



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

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Joint Committee on Finance

Paper #225

Adult Correctional Facility Populations, Prison Contract Bed Funding and Operating Capacities of Adult Correctional Facilities (DOC -- Adult Corrections)

[LFB 2005-07 Budget Summary: Page 124, #1 and Page 125, #3]

CURRENT LAW

The Department of Corrections operates 36 adult correctional facilities, including 20 prisons and 16 correctional centers. In addition, the Wisconsin Resource Center, operated by the Department of Health and Family Services, is a medium-security facility for inmates in need of mental health treatment. Further, the Department is authorized to contract with Wisconsin local governments to house state prisoners, or, with the approval of the Joint Committee on Finance or passage of legislation, to transfer ten or more inmates to any one state or one political subdivision of another state or out-of-state private contract facilities.

GOVERNOR

Estimate an average daily population in adult correctional facilities and contract beds of 21,726 in 2005-06 and 21,295 in 2006-07. Delete \$4,314,300 GPR in 2005-06 and \$7,827,300 GPR in 2006-07 related to in-state and out-of-state prison contract bed funding. Transfer \$500,500 GPR annually from purchase of services funding to prison contract bed funding.

DISCUSSION POINTS

Prison Population Projection and Contract Beds

1. Under AB 100, the average daily prison population is projected to be 21,726 in 2005-06 and 21,295 in 2006-07. These projections include an assumption that prison populations

will be reduced by an average of nine offenders in 2005-06 and 269 offenders in 2006-07 as a result of the Governor's proposed expansion of the earned release program and the community alternatives to revocation. These issues are addressed in other budget papers. Without these reductions, the underlying average daily population projection would be 21,735 in 2005-06 and 21,564 in 2006-07.

2. The population projections used by the Governor for AB 100 were prepared in September, 2004, by the Department of Corrections for its 2005-07 biennial budget request. The projection was based on historic population data, annual growth trends, and adjustments for population management initiatives included in 2003 Act 33 (creation of the earned release program, increased use of alternatives to revocation, and expansion of the boot camp program).

3. Correctional facility costs and contract beds are budgeted based on an average daily population. The following table identifies the average daily population since 1993-94. Over the period, the average daily population has increased 144.9%.

<u>Fiscal Year</u>	<u>ADP</u>	<u>% Change</u>
1993-94	8,912	
1994-95	10,040	12.7%
1995-96	11,255	12.1
1996-97	12,958	15.1
1997-98	14,816	14.3
1998-99	17,691	19.4
1999-00	19,805	11.9
2000-01	20,447	3.2
2001-02	21,025	2.8
2002-03	21,825	3.8
2003-04	22,331	2.3

4. The average annual correctional facility population growth (the amount by which the population would need to grow on an annual basis to increase from one point in time to another) was 9.6% per year between 1993-94 and 2003-04. However, the annual rate of increase in the average daily prison population has been decreasing over this same period. Between 1999-00 and 2003-04 populations grew at an annual rate of 3.0%.

5. The trend of slower annual growth rates can be observed when examining monthly growth rates since 1996. On a monthly basis, populations grew at a rate of 0.55% per month between July, 1996 (with a prison population of 11,285) and April, 2005 (with a prison population of 21,895). However, for the periods between August, 1999, and April, 2002, the monthly growth rates have generally ranged from 0.10% and 0.18%, and for the periods between May, 2002, and February, 2004, between 0.01% and 0.09%. In the latest 12-month period, the monthly growth rate has actually been negative with a monthly growth rate of -0.05% per month from April, 2004 (with a prison population of 22,040) to April, 2005.

6. In order to realize Corrections' population projected under AB 100, correctional populations would need to decrease at a rate of 0.04% per month from April, 2005. Given the general population growth rate trends, and more specifically, recent population decreases, the underlying population estimates in the bill appear to be appropriate.

7. In order to determine the number of prison contract beds necessary during the biennium, estimated prison populations are compared to the number of state prison and correctional center system beds that Corrections has determined would be available. To the extent that estimated prison populations exceeded operating capacity, inmates were assumed to be placed in contract beds.

8. For the 2005-07 biennium, the Department of Corrections identified a total operating capacity of 21,276 beds. Of the total, 19,803 beds are for male inmates and 1,473 are for female inmates. In addition, 25 male offenders are placed in various federal correctional facility beds. The projected populations for male and female offenders are as follows: 20,338 male and 1,397 female in 2005-06, and 20,151 male and 1,413 female in 2006-07. When the identified operating capacity and federal contract beds are subtracted from the estimated prison population, Corrections needs 510 contracted beds in 2005-06 and 323 in 2006-07.

9. Assembly Bill 100 does not include the expansion of correctional facility capacity beyond that which is currently available. Since the need for contract beds is determined assuming that no additional correctional facility capacity will occur, the number contract beds recommended in the bill represents the maximum amount of funding for contract beds based on the population estimates. To the extent that population reduction initiatives proposed in the bill are adopted, contract bed funding may be removed in connection with those items.

10. Base funding for contract beds is \$14,821,300 GPR and supports a total of 731 beds. In addition, the bill would transfer \$500,500 GPR annually to contract beds from purchase of service funding. As a result, when combined with the population projections, the bill would delete \$4,314,300 GPR in 2005-06 and \$7,827,300 GPR in 2006-07 related to in-state and out-of-state prison contract beds. Total contracted bed funding of \$11,007,500 in 2005-06 and \$7,495,400 in 2006-07 would support an estimated 510 contract prison beds in 2005-06 and 323 contract beds in 2006-07. Further, the contract beds appropriation funds the costs of youthful adult offenders (seven annually) in juvenile correctional facilities, the temporary lock-up of correctional center system inmates, and inmate transportation costs from contracted facilities. These calculation are consistent with the population projections and appear appropriate.

11. If the reduction in contract bed funding were deleted, base level funding would be restored.

Prison Operating Capacity

12. In 1993 Act 16, Corrections was required to promulgate administrative rules providing limits on the number prisoners at all state prisons. The Act required Corrections to

include systemwide limits and limits for each prison, except that a single limit could be established for the minimum-security correctional centers. Further, procedures to exceed any systemwide, institution or center system limit in an emergency situation could be created. This rule has not been promulgated.

13. To address the question of capacity, Corrections has, by policy, defined the operating capacity of the prison system as the lesser of: (a) the number of inmates that a correctional institution can house ("housing capacity"); or (b) an institution's capacity to provide non-housing functions such as food service, medical care, recreation, visiting, inmate programs, segregation housing and facility administration.

14. Housing capacity is defined as: (a) one inmate per cell at maximum-security facilities, with a 2% cell vacancy rate; and (b) up to 20% double occupancy of cells in medium-security facilities existing as of July 1, 1991, or 50% double occupancy of cells in medium-security facilities constructed after July 1, 1991. Medical services beds and segregation beds (single cells for inmates removed from the general population for behavioral or security reasons) are not counted in housing capacity. No specific standard has been established for minimum-security institutions, but capacities have been determined on an institution-by-institution basis.

15. Prison operating capacity increased in 2003 Act 33, the 2003-05 biennial budget act, which provided funding and staffing to open five new facilities and expand the capacity at the Redgranite Correctional Institution. The following table identifies the institutions and total number of beds.

<u>Institution</u>	<u>Opening Year</u>	<u>Additional Beds</u>
New Lisbon Correctional Institution	2004	950
Chippewa Valley Treatment Correctional Facility	2004	450
Winnebago Workhouse	2003	150
Sturtevant Workhouse	2003	150
Sturtevant Probation & Parole Hold	2004	150
Redgranite Correctional Institution	2001 (capacity expanded)	<u>240</u>
Total		2,090

16. Corrections' operating capacity figures change regularly given that: (a) the operating capacity for contract beds equals the actual number of occupied contract beds; (b) the Wisconsin Secure Program Facility at Boscobel is utilized for offenders on an as-needed basis with a maximum capacity of 500 beds; and (c) the capacity at the Milwaukee Secure Detention Facility (MSDF) is equal to the number of beds available for inmates, since beds at MSDF are also used for probation, parole and extended supervision holds. Capacity figures exclude offenders who are held at MSDF and at the Sturtevant Transitional Facility pending revocation proceedings of their probation, parole or extended supervision.

17. On April 1, 2005, the Department had an operating capacity of 16,900 inmates in state facilities and 621 inmates at contracted facilities, for a total operating capacity of 17,521. On the same date, the prison system housed 21,895 inmates and was at 125.0% of Corrections' defined capacity. Excluding contracted facilities, state facilities were at 125.9% of capacity. Additional inmates were housed by: (a) exceeding the defined number of double occupancy cells; and (b) utilizing some non-housing space for housing purposes.

18. The table below identifies Corrections' total operating capacity at the beginning of each calendar year through 2004 and on April 1, 2005. As the table indicates, actual populations have historically exceeded institutional operating capacities.

	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>April 1, 2005</u>
Number of Contract Beds	378	345	481	1,398	3,634	5,080	5,302	4,222	3,706	2,130	621
Institutional Operating Capacity Excluding Contract Beds	7,040	7,324	9,097	9,097	10,873	10,943	11,436	12,582	14,949	15,296	16,900
Institutional Population	9,909	10,940	12,604	13,501	14,690	15,097	15,234	16,507	17,896	19,643	21,274
Percentage of Institutional Capacity Excluding Contract Beds	140.8%	149.4%	138.6%	148.4%	135.1%	138.0%	133.2%	131.2%	119.7%	128.4%	125.9%
Total Operating Capacity Including Contract Beds	7,418	7,669	9,578	10,495	14,507	16,023	16,738	16,804	18,655	17,426	17,521
Total Population	10,287	11,285	13,085	14,899	18,324	20,177	20,536	20,729	21,602	21,773	21,895
Percentage of Total Capacity	138.7%	147.2%	136.6%	142.0%	126.3%	125.9%	122.7%	123.4%	115.8%	124.9%	125.0%

19. Under the bill, using the April, 2005, operating capacity figure and contract bed and population projections, operating capacity would be as follows:

	AB 100	
	<u>2006</u>	<u>2007</u>
Number of Contract Beds (includes 25 beds in federal facilities)	535	348
<u>Excluding Contract Beds</u>		
Institutional Operating Capacity	16,900	16,900
Institutional Population	21,200	21,216
Percentage of Capacity	125.4%	125.5%
<u>Including Contract Beds</u>		
Total Operating Capacity	17,435	17,248
Total Population	21,735	21,564
Percentage of Capacity	124.7%	125.0%

20. Under the population projections and contract bed funding provisions of AB 100, institutional operating capacity and total operating capacity would continue at approximately 125% to 125.5% of capacity. The Committee should also note that Corrections state facility capacity levels for determining contract bed needs (19,803 male offenders) exceeds operating capacity levels.

21. Under separate provisions in the bill (expanded use of alternatives to revocation and an expansion of the earned release program), total correctional populations are reduced. However, since these reductions reduce the state's reliance on contract beds, state facilities remain at the capacity levels identified by Corrections.

22. The state has typically addressed issues of capacity by the construction of new facilities and increased funding for contracted facilities.

23. In estimating the costs to construct a new correctional facility, actual costs for the last two facilities constructed in Wisconsin can be reviewed: (a) the Redgranite Correctional Institution cost \$52.8 million to build in 1998; and (b) the New Lisbon Correctional Institution cost \$51.3 million to build in 1998 and 1999 (the project was expanded prior to completion). Applying cost escalators used by the Department of Administration's Division of State Facilities to these actual costs, the estimated 2006 construction costs of a 500-cell, 750-bed medium-security prison would be \$64.7 million.

24. When reviewing the construction cost estimates, the following points should be noted:

- Construction cost estimates exclude site acquisition and offsite utility costs.
- Construction cost estimates are based on the application of DOA's costs escalator. Actual construction costs depend on the physical and programmatic design of the facility, and the construction bidding process. To the extent that a new facility is designed to house a specific subset of the correctional population (for example, developmentally disabled inmates, geriatric inmates, or

offenders with mental health concerns) construction costs could differ.

- The identified construction costs are for a new facility, not an expansion at an existing facility. Expansion costs may vary based not only on the design of the expansion, but on the expanded facility's physical and programmatic capacity.

- The siting of a correctional facility would need to be determined by the Building Commission. It is unclear how long it would take to complete this process. Subsequent to selecting a site, bidding on the project would occur.

- As with construction costs, design and programmatic functions of a facility may impact the operating costs of the facility.

- Construction of a new correctional institution generally takes between two or three years subsequent to approval by the Building Commission.

25. In addition to construction costs, a new facility results in increased operating costs for the Department. Assuming that existing facilities are representative of future staffing costs, operating costs of New Lisbon are \$18.0 million annually with 330.5 positions, while Redgranite costs are \$17.1 million annually with 301.5 positions. It should be noted that while both New Lisbon and Redgranite are 500-cell facilities designed for 750 inmates, the facilities currently house between 950 and 990 inmates. Operational costs of a new facility would not be incurred until construction of the facility was completed.

26. In addition to construction and operating costs, Corrections would also incur both one-time institutional costs and debt service costs as a result of a new facility. Based on previous new facilities, one-time costs including startup costs, employee vaccines, institutional vehicles and institutional supplies, would be approximately \$1.1 million. Debt service costs would depend on the construction costs, but be approximately \$6.5 million annually or \$85.0 million over the life of the bonds.

27. The other method of reducing capacity levels has been to increase the number of contract beds. If funding for an additional 750 contract beds were provided, operating capacity under the bill, would be as identified below:

	<u>AB 100 + 750 Contract Beds</u>	
	<u>2006</u>	<u>2007</u>
Number of Contract Beds (750 additional beds in each year)	1,285	1,098
<u>Excluding Contract Beds</u>		
Institutional Operating Capacity	16,900	16,900
Institutional Population	20,450	20,466
Percentage of Capacity	121.0%	121.1%
<u>Including Contract Beds</u>		
Total Operating Capacity	18,185	17,998
Total Population	21,735	21,564
Percentage of Capacity	119.5%	119.8%

28. Total costs for 750 contract beds, at the current rate of \$51.46 per day, are estimated at \$14.1 million annually.

29. It should be noted that the contract between the Department and Corrections Corporation of America (CCA) for the placement of male inmates in out-of-state facilities expires on December 21, 2005. As a result, a new contract would need to be negotiated between the Department and CCA (or another provider), and approved by the Committee to continue placing inmates out-of-state. It is unknown to what extent the provisions and rates under the current contract would be continue to apply. Therefore, the actual impact on state facility capacity is difficult to determine.

30. Regarding both construction of a new correctional facility or increased funding for contract beds, the following points should be made:

- Corrections' six-year facilities plan for the period from 2005 to 2011 indicates that it "expects a relatively flat adult population" as a result of certain population management initiatives (earned release, boot camp, and an expanded use of alternatives to revocation). While the Department notes that limited data indicates that recent sentence lengths have increased, and that the prison population continues to age and have increased health concerns, the Department does not identify the need for the construction of any new facilities. Rather, the Department's plan places an emphasis on treatment programs in existing facilities, the continuation of the population management initiatives, and the repair or replacement of older facilities as necessary.

- Prison facilities, currently and under provisions of AB 100, are at approximately the same institutional capacity levels as in recent years, and at lower levels than when compared to periods in the late 1990's.

31. In a May 17, 2005, memorandum to the Committee, the Department discussed issues related to the return of inmates from out-of-state facilities and the potential overcrowding as a result of returning inmates:

"Several factors, including the reduced growth in the prison population, the additional bed space added to the system, the state's lowest crime rate in 30 years, and the bipartisan population control initiatives passed by this Committee and implemented in the 2003-05 biennial budget, have allowed DOC to safely absorb the additional inmates brought home from out of state...

[D]uring the past two years, the Department has expanded the use of in-state county jail contracts to house inmates and to facilitate offender reintegration efforts. We expanded the number of county jail contracts from 5 counties to 12 counties, which added approximately 342 beds to our capacity. On May 13, 2005, the Department had 541 inmates in county jail beds. The combination of the new institutions and the increase in county beds resulted in nearly 3,200 new beds in-state...

From January 2003 through May 2005, during the process of bring inmates back from out of state, some DOC institutions did slightly increase the use of double bunking to accommodate additional inmates at institutions, if the institutions could do so safely... While these small increases certainly created new challenges for staff at the institutions affected, the professionalism and dedication of our employees allowed us to safely house additional inmates and was imperative to the success of this effort. DOC employees and managers have successfully maintained high standards of correctional practice at institutions where double bunking has been the accepted practice for almost a decade."

32. On May 23, 2005, the Committee adopted a motion directing the Department to submit a plan to the Committee either to: (a) close one secure correctional facility for juveniles (Ethan Allen School, Lincoln Hills School, or Southern Oaks Girls School); or (b) achieve operational savings sufficient to reduce the daily rate for secured correctional facility care in 2006-07 to \$187. Corrections is required to submit the plan by March 1, 2006, which will be subject to the 14-day passive review process. This motion was adopted to evaluate the use of juvenile correctional facilities as a result of declining juvenile populations.

33. The last comprehensive evaluation of Wisconsin correctional facility capacity was conducted in 1990 at a cost of \$350,000 from the building trust fund. At that time, the currently-utilized definition of operating capacity was established. Considering the costs of prison construction, current facility operating levels and the projections of declining prison populations, it could be argued that an evaluation of correctional facilities and future needs would be appropriate. As such, the Committee may wish to direct Corrections and the State Building Commission to prepare, or have prepared, a 10-year facilities strategic plan for correctional facilities. The plan could be funded from the building trust fund and could include all of the following:

- An evaluation of each existing institution's: (a) physical condition; (b) security, environmental, health and safety issues; and (c) housing, program and food service capacity.
- A determination of the system's operating capacity based on: (a) the mission of the Department; (b) space occupancy guidelines developed by the Commission and Corrections; (c) model operating capacities which account for inmate or resident security classification, gender, age,

health condition, program need and length of incarceration; (e) a comparison of the guidelines and models with current conditions at the institutions; and (f) current prison design and operation.

- A determination of operating capacity shortfalls during the 2006 to 2016 period, based on projected inmate population projections.

- A recommendation of building projects and budgets, and the potential use of out-of-state and county jail bed contracts, to address identified deficiencies at existing institutions and operating capacity shortfalls.

ALTERNATIVES

1. Approve the Governor's recommendation to delete \$4,314,300 GPR in 2005-06 and \$7,827,300 GPR in 2006-07 related to in-state and out-of-state contract beds and to transfer \$500,500 GPR annually from purchase of service funding to contract bed funding. These funding levels are based on the prison population project contained in the bill.

2. Require the State Building Commission and the Department of Corrections to prepare, or have prepared, a 10-year facilities strategic plan for the Department's correctional facilities. Fund the plan from the building trust fund. Direct that the plan be submitted to the Governor and Legislature no later than September 1, 2007. Specify that the plan:

- a. Evaluate each existing institution's: (i) physical condition; (ii) security, environmental, health and safety issues; and (iii) housing, program and food service capacity;

- b. Determine the system's operating capacity based on: (i) the mission of the Department; (ii) space occupancy guidelines developed by the Commission and Corrections; (iii) model operating capacities which account for inmate or resident security classification, gender, age, health condition, program need and length of incarceration; (iv) a comparison of the guidelines and models with current conditions at the institutions; and (v) current prison design and operation;

- c. Determine operating capacity shortfalls during the 2006 to 2016 period, based on projected inmate population projections; and

- d. Recommend building projects and budgets, and the potential use of out-of-state and county jail bed contracts, to address identified deficiencies at existing institutions and operating capacity shortfalls.

3. Delete the Governor's recommendation for prison contract bed funding. *[This alternative would restore contract bed funding to support a total of 731 contract beds annually.]*

Alternative 3	GPR
2005-07 FUNDING (Change to Bill)	\$12,141,600

Prepared by: Chris Carmichael