

**Department of Corrections and Rehabilitation**  
**Budget No. 530**  
**House Bill Nos. 1015, 1014, Senate Bill Nos. 2013, 2243**

	<b>FTE Positions</b>	<b>General Fund</b>	<b>Other Funds</b>	<b>Total</b>
2007-09 executive budget (bills as introduced)	706.79	\$172,696,199	\$26,853,489	\$199,549,688
<b>2007-09 legislative appropriations</b>	<b>711.29</b>	<b>171,606,873<sup>1</sup></b>	<b>24,050,952</b>	<b>195,657,825</b>
Legislative increase (decrease) to executive budget	4.50	(\$1,089,326)	(\$2,802,537)	(\$3,891,863)
Legislative increase (decrease) to 2005-07 appropriations	34.01	\$66,401,357 <sup>2</sup>	(\$3,714,195)	\$62,687,162 <sup>2</sup>

<sup>1</sup>This amount includes \$44,559,391 of one-time funding. Excluding this amount, the agency's ongoing general fund appropriation is \$127,047,482.

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

**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 Senate Bill No. 2189.

	<b>Major Items</b>		
	<b>FTE Positions</b>	<b>General Fund</b>	<b>Other Funds</b>
			<b>Total</b>
The legislative action:			
Reduced funding recommended in the executive budget relating to retiree health credit contributions		(\$65,693)	(\$3,843)
			(\$69,536)
<b>Adult Services Division</b>			
Removed funding included in the executive recommendation for the prison expansion project (see <b>Prison Facility Project</b> section below)		(42,000,000)	
			(42,000,000)
Provided for a transfer from the general fund to the State Penitentiary land fund for future correctional facility needs (see <b>Prison Facility Project</b> section below)		41,000,000	
			41,000,000
Removed spending authority of Roughrider Industries for raw materials necessary for a general issue of license plates, as funding for a new issue was not included in the Department of Transportation appropriation			(3,000,000)
			(3,000,000)
Reduced funding for Prisons Division equipment		(30,000)	
			(30,000)
Reduced funding for extraordinary repairs for the Prisons Division		(440,200)	
			(440,200)

Removed 1.5 FTE positions and related salaries for civil supervision and the drug treatment pilot project	(1.50)		(168,778)	(168,778)
Reduced funding for operating expenses		(47,500)		(47,500)
Added funding for faith-based programming to provide a total of \$500,000		200,000		200,000
Replaced funding from the general fund with special funds from supervision fees related to increasing the monthly supervision fee from \$40 to \$45 per offender		(244,782)	244,782	
Provided funding in Senate Bill No. 2243 to provide matching grants for community service supervision of offenders (see <b>Community Service Supervision</b> section below)		100,000	125,000	225,000
Provided funding for transition medical care		100,000		100,000
Provided funding for 5 FTE positions to reduce the caseload for Adult Services Division	5.00	465,550		465,550
Provided funding for 1 FTE position and related operating expenses for interagency agreement with the Department of Human Services relating to safety and security training provided by the Department of Corrections and Rehabilitation	1.00	118,500		118,500
<b>Youth Services Division</b>				
Reduced funding for the security lighting project at the Youth Correctional Center		(100,000)		(100,000)
Reduced funding for roof repairs for the Maple and Hickory Cottages at the Youth Correctional Center		(127,459)		(127,459)
Reduced funding for equipment at the Youth Correctional Center		(25,000)		(25,000)
Provided funding in Senate Bill No. 2013 for additional employer retirement contributions for Teachers' Fund for Retirement members		7,258	302	7,560
Total	<u>4.50</u>	<u>(\$1,089,326)</u>	<u>(\$2,802,537)</u>	<u>(\$3,891,863)</u>

### FTE Changes

The following table summarizes FTE position changes:

Position	Proposed FTE Changes Included in Executive Budget	FTE Changes Included in Legislative Appropriation	Legislative Increase (Decrease) From Executive Budget
<b>Youth Services Division</b>			
Security officer (converted from temporary)	1.00	1.00	
Institution residential specialist (converted from temporary)	4.00	4.00	
<b>Adult Services Division</b>			
Parole and probation officer II	6.00	6.00	
Parole and probation officer III (drug court)	3.00	3.00	
Corrections agent	1.00	1.00	
Treatment director	1.00	1.00	
Chaplain	2.00	2.00	
Correctional officer	5.00	5.00	
Registered nurse	1.00	1.00	
Instructor	0.25	0.25	
Account technician	1.51	1.51	
Administrative assistant	1.25	1.25	
Office assistant	1.50	1.50	
Business manager	1.00		
Community commitment supervision		(1.00)	(1.00)
Program manager (drug treatment pilot project)		(0.50)	(0.50)
Classification pending (to reduce adult services caseload)		5.00	5.00
Classification pending (training related to interagency agreement with the Department of Human Services)		1.00	1.00
<b>Total</b>	<b>29.51</b>	<b>34.01</b>	<b>4.50</b>

### Capital Projects

Project	2007-09 Executive Budget			2007-09 Legislative Appropriation			Legislative Appropriation Increase (Decrease)		
	General Fund	Other Funds	Total	General Fund	Other Funds	Total	General Fund	Other Funds	Total
<b>Youth Services Division</b>									
Youth Correctional Center									
Security lighting and surveillance	\$170,000		\$170,000	\$100,000		\$100,000	(\$70,000)		(\$70,000)
Roof replacement	329,689		329,689	202,230		202,230	(127,459)		(127,459)
Extraordinary repairs, maintenance, and upgrades	183,266		183,266	183,266		183,266			
<b>Total - Youth Services Division</b>	<b>\$682,955</b>		<b>\$682,955</b>	<b>\$485,496</b>		<b>\$485,496</b>	<b>(\$197,459)</b>		<b>(\$197,459)</b>
<b>Adult Services Division</b>									
Prisons Division									
State prison expansion	\$42,000,000		\$42,000,000	\$41,000,000		\$41,000,000	(\$1,000,000)		(\$1,000,000)
Standby generator overhaul	300,000		300,000	300,000		300,000			
Penitentiary ADA compliance, ramp, elevator	385,000		385,000				(385,000)		(385,000)
Penitentiary network and surveillance upgrade	80,000		80,000	80,000		80,000			
Penitentiary water service replacement	78,000		78,000	78,000		78,000			
Penitentiary perimeter security surveillance	80,000		80,000	80,000		80,000			
Penitentiary other repairs and maintenance	173,850		173,850	133,850		133,850	(40,000)		(40,000)

Roughrider Industries roof replacement	45,000		45,000	45,000		45,000		
James River Correctional Center roof repairs	85,000		85,000	85,000		85,000		
James River Correctional Center fire suppression	75,000		75,000	75,000		75,000		
James River Correctional Center other repairs	436,075		436,075	436,075		436,075		
Missouri River Correctional Center repairs	42,200		42,200	27,000		27,000	(15,200)	(15,200)
<b>Total - Adult Services Division</b>	\$43,780,125		\$43,780,125	\$42,339,925		\$42,339,925	(\$1,440,200)	(\$1,440,200)
<b>Total Department of Corrections and Rehabilitation</b>	\$44,463,080		\$44,463,080	\$42,825,421		\$42,825,421	(\$1,637,659)	(\$1,637,659)

### Inmate Population

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

	Male	Female	Total
<b>Fiscal year 2008</b>			
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
<b>Fiscal year 2009</b>			
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 following table shows the actual average male and female inmate populations for July 2005 through April 2007 as compared to the legislative population estimates for the 2005-07 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
<b>Fiscal year 2006</b>						
July	1,198	1,212	14	134	149	15
August	1,201	1,221	20	135	154	19
September	1,204	1,231	27	136	155	19
October	1,207	1,237	30	136	148	12
November	1,211	1,257	46	137	145	8
December	1,213	1,259	46	138	151	13
January	1,210	1,249	39	139	162	23
February	1,207	1,254	47	139	163	24
March	1,203	1,264	61	140	167	27
April	1,195	1,267	72	141	161	20
May	1,193	1,247	54	141	161	20
June	1,193	1,246	53	142	163	21
<b>Fiscal year 2007</b>						
July	1,186	1,240	54	143	165	22
August	1,189	1,236	47	143	168	25
September	1,197	1,245	48	144	166	22
October	1,202	1,237	35	145	158	13
November	1,207	1,230	23	146	167	21
December	1,218	1,226	8	146	169	23
January	1,221	1,247	26	147	160	13
February	1,225	1,251	26	148	151	3
March	1,234	1,258	24	149	146	(3)
April	1,241	1,273	32	149	147	(2)
May	1,252			150		
June	1,262			151		

#### Inmate Contract Housing

The Legislative Assembly did not change the executive recommendation to provide \$9,588,597 for inmate contract housing, an increase of \$4,017,201 from the 2005-07 biennium appropriation. This amount represents \$9,528,597 from the general fund and \$60,000 of federal funds. This funding is to be used 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 and private facilities (\$1,632,720).

#### Prison Facility Project

The Legislative Assembly removed the \$42 million general fund appropriation included in the executive recommendation for the State Penitentiary expansion project and 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.

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 1000 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.

#### **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 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 Field Services 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.

#### **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 a medical information 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.

#### **Other Sections in House Bill No. 1015**

**Offender application fee** - Section 4 amends North Dakota Century Code (NDCC) Section 12-65-08(1) by requiring the department, if the balance of the probationer violation transportation fund exceeds \$75,000 on June 30 of the immediately preceding fiscal year, to waive any fees required to be paid by a county having jurisdiction over a probationer transferring residency to another state under the interstate compact.

**Supervision fees** - Section 5 amends subsection 2 of NDCC Section 12.1-32-07 to change the monthly offender supervision fee from \$40 to \$45 per offender.

**Drug abuse assessment and treatment** - Section 6 amends NDCC Section 19-03.1-45 to continue guidelines for presentence investigations and drug abuse assessment and treatment, eliminates the requirement that the cost for all drug abuse assessments and certified drug abuse treatment programs are initially paid by the Department of Corrections and Rehabilitation, and eliminates the mandatory drug treatment pilot project for Walsh, Pembina, and Grand Forks Counties.

**North Central Correctional and Rehabilitation Center** - Section 7 authorizes the Department of Corrections and Rehabilitation to make 24 equal payments totaling \$1,631,044 from the general fund for services provided at the North Central Correctional and Rehabilitation Center in Rugby for the 2007-09 biennium.

**Transfer to State Penitentiary land fund** - Section 8 provides for a contingent appropriation of \$41 million to be transferred from the general fund to the State Penitentiary land fund. The funds will be used if one of three correctional facility concepts, as outlined in Section 10 of the bill, is authorized by the Emergency Commission and approved by the Budget Section.

**Legislative Council appropriation** - Section 9 provides an appropriation of \$250,000 from the general fund to the Legislative Council for prison facility alternative concepts and preliminary design development as provided for in Section 10 of the bill.

**Correctional Facility Review Committee** - Section 10 provides for the appointment of a Correctional Facility Review Committee to address the immediate and future needs of the State Penitentiary.

**Exemption** - Section 11 provides that the amount appropriated to the Department of Corrections and Rehabilitation in Section 5 of Senate Bill No. 2341 (2005) is not subject to the provisions of NDCC Section 54-44.1-11 relating to unexpended appropriations and is to be used for crime victims compensation.

**Budget Section approval** - Section 12 authorizes the Department of Corrections and Rehabilitation to develop a plan for and implement an inmate medical system. The department is required to provide reports to the Legislative Information Technology Committee and the Budget Section. Budget Section approval is required before the department proceeds with implementation of the system.

**Legislative intent - Reporting levels** - Section 14 provides legislative intent that the Office of Management and Budget change the reporting levels on the budget analysis and reporting system (BARS) to allow for a separation of food and clothing items for the 2009-11 biennium.

**Legislative intent - Temporary salaries** - Section 15 provides legislative intent that the Field Services Division may use \$250,000 of its 2007-09 biennium appropriation for temporary salaries for supervision of offenders.

**Legislative Council study** - Section 16 provides for a Legislative Council study on retirement criteria for state correctional officers and peace officers.

**Budget Section report - Space, operational, and staffing plan** - Section 17 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.

**Legislative intent - Correctional facilities** - Section 18 provides legislative intent that the correctional facility concepts developed pursuant to Section 10 of the bill not include any consideration of closure of the James River Correctional Center or the Dakota Women's Correctional and Rehabilitation Center in New England.

#### **Related Legislation**

House Bill No. 1076 amends NDCC Section 15.1-21-02 to exempt the high school education program at the Youth Correctional Center from certain high school curriculum requirements.

Senate Bill No. 2023 provides a deficiency appropriation of \$4,069,832 to the Department of Corrections and Rehabilitation.

Senate Bill No. 2029 provides standards under which the Department of Corrections and Rehabilitation may implement an electronic home detention and global positioning system monitoring program.

Senate Bill No. 2243 creates a community service supervision fee and a community service supervision fund and provides an appropriation of \$125,000 from the community service supervision fund to the Department of Corrections and Rehabilitation for community service grants.