

**Sixtieth Legislative Assembly of North Dakota  
In Regular Session Commencing Wednesday, January 3, 2007**

HOUSE BILL NO. 1015  
(Appropriations Committee)  
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the department of corrections and rehabilitation; to amend and reenact subsection 1 of section 12-65-08, subsection 2 of section 12.1-32-07, and section 19-03.1-45 of the North Dakota Century Code, relating to fees for the interstate transfer or travel of probationers, supervision fees, and drug treatment; to provide an exemption; to provide legislative intent; to provide for budget section approval; to provide for a transfer; to provide an appropriation; to provide for a correctional facility review committee; to provide for a report to the budget section; and to provide for a legislative council study.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. BASE LEVEL FUNDING INFORMATION.** The amounts identified in this section represent the base level funding component appropriated to the department of corrections and rehabilitation in section 3 of this Act as follows:

Field services	\$27,075,150
Prisons division	79,551,714
Juvenile community services	7,930,658
Youth correctional center	12,843,309
Equity pool	<u>1,500,000</u>
Total all funds - Base level	\$128,900,831
Less estimated income - Base level	<u>27,765,147</u>
Total general fund - Base level	\$101,135,684

**SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION.** The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the department of corrections and rehabilitation which are included in the appropriation in section 3 of this Act as follows:

Field services	(\$27,075,150)
Prisons division	(79,551,714)
Juvenile community services	(7,930,658)
Youth correctional center	(12,843,309)
Adult services	131,143,936
Youth services	23,450,865
Equity pool	<u>(1,500,000)</u>
Total all funds - Adjustments/enhancements	\$25,693,970
Less estimated income - Adjustments/enhancements	<u>(3,835,654)</u>
Total general fund - Adjustments/enhancements	\$29,529,624

**SECTION 3. APPROPRIATION.** The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the department of corrections and rehabilitation for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2007, and ending June 30, 2009, as follows:

Adult services	\$131,143,936
Youth services	<u>23,450,865</u>
Total all funds	\$154,594,801

Less estimated income	23,929,493
Total general fund appropriation	\$130,665,308

**SECTION 4. AMENDMENT.** Subsection 1 of section 12-65-08 of the North Dakota Century Code is amended and reenacted as follows:

1. Upon the approval by the department of corrections and rehabilitation of a request of a probationer who is under the supervision of the department of corrections and rehabilitation to transfer residence to another state under the interstate compact for adult offender supervision, the probationer shall pay to the department an application fee of one hundred fifty dollars. The department may waive the offender's application fee. If the department waives the offender's payment of the fee, the department shall pay the offender's application fee. In addition to the application fee paid by the probationer or the department, the county having jurisdiction over the probationer, upon approval of the application for transfer, shall pay to the department a fee of one hundred fifty dollars. However, if the balance in the fund created pursuant to subsection 3 exceeds seventy-five thousand dollars on June thirtieth of the immediately preceding fiscal year, the department shall waive the entire fee otherwise required to be paid by the county.

**SECTION 5. AMENDMENT.** Subsection 2 of section 12.1-32-07 of the North Dakota Century Code is amended and reenacted as follows:

2. The conditions of probation must be such as the court in its discretion deems reasonably necessary to ensure that the defendant will lead a law-abiding life or to assist the defendant to do so. The court shall provide as an explicit condition of every probation that the defendant not commit another offense during the period for which the probation remains subject to revocation. The court shall order supervision costs and fees of not less than ~~forty~~ forty-five dollars per month unless the court makes a specific finding on record that the imposition of fees will result in an undue hardship. If the offender has not paid the full amount of supervision fees and costs before completion or termination of probation, the court may issue an order, after opportunity for hearing, to determine the amount of supervision fees and costs that are unpaid. The order may be filed, transcribed, and enforced by the department of corrections and rehabilitation in the same manner as civil judgments rendered by a district court of this state.

**SECTION 6. AMENDMENT.** Section 19-03.1-45 of the North Dakota Century Code is amended and reenacted as follows:

**19-03.1-45. ~~Mandatory drug~~ Drug abuse assessment and treatment - Presentence investigation - Certified drug abuse treatment programs.**

1. ~~When~~ If a person located in ~~Walsh, Pembina, or Grand Forks Counties~~ has pled guilty or has been found guilty of a felony violation of subsection 6 of section 19-03.1-23 ~~and, if~~ that person has not previously pled guilty or been found guilty of any offense involving the use, possession, manufacture, or delivery of a controlled substance or of any other felony offense of this or another state or the federal government, and if the court imposes probation, the court shall impose a period of probation of not less than eighteen months in conjunction with a suspended execution of a sentence of imprisonment, a sentence to probation, or an order deferring imposition of sentence.
2. Upon a plea or finding of guilt of a person subject to the provisions of subsection 1, the court shall order a presentence investigation to be conducted by the department. The presentence investigation shall include a drug and alcohol evaluation conducted by a licensed addiction counselor.
3. If the licensed addiction counselor recommends treatment, the court shall require the person to participate in an addiction program licensed by the department of human services as a condition of the probation. The court shall commit the person to treatment

through a licensed addiction program until determined suitable for discharge by the court. The term of treatment shall not exceed eighteen months and may include an aftercare plan. During the commitment and while subject to probation, the person shall be supervised by the department.

4. If the person fails to participate in, or has a pattern of intentional conduct that demonstrates the person's refusal to comply with or participate in the treatment program, as established by judicial finding, the person shall be subject to revocation of the probation. Notwithstanding subsection 2 of section 12.1-32-02, the amount of time participating in the treatment program under this section is not "time spent in custody" and will not be a credit against any sentence to term of imprisonment.
5. ~~The cost for all drug abuse assessments and certified drug abuse treatment programs shall be initially paid by the department. The court shall order the person to reimburse the department for the assessment and treatment expenses in accordance with the procedures of section 12.1-32-08. The department shall handle the collection of costs from the offenders in the same manner as it collects court costs, fees, and supervision fees.~~
6. In this section:
  - a. "Department" means the department of corrections and rehabilitation; and
  - b. "Licensed addiction counselor" is a person licensed pursuant to section 43-45-05.1.
7. ~~The provisions of this section shall be implemented as a pilot project in Pembina, Walsh, and Grand Forks Counties effective three months from the date of receipt of a federal grant for methamphetamine treatment being applied for by the department of human services. The department shall collaborate management of the pilot project with the department of human services to ensure services under the federal grant program for one half of the offenders mandated by the court to submit to mandatory treatment, not to exceed twenty three individuals. The department shall hire a program manager to manage the pilot project, collect statistics regarding the operation of the program, track participants in the program, and provide a report to the attorney general, the legislative council for distribution during the November 2006 legislative council meeting, and the sixtieth legislative assembly detailing the number of participants in the program, the cost of the program, relapse statistics, and other data concerning the effectiveness of the program.~~

**SECTION 7. NORTH CENTRAL CORRECTIONAL AND REHABILITATION CENTER.** The department of corrections and rehabilitation shall distribute in twenty-four equal payments \$1,631,044 from the general fund included in the prisons division line item in section 3 of this Act for treatment services at the north central correctional and rehabilitation center for the biennium beginning July 1, 2007, and ending June 30, 2009.

**SECTION 8. TRANSFER TO THE STATE PENITENTIARY LAND FUND - CONTINGENT APPROPRIATION.** The director of the office of management and budget shall transfer on July 1, 2007, \$41,000,000 from the general fund to the state penitentiary land fund established in North Dakota Century Code section 54-23.3-04 to be used for correctional facilities. The funds are appropriated to the department of corrections and rehabilitation for a project authorized and approved under section 10 of this Act and are available for construction, for the biennium beginning July 1, 2007, and ending June 30, 2009. All income earned on the fund must be deposited in the state penitentiary land fund.

**SECTION 9. APPROPRIATION - LEGISLATIVE COUNCIL.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$250,000, or so much of the sum as may be necessary, to the legislative council for prison facility alternative concepts and preliminary design development, as provided for in section 10 of this Act for the period beginning with the effective date of this Act and ending June 30, 2009.

**SECTION 10. CORRECTIONAL FACILITY REVIEW COMMITTEE - MEMBERSHIP - DUTIES - RECOMMENDATIONS.**

1. During the 2007-08 interim, the legislative council shall appoint a correctional facility review committee to address the immediate and future needs of the state penitentiary. The membership of the committee must include six members of the legislative assembly selected by the legislative council. The membership of the committee must include:
  - a. Three members of the house of representatives, two of whom must represent the majority faction of the house of representatives and one of whom must represent the minority faction of the house of representatives; and
  - b. Three members of the senate, two of whom must represent the majority faction of the senate and one of whom must represent the minority faction of the senate.
2. The legislative council chairman shall designate the committee chairman and vice chairman.
3. The committee shall operate according to the statutes and procedures governing the operation of other legislative council interim committees.
4. The committee shall engage consultant and architectural services, subject to legislative council approval, for the development of the following three correctional facility concepts:
  - a. The construction of a new correctional facility on the existing state penitentiary site;
  - b. The construction of a new correctional facility at a site other than the state penitentiary site; and
  - c. The remodeling of the existing state penitentiary facility.
5. Each of the three correctional facility concepts developed by the consultant and architect must:
  - a. Include a master plan, staffing plan, a cost-benefit analysis, and project cost estimate;
  - b. Be based upon housing a population of approximately nine hundred to one thousand inmates;
  - c. Include options for expansion;
  - d. Take into consideration the transfer of the inmates at the Missouri River correctional center to the new or remodeled facility; and
  - e. Take into consideration the facility and staffing needs of the James River correctional center.
6. In developing the concepts, the committee shall seek the input of the department of corrections and rehabilitation.
7. Before June 1, 2008, the committee shall forward the three concepts along with a recommendation for one of the three concepts to the emergency commission for the commission's consideration and authorization.
8. If the emergency commission authorizes one of the three concepts, the emergency commission shall forward the authorized concept to the budget section of the legislative council. The budget section may approve or reject the concept as authorized by the emergency commission.

**SECTION 11. EXEMPTION.** The amount appropriated to the department of corrections and rehabilitation in section 5 of 2005 Senate Bill No. 2341 is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available for crime victims compensation during the period beginning with passage of this Act and ending June 30, 2009.

**SECTION 12. INMATE MEDICAL SYSTEM - BUDGET SECTION APPROVAL.** The department of corrections and rehabilitation shall, during the 2007-08 interim, develop a plan for and implement an inmate medical system. The department shall provide reports to the legislative information technology committee as required by chapters 54-35 and 54-59 of the North Dakota Century Code and information technology department standards. At the completion of the planning phase and prior to the implementation stage, the department shall provide an update to the information technology committee and the budget section in the form of a project startup report identifying benefits to be achieved, estimated costs for implementation, a milestone schedule, and project risks. Budget section approval is required before the department of corrections and rehabilitation proceeds with implementation.

**SECTION 13. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIRST LEGISLATIVE ASSEMBLY.** The total general fund appropriation line item in section 3 of this Act includes \$3,559,391 for the one-time funding items identified in this section. This amount is not a part of the agency's base budget to be used in preparing the 2009-11 executive budget. The department of corrections and rehabilitation shall report to the appropriations committees of the sixty-first legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2007, and ending June 30, 2009.

Youth correctional center security lighting	\$70,000
Deferred maintenance	1,725,391
Medical information system, equipment, and radios	<u>1,764,000</u>
Total	\$3,559,391

**SECTION 14. INTENT - REPORTING LEVELS.** The office of management and budget shall change the reporting levels on the budget analysis and reporting system to allow for a separation of food and clothing items for the 2009-11 biennium.

**SECTION 15. INTENT - TEMPORARY SALARIES - FIELD SERVICES.** It is the intent of the sixtieth legislative assembly that the department of corrections and rehabilitation may use \$250,000 of its 2007-09 biennium appropriation for temporary salaries for the field services division for supervision of offenders.

**SECTION 16. LEGISLATIVE COUNCIL STUDY - RETIREMENT CRITERIA FOR STATE CORRECTIONAL OFFICERS AND PEACE OFFICERS.** The legislative council shall consider studying, during the 2007-08 interim, retirement program criteria and benefits for correctional officers and peace officers employed by state agencies, including the feasibility and desirability of allowing these employees to retire with full retirement benefits at age fifty-five or the "rule of 85". The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly.

**SECTION 17. SPACE, OPERATIONAL, AND STAFFING PLAN - BUDGET SECTION REPORT.** The department of corrections and rehabilitation shall prepare a space, operational, and staffing plan for the state penitentiary and James River correctional center. The plan must be based on the state penitentiary building project authorized by the sixtieth legislative assembly and the current facilities at the James River correctional center and the Missouri River correctional center. The plan must be presented at the first budget section meeting after March 1, 2008.

**SECTION 18. LEGISLATIVE INTENT - CORRECTIONAL FACILITIES.** It is the intent of the sixtieth legislative assembly that the correctional facility concepts to be developed pursuant to this Act not include any consideration of closure of the James River correctional center or the Dakota women's correctional and rehabilitation center in New England.

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Speaker of the House

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President of the Senate

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Chief Clerk of the House

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Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1015.

House Vote:      Yeas    60      Nays    34      Absent    0

Senate Vote:    Yeas    45      Nays    2      Absent    0

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2007.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2007.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2007,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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Secretary of State