF PRIVATELY OPERATED CORRECTIONAL FACILITY SPACE AND SERVICES; AUTHORIZING THE DEPARTMENT OF CORRECTIONS TO ENTER INTO AN AGREEMENT FOR THE CONFINEMENT AND CARE OF PRISONERS IN PRIVATELY OPERATED CORRECTIONAL FACILITY SPACE; AND PROVIDING FOR AN EFFECTIVE DATE."

WHEREAS, ten out of the State's 15 regional correctional facilities are currently operating over emergency capacity and the remainder are approaching emergency levels of prisoner overcrowding resulting in the incarceration of 750 Alaskan prisoners in Arizona; and

WHEREAS, in addition to the State being exposed to civil liability, overcrowding exposes inmates and staff to the risk of serious injury and possibly death; and

WHEREAS, the current prison population is at an all-time high reaching 4,828 exceeding the projections of the Department of Corrections; and

WHEREAS, passage of HB 498 will authorize the construction of a local government-financed, government-owned, and privately managed 1,200 bed, medium security prison in the City of Whittier; and

WHEREAS, in addition, this Bill will create over 500 direct and indirect, union construction jobs, and more than 500 permanent direct and indirect jobs for Alaskans associated with prison operations for the 25-year lease term; and

WHEREAS, this project will add value to the \$80 million tunnel, reduce tolls, and justify expanded hours of operation, and will also serve as an economic engine in a community with limited economic stimulus opportunity.

NOW, THEREFORE, the Anchorage Assembly resolves:

**Section 1:** That the Anchorage Assembly supports and urges passage of HB 498.

**Section 2:** That copies of this resolution be forwarded to the Governor and the Alaska State Legislature immediately upon passage and approval.

PASSED AND APPROVED by the Anchorage Assembly this       day of  
2002

Chair

ATTEST:

Municipal Clerk  
EGJ/2002 RESOLUTIONS/AR27

**HOUSE BILL NO. 498**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-SECOND LEGISLATURE - SECOND SESSION**

**BY THE HOUSE FINANCE COMMITTEE**

**Introduced: 2/20/02**

**Referred: State Affairs, Finance**

**A BILL**  
**FOR AN ACT ENTITLED**

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

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

7 \* Section 1. The uncodified law of the State of Alaska is amended by adding a new section  
8 to read:

9 **LEGISLATIVE INTENT.** It is the intent of the legislature to secure additional  
10 correctional facility space and services through a privately operated correctional facility in  
Alaska. The legislature expects the Department of Corrections to contract with the City of  
12 Whittier for privately operated correctional facility space and services similar to those  
13 currently acquired for medium-security Alaska prisoners in a privately operated prison outside

the state. The legislature anticipates a privately operated correctional facility will bring competitive management styles and operations to Alaska. The legislature expects that the initial per diem cost at a privately operated facility (excluding costs related to major medical, prescription medication, and transportation of prisoners and other services excluded in contracts for Alaska prisoner care and custody in privately operated facilities outside the state but including the capital costs for construction of the facility, including debt service) will be 18 - 20 percent less than the current average per diem rate for all state facilities as reported to the federal government for reimbursement purposes and should be approximately \$89 to \$91 in current dollars.

\* Sec. 2. The uncoded law of the State of Alaska is amended by adding a new section to read

AUTHORIZATION TO CONTRACT FOR CORRECTIONAL FACILITY SPACE AND SERVICES WITH THIRD-PARTY CONTRACTOR OPERATION. (a) The Department of Corrections is authorized to enter into an agreement with the City of Whittier for the purpose of acquiring correctional facility space and services for a minimum of 25 years for persons who are committed to the custody of the commissioner of corrections.

(b) The agreement entered into under this section is predicated on and must provide for an agreement between the City of Whittier and one or more private third-party contractors under which private, for profit or nonprofit third-party contractors construct and operate the facility by providing for custody, care, and discipline services for persons committed to the custody of the commissioner of corrections under authority of state law. In the agreement with the City of Whittier, the commissioner of corrections shall require that the city procure one or more private third-party operators through a competitive procurement process. The procurement requirements of this subsection are satisfied if the City of Whittier in exercising its powers under AS 29.35.010(15) for procurement of land, design, construction, and operation of a facility, follows its municipal ordinances and resolutions and procurement procedures.

(c) The authorization given by (a) of this section is subject to the following conditions:

- (1) the agreement must cover a minimum of 1,200 prison beds, and, subject to
- (2) of this subsection, the payments by the Department of Corrections must be sufficient to

1 cover:

2 (A) a capital component consisting of the cost for the development and  
3 constructions of the facility, including all debt service; and

4 (B) an operating component consisting of the operating costs based on  
5 per diem operating charges for a minimum of 1,200 prison beds for a period of five  
6 years from initial operation of the facility, less a reasonable adjustment for costs not  
7 incurred until full occupancy;

8 (2) the agreement must provide that the obligation of the Department of  
9 Corrections to make payments under the agreement is subject to annual appropriations of  
10 funds by the legislature;

11 (3) the agreement must contain terms providing that the commissioner of  
12 corrections may direct the City of Whittier, after notice and reasonable opportunity to cure, to  
13 terminate its contract with a private third-party contractor operating the facility in accordance  
14 with the provisions of (b) of this section, and to procure a replacement third-party contractor,  
15 if the commissioner finds that the private third-party contractor has failed to provide or cause  
16 to be provided the degree of custody, care, and discipline required by terms of the agreement  
17 and that the private third-party contractor has been given notice and reasonable opportunity to  
18 cure as provided in the third-party contractor's agreement with the City of Whittier;

19 (4) the commissioner's authority to enter into the agreement is subject to the  
20 condition that the contract between the city and the operator requires the operator to provide  
21 culturally relevant counseling services to incarcerated Alaska Natives.

22 (d) Nothing in this Act is intended to prevent the City of Whittier from issuing bonds  
23 as permitted for municipalities under state law, including AS 29.47.390, to finance the  
24 construction of the facility. The bonds may be secured by and payable from revenues of the  
25 facility, including those described in (c) of this section. Revenues of the facility are not  
26 revenues of the City of Whittier for purposes of AS 29.47.390.

27 \* Sec. 3. The uncoded law of the State of Alaska is amended by adding a new section to  
28

29 APPLICABILITY. The provisions of AS 33.30.031(a) do not apply to an agreement  
30 for correctional facility space and services in accordance with the provisions of sec. 2 of this  
31 Act. This applicability section does not affect the authority of the commissioner of

- 1 corrections to designate the correctional facility to which a prisoner is assigned.
- 2 \* Sec. 4. Sections 1 - 3, ch. 32, SLA 2001, are repealed.
- 3 \* Sec. 5. This Act takes effect July 1, 2002.

Municipality of Anchorage  
MUNICIPAL CLERK'S OFFICE  
**Agenda Document Control Sheet**

(SEE REVERSE SIDE FOR FURTHER INFORMATION)

<b>1</b>	<b>SUBJECT OF AGENDA DOCUMENT</b>  A Resolution Supporting HB 498	<b>DATE PREPARED</b>  13-Mar-02		
		Indicate Documents Attached <input type="checkbox"/> AO <input checked="" type="checkbox"/> AR <input type="checkbox"/> AM <input type="checkbox"/> AIM		
<b>2</b>	<b>DEPARTMENT NAME</b> Assembly	<b>DIRECTOR'S NAME</b> Greg Moyer		
<b>3</b>	<b>THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY</b> Elvi Gray-Jackson	<b>HIS/HER PHONE NUMBER</b> 343-4751		
<b>4</b>	<b>COORDINATED WITH AND REVIEWED BY</b>	<table style="width: 100%;"> <tr> <th style="width: 50%; text-align: center;">INITIALS</th> <th style="width: 50%; text-align: center;">DATE</th> </tr> </table>	INITIALS	DATE
INITIALS	DATE			
	Mayor			
	Heritage Land Bank			
	Merrill Field Airport			
	Municipal Light & Power			
	Port of Anchorage			
	Solid Waste Services			
	Water & Wastewater Utility			
	<b>Municipal Manager</b>			
	Cultural & Recreational Services			
	Employee Relations			
	Finance, Chief Fiscal Officer			
	Fire			
	Health & Human Services			
	Office of Management and Budget			
	Management Information Services			
	Police			
	Planning, Development & Public Works			
	Development Services			
	Facility Management			
	Planning			
	Project Management & Engineering			
	Street Maintenance			
	Traffic			
	Public Transportation Department			
	Purchasing			
	<b>Municipal Attorney</b>			
	<b>Municipal Clerk</b>			
	<b>Other</b>			
<b>5</b>	<b>Special Instructions/Comments</b>  <div style="text-align: center; font-family: cursive; font-size: 1.2em;"> <i>9. B. A. ...</i> </div>			
<b>6</b>	<b>ASSEMBLY HEARING DATE REQUESTED</b> 3/19/02	<b>7</b>		
	<b>PUBLIC HEARING DATE REQUESTED</b> 			

