

Department of Corrections and Rehabilitation
Budget No. 530
Senate Bill Nos. 2015, 2030, 2355

	FTE Positions	General Fund	Other Funds	Total
2009-11 executive budget (bills as introduced)	743.29	\$173,232,683	\$70,534,389	\$243,767,072
2009-11 legislative appropriations	735.29	164,090,829	71,511,745	235,602,574
Legislative increase (decrease) to executive budget	(8.00)	(\$9,141,854)	\$977,356	(\$8,164,498)
Legislative increase (decrease) to 2007-09 appropriations	24.00	(\$8,977,433)	\$47,382,256	\$38,404,823

ONGOING AND ONE-TIME GENERAL FUND APPROPRIATIONS

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2007-09 legislative appropriations	\$128,508,871	\$44,559,391	\$173,068,262
2009-11 legislative appropriations	142,657,006	21,433,823	164,090,829
2009-11 legislative increase (decrease) to 2007-09 appropriations	\$14,148,135	(\$23,125,568)	(\$8,977,433)
Percentage increase (decrease) to 2007-09 appropriations	11.0%	(51.9%)	(5.2%)
2009-11 legislative increase (decrease) to executive budget	(\$5,948,873)	(\$3,192,981)	(\$9,141,854)
Percentage increase (decrease) to executive budget	(4.0%)	(13.0%)	(5.3%)

SUMMARY OF LEGISLATIVE CHANGES TO THE EXECUTIVE BUDGET AND MAJOR FUNDING ITEMS

Salaries and Wages

The legislative action affecting the recommended appropriation for the Department of Corrections and Rehabilitation is in accordance with legislative salary and fringe benefits guidelines as contained in House Bill No. 1015.

	Major Items			Total
	FTE Positions	General Fund	Other Funds	
The legislative action:				
Adult Services Division				
Removed funding added in the executive budget for state employee salary equity adjustments		(\$3,052,665)		(\$3,052,665)
Removed the following new FTE positions recommended in the executive budget:	(8.00)	(827,300)		(827,300)
• Correctional officers (5.00 FTE) (\$541,650)				
• Storekeeper (1.00 FTE) (\$83,120)				
• Training officer (1.00 FTE) (\$124,549)				

- Parole and probation officer (1.00 FTE) (\$77,981 - This number is net of a reduction of \$66,197 in contract services.)

Reduced funding for community service supervision grants to provide a total of \$62,500 from the community service supervision fund (see Community Service Supervision section below)	(200,000)	(\$62,500)	(262,500)
Increased funding for faith-based programming to provide a total of \$800,000	92,000		92,000
Removed funding of \$67 million in Senate Bill No. 2015 and added funding of \$64 million in Senate Bill No. 2030 for the prison expansion project (see Prison Facility Project section below)	(3,000,000)		(3,000,000)
Added funding from the federal American Recovery and Reinvestment Act of 2009 (see Federal Fiscal Stimulus Funding section below)		1,039,856	1,039,856
Reduced funding for operating expenses	(800,000)		(800,000)
Reduced funding for capital projects	(152,481)		(152,481)
Reduced funding for equipment	(40,500)		(40,500)
Youth Services Division			
Removed funding added in the executive budget for state employee salary equity adjustments	(963,585)		(963,585)
Removed funding for additional salary increases for teachers at the Youth Correctional Center (The 2009-11 legislative appropriation includes funding for the teachers according to the 2009-11 salary schedule.)	(197,323)		(197,323)
Added funding in Senate Bill No. 2355 for a short-term shelter and assessment pilot project	200,000		200,000
Reduced funding for operating expenses	(200,000)		(200,000)
Total	<u>(8.00)</u>	<u>(\$9,141,854)</u>	<u>(\$8,164,498)</u>

FTE Changes

The 2009-11 biennium appropriation includes funding for 735.29 FTE positions, an increase of 24 FTE positions from the 2007-09 biennium authorized level of 711.29 FTE positions and a decrease of 8 FTE positions from the 2009-11 executive recommendation of 743.29 FTE positions. The following table summarizes FTE position changes included in the 2009-11 executive budget and the legislative appropriation:

Position	Executive Budget Recommended FTE Changes	Legislative Appropriation FTE Changes	Legislative Appropriation Increase (Decrease) From Executive Budget
Youth Services Division			
Mental illness coordinator	1.00	1.00	
Addiction counselor	1.00	1.00	
Registered nurse (converted from temporary)	1.00	1.00	
Security officer (converted from temporary)	1.00	1.00	
Adult Services Division			
Parole and probation officer II	1.00		(1.00)
Storekeeper	1.00		(1.00)
Training officer	1.00		(1.00)
Correctional officer	6.00	1.00	(5.00)
Correctional officer (converted from temporary)	4.00	4.00	
Correctional trainee (converted from temporary)	10.00	10.00	
Instructor (converted from temporary)	2.00	2.00	
Administrative assistant (converted from temporary)	1.00	1.00	
Registered nurse (converted from temporary)	1.00	1.00	
Data processing coordinator (converted from temporary)	1.00	1.00	
Total	32.00	24.00	(8.00)

One-Time Funding

In Section 2 of Senate Bill No. 2015, the Legislative Assembly identified \$1,969,019 from the general fund as one-time funding, of which \$1,372,519 is for deferred maintenance and \$595,500 is for equipment. In Senate Bill No. 2030, the Legislative Assembly appropriated \$19,465,804 from the general fund and \$44,534,196 from other funds for a prison expansion project which is considered to be one-time funding. These amounts are not to be considered part of the agency's base budget for preparing the 2011-13 executive budget and the Department of Corrections and Rehabilitation is to report to the Appropriations Committees during the 2011 legislative session on the use of this funding.

Federal Fiscal Stimulus Funding

In Section 8 of Senate Bill No. 2015, the Legislative Assembly appropriated \$1,039,856 of federal fiscal stimulus funds from the federal American Recovery and Reinvestment Act of 2009 to the Department of Corrections and Rehabilitation for a summer replacement boiler (\$225,041), energy management system conversion (\$18,928), heating and cooling equipment replacement (\$15,574), temporary housing of sexual offenders (\$160,000), crime victims assistance (\$542,000), and crime victims compensation (\$78,313). The Department of Corrections and Rehabilitation may seek Emergency Commission and Budget Section approval for authority to spend any additional federal funds received under the federal American Recovery and Reinvestment Act of 2009 in excess of the amounts appropriated. This amount is not to be considered part of the agency's base budget for the 2011-13 biennium. Any program expenditures made with these funds will not be replaced with state funds after the federal American Recovery and Reinvestment Act of 2009 funds are no longer available.

Capital Projects

Project	2009-11 Executive Budget			2009-11 Legislative Appropriation			Legislative Appropriation Increase (Decrease)		
	General Fund	Other Funds	Total	General Fund	Other Funds	Total	General Fund	Other Funds	Total
Youth Services Division									
Youth Correctional Center									
Street lighting	\$58,509		\$58,509	\$58,509		\$58,509			
Roof replacement	169,609		169,609	169,609		169,609			
Deaerator and powerhouse maintenance	71,882		71,882	71,882		71,882			
Total - Youth Services Division	\$300,000		\$300,000	\$300,000		\$300,000			

Project	2009-11 Executive Budget			2009-11 Legislative Appropriation			Legislative Appropriation Increase (Decrease)		
	General Fund	Other Funds	Total	General Fund	Other Funds	Total	General Fund	Other Funds	Total
Adult Services Division									
Prisons Division									
State prison expansion	\$22,465,804	\$44,534,196	\$67,000,000	\$19,465,804	\$44,534,196	\$64,000,000	(\$3,000,000)		(\$3,000,000)
Penitentiary summer boiler replacement	225,041		225,041	225,041 ¹	225,041	450,082		225,041	225,041
Penitentiary gymnasium/administration roof repairs	152,481		152,481				(152,481)		(152,481)
Penitentiary energy management system conversion	18,928		18,928	18,928 ¹	18,928	37,856		18,928	18,928
Penitentiary heating and cooling equipment replacement	15,774		15,774	15,774 ¹	15,574	31,348		15,574	15,574
Penitentiary other repairs and maintenance	142,281		142,281	142,281		142,281			
James River Correctional Center asbestos abatement	289,188		289,188	289,188		289,188			
James River Correctional Center other repairs	277,410		277,410	277,410		277,410			
Missouri River Correctional Center repairs	103,897		103,897	103,897		103,897			
Total - Adult Services Division	\$23,690,804	\$44,534,196	\$68,225,000	\$20,538,323	\$44,793,739	\$65,332,062	(\$3,152,481)	\$259,543	(\$2,892,938)
Total Department of Corrections and Rehabilitation	\$23,990,804	\$44,534,196	\$68,525,000	\$20,838,323	\$44,793,739	\$65,632,062	(\$3,152,481)	\$259,543	(\$2,892,938)

¹Funding is contingent upon federal stimulus funds not being available.

Inmate Population

The following table summarizes the 2009-11 biennium inmate population projections used to develop the legislative appropriation; the same population estimates were used to develop the executive recommendation:

	Male	Female	Total
Fiscal year 2010			
July	1,329	161	1,490
August	1,331	161	1,492
September	1,333	161	1,494
October	1,336	161	1,497
November	1,338	162	1,500
December	1,340	162	1,502
January	1,342	162	1,504
February	1,344	163	1,507
March	1,347	163	1,510
April	1,349	163	1,512
May	1,351	163	1,514
June	1,353	164	1,517
Fiscal year 2011			
July	1,355	164	1,519
August	1,358	164	1,522
September	1,360	165	1,525
October	1,362	165	1,527
November	1,364	165	1,529

	Male	Female	Total
December	1,367	165	1,532
January	1,369	166	1,535
February	1,371	166	1,537
March	1,373	166	1,539
April	1,375	167	1,542
May	1,378	167	1,545
June	1,380	167	1,547

The following table shows the actual average male and female inmate populations for July 2007 through May 2009 as compared to the legislative population estimates for the 2007-09 biennium:

	Male Inmate Population Estimated v. Actual			Female Inmate Population Estimated v. Actual		
	Legislative Estimated Population	Actual Population	Actual Above (Below) Estimate	Legislative Estimated Population	Actual Population	Actual Above (Below) Estimate
Fiscal year 2008						
July	1,263	1,286	23	190	146	(44)
August	1,267	1,286	19	192	149	(43)
September	1,271	1,298	27	193	150	(43)
October	1,275	1,294	19	194	149	(45)
November	1,279	1,293	14	196	150	(46)
December	1,283	1,300	17	197	148	(49)
January	1,286	1,287	1	199	147	(52)
February	1,290	1,281	(9)	201	146	(55)
March	1,294	1,276	(18)	202	150	(52)
April	1,298	1,268	(30)	204	147	(57)
May	1,302	1,283	(19)	205	148	(57)
June	1,306	1,300	(6)	207	158	(49)
Fiscal year 2009						
July	1,308	1,289	(19)	208	161	(47)
August	1,312	1,289	(23)	210	157	(53)
September	1,316	1,298	(18)	211	160	(51)
October	1,320	1,310	(10)	213	162	(51)
November	1,324	1,314	(10)	215	160	(55)
December	1,328	1,314	(14)	216	161	(55)
January	1,331	1,303	(28)	218	158	(60)
February	1,335	1,294	(41)	220	155	(65)
March	1,339	1,280	(59)	221	151	(70)
April	1,343	1,273	(70)	223	150	(73)
May	1,347	1,283	(64)	225	158	(67)
June	1,351			226		

Male Inmate Contract Housing

The Legislative Assembly did not change the executive recommendation to provide \$27,928,227 for contract housing and transitional facilities for male inmates, an increase of \$3,865,687 from the 2007-09 biennium appropriation. This amount represents \$24,977,632 from the general fund and \$2,950,595 of special funds. This funding is to be used to house male inmates at the Missouri River Correctional Center, county jails and private facilities.

Female Inmate Contract Housing

The Legislative Assembly did not change the executive recommendation to provide \$8,638,154 from the general fund to house female inmates at the Dakota Women's Correctional and Rehabilitation Center in New England, an increase of \$544,447 from the 2007-09 biennium appropriation.

Prison Facility Project

The Legislative Council was directed in Section 10 of 2007 House Bill No. 1015 to appoint a Correctional Facility Review Committee to address the immediate and future needs of the State Penitentiary. The committee was authorized to engage consulting and architectural services for development of three correctional facility concepts. The three concepts were to 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 was to:

- 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 Legislative Council selected and contracted with Criminal Justice Institute, Inc. (CJI), a private, not-for-profit, national correctional planning, programming, research, and evaluation firm based in Middletown, Connecticut. The institute began its work in September 2007 and concluded the study with the presentation of a final report to the Correctional Facility Review Committee in April 2008 and made the following recommendations regarding the correctional facility review study:

- Remodel and reuse the existing State Penitentiary;
- Replace the Missouri River Correctional Center with a minimum security unit adjacent to the State Penitentiary; and
- Use an expedited schedule to implement the process either as a single complete project or a three-phased project.

The committee considered a hybrid project plan, which was similar to Phase 1 of the CJI plan. The hybrid plan was estimated to cost \$67 million. The executive budget included \$67,000,000, of which \$22,465,804 is from the general fund, for the hybrid project plan as recommended by the interim committee. In Senate Bill No. 2030, the Legislative Assembly provided an appropriation of \$64,000,000, of which \$19,465,804 is from the general fund and \$44,534,196 is from the State Penitentiary land fund, to the Department of Corrections and Rehabilitation for completing the renovation and expansion project at the State Penitentiary, a decrease of \$3,000,000 from the executive recommendation of \$67,000,000. The decrease is primarily due to lower than anticipated soft costs and inflationary costs as compared to the amounts identified in the hybrid plan. Estimated construction and renovation costs for each component of Phase 1 of the hybrid plan and total project funding are summarized below:

	Hybrid Phase 1				
	Estimated Cost	New Beds	Cost Per Bed	Square Feet	Cost Per Square Foot
New construction					
Medical unit	\$5,201,087	29	\$179,348	17,935	\$290
Segregation/detention ¹	7,408,482	102	\$72,632	24,657	\$300
Orientation/intake/classification ²	8,891,960	175	\$50,811	35,146	\$253
General population ³	5,181,957	125	\$41,456	18,843	\$275
Warehouse	1,147,826			10,435	\$110
Visiting/entry	432,174			2,161	\$200
New construction costs	\$28,263,486				
Gross factor (15%)	4,239,523			16,377	
Subtotal	\$32,503,009				
Construction contingency	3,250,301				
Total new construction	\$35,753,310				

	Hybrid Phase 1				
	Estimated Cost	New Beds	Cost Per Bed	Square Feet	Cost Per Square Foot
Major renovation/remodel ⁴	\$3,805,360			18,295	\$208
Relocate tower	305,760			130	\$2,352
Renovation contingency ⁵	411,112				
Site development ⁶	4,100,000				
Site contingency	410,000				
Project soft costs ⁷	8,957,108				
Total 2008 project costs	\$53,742,650				
Inflationary costs ⁸	13,258,311				
Total 2011 project component costs	\$67,000,961	431	\$155,455	143,979	\$465
Legislative adjustments	(3,000,961)				
Total project appropriation	\$64,000,000				

¹The hybrid plan anticipates 102 segregation beds will be sufficient for the next 10 years. The hybrid plan allows for future expansion of the administrative segregation unit if necessary.

²The hybrid plan includes 50 flex beds in the orientation/intake/classification unit that could be used for general population housing if necessary.

³The hybrid plan uses existing areas for a dayroom area, a multipurpose program area, and storage areas.

⁴The hybrid plan includes renovation in Phase 1 for the first two floors of the facility administration building.

⁵The hybrid plan includes 10 percent for renovation contingencies.

⁶Site development for the hybrid plan includes \$1.8 million for demolition of the East Cellhouse.

⁷The hybrid plan includes 20 percent for project soft costs.

⁸The hybrid plan includes an inflationary rate of approximately 24.67 percent (calculated from February 2008 to the midpoint of construction in September 2011 at 8 percent for 2008 and 2009 and 6 percent thereafter).

Community Service Supervision

The Legislative Assembly in Senate Bill No. 2028 amended North Dakota Century Code Section 29-26-22 to require courts to impose upon each defendant who receives a sentence that includes community service a community service supervision fee of \$25 rather than \$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 \$62,500 from the community service supervision fund to the Department of Corrections and Rehabilitation in Senate Bill No. 2015. The Legislative Assembly also provided an appropriation of \$375,000 from the general fund to the Office of Management and Budget in Senate Bill No. 2178 for community service supervision grants and directed the grant funds be distributed on an annual basis on August 1 of each year of the 2009-11 biennium.

Other Sections in Senate Bill No. 2015

Department of Corrections and Rehabilitation share of equity pool - Section 4 requires the Office of Management and Budget to provide at least 29 percent of any general fund salary equity pools that are appropriated for salary equity increases for state employees for the 2009-11 biennium to the Department of Corrections and Rehabilitation for employees in pay grades 1 through 14. The Legislative Assembly included language in Section 19 of House Bill No. 1015 which makes the provisions of this section not apply to salary equity pool allocations for the 2009-11 biennium.

Contingent funding - Missouri River Correctional Center - Section 5 provides that \$93,592 from the general fund included in Section 1 of the bill for roof repairs for the dining and kitchen area at the Missouri River Correctional Center may be spent only if the center is not relocated to the State Penitentiary site as part of the prison expansion project.

Contingent funding - Programs and projects - Section 6 provides that \$225,041 for a summer replacement boiler, \$18,928 for conversion of the energy management system from analog to digital, \$15,774 for heating and cooling equipment replacement, and \$160,000 for temporary housing of sexual offenders from the general fund included in Section 1 of the bill may be spent only to the extent that funds appropriated from federal fiscal stimulus funds in Section 9 of the bill are not available for these purposes.

Heart of America Correction and Treatment Center - Section 7 authorizes the Department of Corrections and Rehabilitation to make 24 equal payments totaling \$1,628,813 from the general fund for services provided at the Heart of America Correction and Treatment Center in Rugby for the 2009-11 biennium. If the Heart of America Correction and Treatment Center does not accept a sufficient number of inmates to occupy at least 96 percent of the average daily treatment program bed count provided for in the contract for the first 10 months of each year of the biennium, the Department of Corrections and Rehabilitation is to reduce the monthly payments for the remaining two months of each year. The total reduction for the two months is the sum of the monthly calculation of the number of beds at 96 percent occupancy less the number of beds filled multiplied by the daily rate multiplied by the number of days in the month. The Department of Corrections and Rehabilitation is to refer a sufficient number of inmates to the Heart of America Correction and Treatment Center to allow for the average daily treatment program bed count provided for in the contract to be fulfilled for the 2009-11 biennium.

Related Legislation

Senate Bill No. 2030 - This bill provides an appropriation of \$19,465,804 from the general fund and \$44,534,196 from the State Penitentiary land fund for Phase 1 of the renovation and expansion project at the State Penitentiary and declares an emergency.

Senate Bill No. 2187 - This bill provides an appropriation of \$375,000 from the general fund to the Office of Management and Budget for community service supervision grants. The funds are to be distributed on an annual basis on August 1 of each year of the 2009-11 biennium.

Senate Bill No. 2355 - This bill provides an appropriation of \$200,000 from the general fund to the Department of Corrections and Rehabilitation for a pilot project relating to providing a short-term shelter program for at-risk youth.