

**Department of Corrections and Rehabilitation
Budget 530
House Bill Nos. 1015, 1014; Senate Bill Nos. 2013, 2243**

	FTE Positions	General Fund	Other Funds	Total
2007-09 legislative appropriation	711.29	\$173,068,262 ¹	\$24,129,489	\$197,197,751
2005-07 legislative appropriation	<u>677.28</u>	<u>105,205,516²</u>	<u>27,765,147</u>	<u>132,970,663</u>
2007-09 appropriation increase (decrease) to 2005-07 appropriation	34.01	\$67,862,746	(\$3,635,658)	\$64,227,088

¹This amount includes \$44,559,391 of one-time funding. Excluding this amount, the agency's ongoing general fund appropriation is \$128,508,871.

²The 2005-07 biennium appropriation reflects \$4,069,832 of general fund deficiency appropriations approved by the 2007 Legislative Assembly in Senate Bill No. 2023.

NOTE: The 2007-09 legislative appropriation amounts include \$1,539,926, of which \$1,461,389 is from the general fund, for the agency's share of the \$10 million funding pool appropriated to the Office of Management and Budget for special market equity adjustments for classified employees.

Item Description

One-time funding - In Section 13 of House Bill No. 1015, the Legislative Assembly identified the general fund appropriation for one-time funding of \$3,559,391 for deferred maintenance (\$1,725,391), Youth Correctional Center security lighting (\$70,000), and an inmate medical system, equipment, and radios (\$1,764,000). In Section 8 of House Bill No. 1015, the Legislative Assembly provided for a transfer of \$41 million from the general fund to the State Penitentiary land fund for total one-time funding of \$44,559,391. This amount is not to be considered part of the agency's base budget for preparing the 2009-11 executive budget, and the Department of Corrections and Rehabilitation is to report to the Appropriations Committees during the 2009 legislative session on the use of this funding.

Prison facility project - The Legislative Assembly provided for a transfer of \$41 million from the general fund to the State Penitentiary land fund for addressing correctional facility needs as recommended and approved under Section 10 of House Bill No. 1015. The Legislative Assembly also provided an appropriation of \$250,000 from the general fund to the Legislative Council for prison facility alternative concepts and preliminary design development.

Status/Result

The following is a summary of the status of the Department of Corrections and Rehabilitation's one-time funding:

Deferred maintenance	The department has spent approximately \$657,000 on deferred maintenance projects and anticipates completing or starting other projects in fiscal year 2009. The standby generator retrofit project and the network portion of the surveillance upgrade have been delayed pending a decision on a prison construction project.
Youth Correctional Center security lighting	Due to a funding reduction of \$100,000 by the 2007 Legislative Assembly, the department is considering other options to complete the project, including redirecting funds from other areas of the Juvenile Services appropriation and completing a portion of the project in-house.
Inmate medical system	See the Inmate medical system section below for information.
Equipment and radios	The department is in the process of purchasing radios and equipment.
Transfer to State Penitentiary land fund	Funding of \$41 million has been transferred to the State Penitentiary land fund for future correctional facility needs.

The Legislative Council appointed the Correctional Facility Review Committee to address the immediate and future needs of the State Penitentiary. The Legislative Council contracted with Criminal Justice Institute, Inc., in September 2007 to conduct a correctional facility review study and develop three correctional facility concepts. The institute presented final conclusions and recommendations of the study to the Correctional Facility Review Committee in March 2008. The institute recommended the remodel and reuse of the existing State Penitentiary and the relocation of the Missouri River Correctional Center to the existing

The Legislative Council is directed in Section 10 of House Bill No. 1015 to appoint a Correctional Facility Review Committee to address the immediate and future needs of the State Penitentiary. The membership of the committee includes three members of the House of Representatives, two of whom must represent the majority party and one of whom must represent the minority party; and three members of the Senate, two of whom must represent the majority party and one of whom must represent the minority party. The committee is authorized to engage consultant and architectural services for development of three correctional facility concepts. The three concepts include construction of a new facility on the existing State Penitentiary site, constructing a new facility at a new site, or remodeling the existing State Penitentiary facility. Each of the three concepts must:

- Include a master plan, staffing plan, cost-benefit analysis, and project cost estimate;
- Be based upon housing a population of approximately 900 to 1,000 inmates;
- Include options for expansion;
- Take into consideration the transfer of the inmates at the Missouri River Correctional Center to the new or remodeled facility; and
- Take into consideration the facility and staffing needs of the James River Correctional Center.

The committee must forward the three concepts along with a recommendation for one of the three concepts to the Emergency Commission before June 1, 2008. If the Emergency Commission authorizes one of the three concepts, the authorized concept must be forwarded to the Budget Section for approval.

Section 18 of the bill provides legislative intent that the correctional facility concepts to be developed not include any consideration of closure of the James River Correctional Center in Jamestown or the Dakota Women's Correctional and Rehabilitation Center in New England.

Inmate medical system - The Legislative Assembly provided \$1 million from the general fund to the Department of Corrections and Rehabilitation for an inmate medical system. Section 12 of House Bill No. 1015 authorizes the Department of Corrections and Rehabilitation to develop a plan for and implement the inmate medical system. The department is required to provide reports to the Information Technology Committee and the Budget Section. Budget Section approval is required before the department proceeds with implementation of the system.

Inmate contract housing - The Legislative Assembly provided \$9,588,597, of which \$9,528,597 is from the general fund, to house female inmates at the Dakota Women's Correctional and Rehabilitation Center in New England (\$7,955,877) and to house excess male inmates at county jails (\$1,632,720).

Penitentiary site for a total project cost of \$247.6 million. The institute recommended a phased implementation with an expedited start date. Phase 1 of the project is estimated to cost \$80.6 million.

The Correctional Facility Review Committee forwarded the three correctional facility concepts and its recommendation for the remodel/expansion of the existing State Penitentiary to the Emergency Commission on April 14, 2008.

An Attorney General's Letter Opinion (2007-L-08) was issued in June 2007 regarding the constitutionality of Section 10 of 2007 House Bill No. 1015. The opinion stated that if a court were to rule on the matter, it would determine that subsection 8 of Section 10 of the bill relating to Budget Section approval or rejection of a correctional facility concept is unconstitutional.

The Legislative Council at its June 6, 2007, meeting directed that any recommendation from the Emergency Commission regarding facility concepts be received by the Budget Section for informational purposes only rather than for approval or rejection under Section 10 of House Bill No. 1015.

The Department of Corrections and Rehabilitation issued a request for proposal in January 2008 and is reviewing two vendor proposals. The department estimates the total cost of the project will be approximately \$1 million, of which \$200,000 will be for implementation costs. The department anticipates seeking Budget Section approval at its June 2008 meeting for implementation of the project. Implementation is expected to take approximately six to nine months.

As of April 30, 2008, the Department of Corrections and Rehabilitation has spent \$3.3 million for housing female inmates at the Dakota Women's Correctional and Rehabilitation Center in New England and \$896,000 to house excess male inmates at county jails. For the 2007-09 biennium, the department is making 24 equal payments based on the appropriated amount to the Dakota

Women's Correctional and Rehabilitation Center for female inmate housing; therefore, actual expenditures will equal the appropriation. The department anticipates spending \$2.1 million for housing excess male inmates during the 2007-09 biennium. The department plans to provide the additional \$500,000 needed through savings in other areas of its budget.

As of April 30, 2008, deposits to the community service supervision fund from community service supervision fees totaled \$17,431. Through May 15, 2008, the department has provided \$100,000 in grants to community service providers.

The Department of Corrections and Rehabilitation is in the process of completing a space, operational, and staffing plan. The department will present the plan to the Budget Section in June 2008.

The table below provides information relating to the salary equity adjustments at the Department of Corrections and Rehabilitation:

	General Fund	Special Funds	Total
Juvenile Services	\$65,858		\$65,858
Youth Correctional Center	171,511	\$4,700	176,211
Field Services Division	214,645	2,135	216,780
Prisons Division	1,009,375	71,702	1,081,077
Total	\$1,461,389	\$78,537	\$1,539,926

The department has reclassified 95 positions at a cost of approximately \$200,000. The department anticipates reclassifying an additional 134 positions through the remainder of the 2007-09 biennium at an estimated cost of \$350,000.

The Department of Corrections and Rehabilitation estimated the increase in revenue from supervision fees to be \$244,782. The rate of collection on supervision fees is estimated at 62 percent.

Community service supervision - In Senate Bill No. 2243, the Legislative Assembly provided for the establishment of a community service supervision fee and a community service supervision fund. North Dakota Century Code (NDCC) Section 29-26-22 is amended to require courts to impose upon each defendant who receives a sentence that includes community service a community service supervision fee of \$50. The community service supervision fee must be deposited in the community service supervision fund and be used for matching grants to community service supervision providers. The Legislative Assembly provided an appropriation of \$125,000 from the community service supervision fund to the Department of Corrections and Rehabilitation and directed that \$100,000 from the department's Field Services Division appropriation be used for the grants. The grants are to be made on a case-by-case basis and require a local match of \$1 for every \$2 provided by the department.

Space, operational, and staffing plan - Section 17 of House Bill No. 1015 requires the Department of Corrections and Rehabilitation to prepare a space, operational, and staffing plan for the State Penitentiary and James River Correctional Center. The plan must be presented at the first Budget Section meeting after March 1, 2008.

Salary equity pool - The 2007-09 legislative appropriation amounts for the Department of Corrections and Rehabilitation include \$1,539,926, of which \$1,461,389 is from the general fund, for the agency's share of the \$10 million funding pool appropriated to the Office of Management and Budget for special market equity adjustments for classified employees. The department's 2007-09 legislative appropriation also includes \$748,234 from the general fund for classification adjustments.

Supervision fees - Section 5 of House Bill No. 1015 amends subsection 2 of NDCC Section 12.1-32-07 to change the monthly offender supervision fee from \$40 to \$45 per offender.

Inmate populations - The following table summarizes the 2007-09 biennium inmate population projections used to develop the legislative appropriation and the same population estimates were used to develop the executive recommendation:

	Male	Female	Total
Fiscal year 2008			
July	1,230	190	1,420
August	1,234	192	1,426
September	1,238	193	1,431
October	1,242	194	1,436
November	1,245	196	1,441
December	1,249	197	1,446
January	1,252	199	1,451
February	1,256	201	1,457
March	1,260	202	1,462
April	1,264	204	1,468
May	1,268	205	1,473
June	1,272	207	1,479
Fiscal year 2009			
July	1,274	208	1,482
August	1,278	210	1,488
September	1,281	211	1,492
October	1,285	213	1,498
November	1,289	215	1,504
December	1,293	216	1,509
January	1,296	218	1,514
February	1,300	220	1,520
March	1,304	221	1,525
April	1,308	223	1,531
May	1,312	225	1,537
June	1,316	226	1,542

The actual male inmate population has been more than estimated while the female inmate population has been less than estimated. The tables below show the actual monthly average inmate populations compared to the estimated populations for the period July 2007 through April 2008:

	Male Inmate Population Estimated v. Actual		
	Legislative Estimated Population	Actual Population	Actual Above (Below) Estimate
Fiscal year 2008			
July	1,230	1,286	56
August	1,234	1,286	52
September	1,238	1,298	60
October	1,242	1,294	52
November	1,245	1,293	48
December	1,249	1,300	51
January	1,252	1,287	35
February	1,256	1,281	25
March	1,260	1,276	16
April	1,264	1,267	3

	Female Inmate Population Estimated v. Actual		
	Legislative Estimated Population	Actual Population	Actual Above (Below) Estimate
Fiscal year 2008			
July	190	146	(44)
August	192	149	(43)
September	193	150	(43)
October	194	149	(45)
November	196	150	(46)
December	197	148	(49)
January	199	147	(52)
February	201	146	(55)
March	202	150	(52)
April	204	148	(56)

Emergency Commission request.

The Department of Corrections and Rehabilitation has received Emergency Commission approval of the following request:

Approval to increase spending authority by \$250,000 of federal funds from the United States Department of Justice for the juvenile community services line item (\$250,000) for juvenile justice, juvenile delinquency prevention, and juvenile accountability programs.