



# MONTANA LEGISLATIVE BRANCH

## Legislative Fiscal Division

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Legislative Fiscal Analyst  
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DATE: September 11, 2009

TO: Legislative Finance Committee

FROM: Pat Gervais, Legislative Fiscal Division

RE: Department of Corrections

This memo summarizes information related to several Department of Corrections items and is provided to you as an informational update. Currently, these topics do not appear on the agenda for your September meeting because there are no legislative decision points at this time.

### **CARRY FORWARD OF APPROPRIATIONS**

During the 2009 session the legislature was informed that the department would likely revert an estimated \$15 – \$17 million general fund at the end of the 2009 biennium because projected needs for contract bed growth and additional sex offender treatment (SB 547) were not realized. Statute provides agencies the ability to carry forward 30 percent of unexpended operating appropriations for expenditure in the following two years. Thus, it was anticipated that the department would have available in the 2011 biennium \$4.5 million or more of 2009 biennium appropriations as carry forward appropriations. Discussion of this item and related legislative action is included in the 2011 Biennium Fiscal Report on page D-87.

At the end of FY 2009, almost \$22 million of general fund appropriations remained unexpended, including \$18.7 million appropriated for contract bed growth (secure care) and sex offender treatment. Thus, the department will have about \$5.6 million of carry forward appropriations related to these items available for expenditure during the 2011 biennium.

Other appropriation balances that remain unexpended include Community Corrections - \$1.0 million, Mentally Ill Offender Drugs - \$0.8 million, Juvenile Corrections (other than juvenile placement funds) - \$0.6 million, and Montana Correctional Enterprises - \$0.3 million. Portions of these appropriation balances may also be available as carry forward appropriations in the 2011 biennium budget. If all \$22 million in appropriation balances are eligible for the 30 percent carry forward the department would have about \$6.6 million general fund from the 2009 biennium available for use in the 2011 biennium.

As stated, the legislature anticipated that about \$4.5 million general fund would be available as carry forward appropriations to partially offset the 2 percent unspecified general fund reduction (\$5.3 million) that was not restored to the department's funding for the 2011 biennium. Given

that the reversion was greater than anticipated by the legislature, it is likely that the entire unspecified reduction in agency funding may be offset during the 2011 biennium by the use of carry forward appropriations. Department staff have also indicated that carry forward funds may be used to supplement funding for contract secure care beds that were funded by the legislature at a level lower than requested by the executive. However, carry forward appropriations are one time funding that will not carry forward into the 2013 biennium budget.

## **POPULATION**

### **FY 2009 Actual**

Final FY 2009 population statistics have been compiled. These statistics show that the department had an average daily population (ADP) of offenders in FY 2009 of 13,026 or an increase of 1.3 percent when compared to FY 2008. While the ADP in secure care and community alternatives increased, the population of offenders on probation and parole did not. Because the largest portion of offenders is on probation and parole the net zero increase in this segment of the population offsets increases in other segments of the population yielding a net increase of 1.3 percent.

The legislature budgeted for an ADP of 14,205 for FY 2009 or an ADP 1,179 greater than what was actually experienced. This was the primary factor contributing to the reversion of almost \$22 million general fund at the end of FY 2009.

### **2011 Biennium Projections**

The department's February 12, 2009 population projection estimated FY 2010 ADP at 13,519 and FY 2011 ADP at 13,973, or an increase of about 2.8 percent per year. However, their most recently completed population projection estimates FY 2010 ADP at 13,460 and FY 2011 ADP at 13,912, or an increase of about 3.3 percent per year. While percentage increase per year is estimated to be slightly greater in the most recent projection, the total ADP of offenders is estimated to be slightly less (59 in FY 2010 and 61 less in FY 2011) than in the February projection. This change is largely due to the impact of projecting forward from a FY 2009 level that was lower than previously expected.

### **Caution**

The stagnation in the growth of the probation and parole caseload and its effect on the overall percentage increase in the ADP may be an indicator of a shift in the population mix. This shift in population mix may result in increased costs due to differences between the cost of maintaining offenders on probation and parole and the cost of secure care or other residential setting. The department's population estimate does not anticipate that this stagnation in probation and parole caseload will continue. The department is estimating a probation and parole growth rate of about 2.7 percent, which would be the lowest rate of growth in this segment of the population since FY 2002. Legislative Fiscal Division staff will continue to monitor department population trends and their potential impact on costs.

## **ADVISORY COUNCIL RECOMMENDATIONS TO GOVERNOR**

The Governor created and appointed an advisory council to the Department of Corrections and tasked this council with several items including analysis and development of offender population trends and projections and determination of potential future infrastructure needs to increase capacity within the system.

In December of 2008 the consulting firm of Carter Goble Lee provided to the department its report titled State of Montana, Department of Corrections, Master Plan. Among the data included in this report were long term population estimates (through 2025) and recommendations related to long term facility needs and construction alternatives to expand system capacity to accommodate the anticipated long term population growth. During the 2009 session, the consultants presented a summary of this report to a joint meeting of the Joint Appropriation Subcommittees on the Judicial Branch, Law Enforcement and Justice, and Long Range Planning.

In August of 2009 the Corrections Advisory Council provided its recommendations to the Governor based upon its study and review of the system and the consultant's report. The council's recommendations to the Governor (in order of priority) are:

1. Create a program for treating up to 116 level 1 and level 2 sex offenders outside of prison
2. Create a facility to meet the medical and mental health needs of up to 152 male and female inmates (to serve the anticipated need through 2025)
3. Provide up to 512 beds for male inmates to meet the needs through 2015
4. Provide 256 beds for women inmates in the Billings area to meet the state's projected needs through 2025

It is legislative staff's understanding that the executive has not yet developed a specific plan with regard to the advisory council recommendations. However, it would seem likely that the executive may include initiatives related to these recommendations in the 2013 biennium budget request.