

State Department of Corrections

A.R.S. § 41-1602

Director: Charles L. Ryan

JLBC Analyst: Martin Lorenzo

	FY 2009 ACTUAL	FY 2010 ESTIMATE	FY 2011 APPROVED
OPERATING BUDGET			
<i>Full Time Equivalent Positions</i>	9,932.5	9,552.9	10,015.2
Correctional Officer Personal Services	299,206,500	248,212,500 ^{1/}	291,380,800
Health Care Personal Services	39,265,200	39,117,800	36,821,000
All Other Personal Services	65,793,700	64,158,400	60,387,800
Personal Services Subtotal	404,265,400	351,488,700	388,589,600
Employee Related Expenditures	175,314,000	174,690,100	182,162,600
Personal Services and Employee Related Expenditures for Overtime/Compensatory Time	9,739,100	12,139,700	12,139,700
Health Care All Other Operating Expenditures			
Professional and Outside Services	21,151,700	14,279,600	14,279,600
Travel - In State	17,800	12,000	12,000
Travel - Out of State	3,700	2,500	2,500
Other Operating Expenditures	63,481,300	66,245,900	66,245,900
Equipment	89,900	60,700	60,700
Health Care Operating Subtotal	84,744,400	80,600,700	80,600,700
Non-Health Care All Other Operating Expenditures			
Professional and Outside Services	7,373,900	7,589,800	7,589,800
Travel - In State	109,800	101,700	101,700
Travel - Out of State	67,600	66,700	66,700
Other Operating Expenditures	38,447,200	37,922,300	38,790,800
Food	73,117,400	74,156,300	74,156,300
Equipment	3,892,800	1,093,500	1,093,500
Non-Health Care Operating Subtotal	123,008,700	120,930,300	121,798,800
OPERATING SUBTOTAL	797,071,600	739,849,500	785,291,400
SPECIAL LINE ITEMS			
County Jail Beds	775,200	866,200	0
New State Prison Beds	0	16,064,100	67,456,700
Private Prison Per Diem	80,319,100	92,324,900	132,302,600
Provisional Beds	81,297,500	86,002,300	8,359,600
5 th Special Session Reduction	0	(1,063,400)	(1,063,400)
AGENCY TOTAL	959,463,400	934,043,600	992,346,900 ^{2/-10/}
FUND SOURCES			
General Fund	916,330,900	890,390,700	948,692,900
<u>Other Appropriated Funds</u>			
Alcohol Abuse Treatment Fund	392,600	554,400	554,400
Corrections Fund	25,504,400	29,017,600	29,017,600
Penitentiary Land Fund	1,418,800	979,200	979,200 ^{8/}
Prison Construction and Operations Fund	13,929,200	11,499,400	11,499,400
State Charitable, Penal and Reformatory Institutions Land Fund	1,208,700	360,000	360,000 ^{2/}
State Education Fund for Correctional Education	231,000	507,300	508,400 ^{10/}
Transition Program Fund	177,600	180,000	180,000
Transition Program Drug Treatment Fund	270,200	555,000	555,000
SUBTOTAL - Other Appropriated Funds	43,132,500	43,652,900	43,654,000
SUBTOTAL - Appropriated Funds	959,463,400	934,043,600	992,346,900
Other Non-Appropriated Funds	42,854,000	44,738,400	44,738,400
Federal Funds	15,387,100	65,354,100	15,354,100
TOTAL - ALL SOURCES	1,017,704,500	1,044,136,100	1,052,439,400

AGENCY DESCRIPTION — The Arizona Department of Corrections (ADC) maintains and administers a statewide system of prisons for adult and minor offenders legally committed to the department. The department is also responsible for the supervision of offenders on parole and other prison release mechanisms, as specified by law.

Operating Budget

The budget includes \$785,291,400 and 9,268.9 FTE Positions for the operating budget in FY 2011. These amounts consist of:

	<u>FY 2011</u>
General Fund	\$771,409,300
Alcohol Abuse Treatment Fund	599,300
Corrections Fund	343,300
Prison Construction and Operations Fund	11,250,000
State Charitable, Penal and Reformatory Institutions Land Fund	360,000
State Education Fund for Correctional Education	549,500
Transition Office Fund	180,000
Transition Program Drug Treatment Fund	600,000

These amounts fund the following adjustments:

AHCCCS Rate Structure

The budget continues a FY 2010 supplemental increase of \$20,000,000 from the General Fund in FY 2011 to restore a portion of the FY 2010 reduction associated with the Arizona Health Care Cost Containment System (AHCCCS) rate structure. The Criminal Justice Budget Reconciliation Bill (Laws 2009, 3rd Special Session, Chapter 6), specified that ADC’s reimbursements for: 1) health and medical services shall not exceed the capped fee-for-service schedule that is adopted by AHCCCS, and 2) inpatient and outpatient hospital services shall not

exceed the reimbursement methodology adopted by AHCCCS.

As a result of this provision, 2 of the largest private health care providers to ADC opted out of their contracts. While the department has entered into additional contracts at the AHCCCS rates, their projections suggest the need to restore \$20,000,000 of the \$26,000,000 reduction. The budget continues the \$20,000,000 FY 2010 supplemental funding provided by Laws 2010, 7th Special Session, Chapter 1, in FY 2011.

State Fiscal Stabilization Fund

The budget includes an increase of \$50,000,000 from the General Fund in FY 2011 to backfill the use of one-time monies allocated to ADC from the State Fiscal Stabilization Fund. The American Recovery and Reinvestment Act (ARRA) provided Arizona with more than \$1,000,000,000, including \$185,000,000 that can be expended for any state expenses. Of the \$185,000,000, \$50,000,000 was expended in FY 2010 for Correctional Officer Personal Services.

County Jail Bed Fund Reallocation

The budget includes an increase of \$866,200 from the General Fund in FY 2011 for costs associated with inmates who were previously housed in county jail beds that are now housed in state-owned beds. In recent years, ADC had an agreement with Navajo County to house 48 inmates in the Navajo County Jail at a per diem rate of \$48.44. During FY 2010, however, ADC, at the request of the

- 1/ Does not include \$50,000,000 of Federal Funds from the American Recovery and Reinvestment Act of 2009.
- 2/ The Personal Services and Employee Related Expenditures for Overtime/Compensatory Time line item includes monies for Personal Services and Employee Related Expenditure costs from overtime and compensatory time payouts accrued by department employees in FY 2011. (General Appropriation Act footnote)
- 3/ It is the intent of the Legislature that the department contract with county jails for the purposes of housing inmates committed to the department if the county agrees to contract at a per diem rate that shall not exceed \$50.00. (General Appropriation Act footnote)
- 4/ Before altering its bed capacity by closing state-operated prison beds or canceling or not renewing contracts for privately-operated prison beds, the State Department of Corrections shall submit a bed plan detailing the proposed bed closures for review by the Joint Legislative Budget Committee. (General Appropriation Act footnote)
- 5/ Before placing any additional inmates in out-of-state provisional beds, the department shall place inmates in all available prison beds in facilities that are located in this state and that house Arizona inmates, unless the out-of-state provisional beds are of a comparable security level and price. (General Appropriation Act footnote)
- 6/ A monthly report comparing State Department of Corrections expenditures for the month and year-to-date as compared to prior year expenditures shall be forwarded to the President of the Senate, the Speaker of the House of Representatives, the Chairpersons of the Senate and House of Representatives Appropriations Committees and the Director of the Joint Legislative Budget Committee by the 30th of the following month. The report shall be in the same format as the prior fiscal year and shall include an estimate of potential shortfalls, potential surpluses that may be available to offset these shortfalls and a plan, if necessary, for eliminating any shortfall without a supplemental appropriation. (General Appropriation Act footnote)
- 7/ General Appropriation Act funds are appropriated as a Operating Lump Sum with Special Line Items by Agency.
- 8/ One hundred percent of land earnings and interest from the Penitentiary Land Fund shall be distributed to the State Department of Corrections in compliance with the Enabling Act and the Constitution of Arizona to be used for the support of state penal institutions. (General Appropriation Act footnote)
- 9/ Twenty-five percent of land earnings and interest from the State Charitable, Penal and Reformatory Institutions Land Fund shall be distributed to the State Department of Corrections in compliance with the Enabling Act and the Constitution of Arizona to be used for the support of state penal institutions. (General Appropriation Act footnote)
- 10/ Before the expenditure of any State Education Fund for Correctional Education receipts in excess of \$508,400, the State Department of Corrections shall report the intended use of the monies to the Director of the Joint Legislative Budget Committee. (General Appropriation Act footnote, as adjusted for statewide allocations.)

county, is no longer utilizing these beds. These funds have been reallocated from the County Jail Special Line Item (SLI). (Please see the “County Jail Beds” or “Other Issues” sections for additional information.)

Statewide Adjustments

The budget includes a decrease of \$(5,424,300) in FY 2011 for statewide adjustments. This amount consists of:

General Fund	(5,425,400)
State Education Fund for Correctional Education	1,100

(Please see the General Provisions section.)

County Jail Beds

The budget includes no funding for County Jail Beds in FY 2011. These amounts fund the following adjustments:

County Jail Bed Fund Reallocation

The budget includes a decrease of \$(866,200) from the General Fund in FY 2011 for costs previously incurred as a result of the use of county jail beds. These funds have been reallocated to the department’s operating budget. (Please see the “Operating Budget” section for additional information.)

Background – In recent years, monies in this line item provided funding for beds used by ADC at County Jails. These beds were county-operated, non-permanent beds used as overflow for state-operated beds. (Please see “Other Issues” for additional information.)

New State Prison Beds

The budget includes \$67,456,700 and 746.3 FTE Positions from the General Fund for New State Prison Beds in FY 2011. These amounts fund the following adjustments:

Lease-Purchase Payment

The budget includes a decrease of \$(6,304,100) from the General Fund in FY 2011 for the lease-purchase payment associated with the 4,000 state prison beds. The FY 2010 General Appropriation Act appropriated \$16,064,100 from the General Fund for the lease-purchase payment associated with 4,000 public beds. Subsequently, Laws 2009, 5th Special Session, Chapter 1, specified \$11,000,000 of this amount was to revert to the General Fund and an equivalent amount was to be used from the excess lease-purchase proceeds that remained after all construction costs associated with the beds are paid. Due to the timing of the payments, however, the General Fund appropriation to ADC had already funded all but \$4,695,900 of the FY 2010 lease-purchase payment by the general effective date of Chapter 1. As a result, the revised FY 2010 and FY 2011 budgets were adjusted accordingly. In FY 2010, rather than an \$11,000,000 reversion, the

budget assumed \$4,695,900 would revert. In FY 2011, the remaining \$6,304,100 in excess lease-purchase proceeds is anticipated to be available, reducing the need for General Fund monies in an equivalent amount.

4,000 State Beds

The budget includes an increase of \$58,101,700 and 746.3 FTE Positions from the General Fund in FY 2011 for costs associated with phasing-in 4,000 state prison beds. Laws 2007, Chapter 261 (FY 2008 Criminal Justice Budget Reconciliation Bill) authorized ADOA to contract for the construction of no more than 4,000 public prison beds and 2,000 private prison beds. Further, Chapter 261 authorized 20-year, \$200,000,000, lease-purchase financing for the construction of the 4,000 state beds. The 4,000 state beds have been constructed as follows: 1,000 female beds in Perryville, 1,000 male beds in Tucson, and 2,000 male beds in Yuma.

The \$58,101,700 is comprised of the following:

- \$7,051,900 for one-time start-up costs (equipment and other operating expenditures) associated with all 4,000 state prison beds; and
- \$51,049,800 in ongoing operating costs associated with the phase-in of a budgeted 400 new beds per week starting July 1, 2010.

In total, the estimated annual cost to operate all 4,000 state beds (excluding the annual lease-purchase payment) is anticipated to be \$56,039,600. These estimates, however, do not include indirect costs. Assuming a portion of the one-time monies reflected above are continued to offset the full-year operating costs of the beds, a savings of \$(2,062,100) would be available in FY 2012.

Background – Monies in this line item are intended to be transferred into the department’s operating budget once the 4,000 state beds become fully operational. (Please see “Other Issues” for additional information.)

Statewide Adjustments

The budget includes a decrease of \$(405,000) from the General Fund in FY 2011 for statewide adjustments.

Private Prison Per Diem

The budget includes \$132,302,600 for Private Prison Per Diem in FY 2011. This amount consists of:

General Fund	103,628,300
Corrections Fund	28,674,300

These amounts fund the following adjustments:

2,000 Private Beds

The budget includes an increase of \$39,977,700 from the General Fund in FY 2011 for costs associated with the new private beds located in Kingman. In addition to the 4,000

public beds, Chapter 261 authorized ADOA to contract for 2,000 new private prison beds to be located in the state. The contract for these beds was awarded to Management and Training Corporation (MTC) as an expansion to the existing 1,400 private bed facility located in Kingman. Construction of the 2,000 additional beds is complete and all 2,000 beds will be phased-in at a rate of 140 beds per week starting April 6, 2010.

These monies, in addition to the \$37,162,800 in the department’s base, provide sufficient funding for the occupancy of all 3,400 beds at this facility for an entire fiscal year, at a per diem rate of \$62.16. ADC, however, has renegotiated the contract with MTC that resulted in a per diem rate of \$60.10 for the first 3,298 inmates and \$22.00 for the remaining 102 inmates. As a result, the weighted average per diem for all 3,400 inmates is \$58.96. Further, any additional inmates (beyond the 3,400) housed in temporary beds would be at a per diem rate of \$15.00.

Background – Monies in this line item are paid out to private prison contractors for daily expenses associated with housing Arizona inmates in 6,458 beds under contract for FY 2011. Private prison beds are permanent beds that the department will usually own after a period of 20 years, on average. ADC will own these facilities after a specified amount of time because the per diem rate includes a portion of the cost of purchasing the facility. Department administrative expenses related to private prison contracts are not included in this line item and are included in the department’s operating budget subtotal. *(Please see “Other Issues” for additional information.)*

Provisional Beds

The budget includes \$8,359,600 for Provisional Beds in FY 2011. This amount consists of:

General Fund	6,198,600
Penitentiary Land Fund	979,200
Prison Construction and Operations Fund	1,181,800

These amounts fund the following adjustments:

Phase-Out Provisional Beds

The budget includes a decrease of \$(77,642,700) from the General Fund in FY 2011 as a result of phasing-out provisional beds. In FY 2010, ADC was appropriated monies to fund contracts for 4,892 provisional beds located at 3 separate out-of-state facilities. ADC has opted not to renew any of these contracts beyond the current expiration dates, resulting in a FY 2011 savings.

While 2 of the contracts expired in March and May 2010 (FY 2010), 1 contract remains in effect through September 2010 (FY 2011). As a result, the budget provides ADC sufficient funds for occupying the provisional beds located

in Hinton, Oklahoma through the expiration of the existing contract.

Lower Provisional Bed Occupancy

The budget continues a FY 2010 supplemental decrease of \$(8,877,600) from the General Fund in FY 2011 related to lower occupancy of provisional beds. The supplemental reduction in FY 2010 is continued in FY 2011 as the beds are no longer under contract.

Background – Monies in this line item provide funding for provisional beds. Typically, provisional beds are temporarily “rented” on an annual basis with renewals for up to 4 or 5 years. The contracts, however, can usually be canceled at any time with proper notice. Unlike private beds, the per diem rate associated with provisional beds does not include the cost of purchasing the facility after a specified time period. *(Please see “Other Issues” for additional information.)*

5th Special Session Reduction

The budget includes \$(1,063,400) in FY 2011 to continue the 5th Special Session FY 2010 Lump Sum Reduction. This amount was allocated to the operating budget in the FY 2011 General Appropriation Act pending agency decisions on how to allocate. This amount consists of:

Alcohol Abuse Treatment Fund	(44,900)
Prison Construction and Operations Fund	(932,400)
State Education Fund for Correctional Education	(41,100)
Transition Program Drug Treatment Fund	(45,000)

While the budget continues the \$(1,063,400) 5th Special Session FY 2010 Lump Sum Reduction in FY 2011, these monies will not be swept into the General Fund in FY 2011.

Fund Transfers

The budget includes transfers from this agency’s funds to the General Fund. *(Please see the Fund Transfers section at the back of this report for more details.)*

Additional Legislation

Budget Structure

The Criminal Justice Budget Reconciliation Bill (BRB) (Laws 2010, 7th Special Session, Chapter 6) requires the department to report FY 2010 actual expenditures, FY 2011 estimated expenditures, and FY 2012 requested expenditure amounts for each line item as delineated in the prior year when the department submits its FY 2012 budget request pursuant to A.R.S. § 35-113.

Concession Agreement

The Criminal Justice BRB repeals Laws 2009, 3rd Special Session, Chapter 6, Section 33, requiring the ADC to enter into a concession agreement with one or more private vendors to operate state prisons.

Transition Program Fund

The Criminal Justice BRB, as permanent law, continues to permit the use of monies appropriated to the Transition Office Fund for any operating expenses related to the Transition Program. This provision was previously in session law. Laws 2010, Chapter 54 permanently changes the name of the Transition Office Fund to the Transition Program Fund.

Corrections Fund

Laws 2010, Chapter 240 extends the revenue source deposited to the Corrections Fund from June 30, 2010 to June 30, 2015. Revenues into the fund are primarily from luxury taxes on alcohol and tobacco products. Monies in the Corrections Fund are for the operation, construction, major maintenance, and purchase or lease of correctional facilities or state-operated juvenile facilities.

Other Issues

5% FTE Position Reduction

Laws 2009, 3rd Special Session, Chapter 11, Section 17 mandated a 5% General Fund FTE Position reduction by February 1, 2010. This provision required ADC to reduce 203 FTE Positions in FY 2010 and an additional 284 General Fund FTE Positions in FY 2011. These changes have been incorporated in the agency's budget.

Bed Counts

Table 1 reflects the FY 2008 and FY 2009 actual beds counts by bed type and facility, as well as FY 2010 and FY 2011 estimated bed counts. Between FY 2010 and FY 2011, the department beds count is anticipated to increase from 35,506 to 37,706. The 37,706 beds are comprised of the following 4 types of prison beds:

- State Beds (31,248): Beds owned and operated by the department. These beds are located in 10 complexes throughout the state. In FY 2011, the number of state operated beds will increase by 4,000 beds as construction on the beds, which were authorized in the FY 2008 Criminal Justice BRB, is complete and will be occupied.
- Provisional Beds (0): Temporary "rented" beds from a public or private vendor historically located out of state. At the start of FY 2010, ADC utilized 4,892 provisional beds. In March and May 2010, however, 2,912 beds were vacated. The remaining 1,980 beds will be vacated in September 2010 (FY 2011). As a result, no provisional beds are anticipated to be occupied as of June 30, 2011.

- Private Beds (6,458): In-state, "lease-to-own" beds operated by private entities with whom the department has contracted. Typically, the department will own private beds after a contract period of 20 years, as the per diem rate includes a portion of the cost to purchase the facility. In FY 2010, 1,820 of 2,000 beds authorized in the FY 2008 Criminal Justice BRB are anticipated to be filled. In FY 2011, the remaining 180 beds will be filled.
- County Beds (0): Jail beds previously "rented" from Navajo County. In December 2010 (FY 2010) ADC vacated all County Jail beds and no beds are anticipated to be contracted for in FY 2011.

Population Growth

The population data reflected in Table 1 indicates the department's actual prison population in FY 2008 and FY 2009, as well as the estimated population in FY 2010 and FY 2011. ADC estimated FY 2010 population is 40,835 and would increase to 42,347 in FY 2011. The FY 2011 projected population reflects population growth of an additional 126 inmates per month, or 1,512 inmates per year based on actual population growth in FY 2009. In FY 2010, however, the actual average monthly growth in population through April 2010 was 11 inmates per month, significantly less than the 126 inmates per month estimated in FY 2011. Population growth is volatile, where between July 2, 2009 and April 30, 2010 population counts have ranged from a decrease of (146) inmates in December 2009, to an increase of 165 inmates in October 2009. Should actual population growth remain below the estimated increase of 126 inmates per month used for forecasting purposes, the projected FY 2010 and FY 2011 bed shortfall and bed shortfall as a percentage of state beds figures reflected in Table 1 would decrease.

Bed Shortfall

After incorporating population growth and estimated beds adjustments, the FY 2011 year-end bed shortfall is anticipated to be (4,641) or (14.9)% of state operated beds. This shortfall is a decrease from the estimated FY 2010 year-end shortfall of (5,329) beds.

Table 1 identifies the number of beds by bed type, the inmate population, the resulting bed shortfall, as well as the bed shortfall as a percent of state beds.

Table 1

**Fiscal Year End Bed Count by Bed Type and Facility
as of June 30 of FY 2008 through FY 2011**

	<u>FY 2008</u> <u>Actual</u>	<u>FY 2009</u> <u>Actual</u>	<u>FY 2010</u> <u>Estimated</u>	<u>FY 2011</u> <u>Estimated</u>	<u>FY 2011</u> <u>Per Diem</u>
<u>State:</u>					
Douglas	2,270	2,270	2,270	2,270	
Eyman	4,210	4,210	4,210	4,210	
Florence	3,372	3,372	3,372	3,372	
Perryville	3,260	3,260	3,260	4,260	
Phoenix	822	822	822	822	
Lewis	4,270	4,270	4,270	4,270	
Safford	1,548	1,548	1,548	1,548	
Tucson	3,640	3,640	3,640	4,640	
Winslow	1,666	1,666	1,666	1,666	
Yuma	<u>2,190</u>	<u>2,190</u>	<u>2,190</u>	<u>4,190</u>	
Sub-Total	27,248	27,248	27,248	31,248	
<u>Provisional:</u>					
New Castle, Indiana	1,260	0	0	0	
Watonga, Oklahoma	2,160	2,160	0	0	
Hinton, Oklahoma ^{1/}	1,340	1,980	1,980	0	\$54.50
Huerfano, Colorado	<u>0</u>	<u>752</u>	<u>0</u>	<u>0</u>	
Sub-Total	4,760	4,892	1,980	0	
<u>Private:</u>					
Kingman	1,400	1,400	3,220	3,400	58.96
Phoenix West	400	400	400	400	49.28
Marana	450	450	450	450	49.03
Florence West	600	600	600	600	52.19
Florence II	1,000	1,000	1,000	1,000	67.34
Emergency Beds	<u>414</u>	<u>414</u>	<u>608</u>	<u>608</u>	4.86-33.76
Sub-Total	4,264	4,264	6,278	6,458	
<u>County Jails:</u>					
Navajo	<u>48</u>	<u>48</u>	<u>0</u>	<u>0</u>	
Total	36,320	36,452	35,506	37,706	
Projected Population	38,897	41,412	40,835 ^{2/}	42,347 ^{2/}	
Projected Bed Shortfall (Year End)	(2,577)	(4,960)	(5,329)	(4,641)	
Projected Bed Shortfall (as % of State Beds)	(9.5)%	(18.2)%	(19.6)%	(14.9)%	

^{1/} Up to 1,980 beds at this facility will be utilized through the contract expiration date in September 2010 at which times the beds will be vacated and the contract will not be renewed.

^{2/} Reflects actual FY 2010 population as of April 30 and growth of 126 inmates per month through FY 2011. ADC, however, did not receive funding for population growth in FY 2011.