



January 24, 2014

The Honorable Richard Devlin, Co-Chair  
The Honorable Peter Buckley, Co-Chair  
Joint Committee on Ways and Means  
900 Court Street NE  
H-178 State Capitol  
Salem, OR 97301-4048

Dear Co-Chairpersons:

## Nature of the Report

In HB 5008-A (2013), the legislature directed the Department of Corrections to report back to the Joint Committee on Ways and Means during the February 2014 legislative session regarding efforts to address unspecified budget reductions included in the 2013-15 budget. This letter shall serve as the department's report, and as a formal request for an increase in the General Fund appropriation to the department. The Budget Note is included below for reference:

"As in the 2011-13 legislatively approved budget, the Department of Corrections is instructed to address the level of unspecified reductions in its budget without the closure of existing facilities and without the use of layoffs to reach the reduction goal. A report on what steps may be needed to reach reduction goals will be presented to the Joint Committee on Ways and Means during the February 2014 legislative session."

## 2013-15 Budget Overview

The 2013-15 Legislatively Adopted Budget (LAB) for the Department of Corrections is \$1,396,990,504 General Fund. The LAB represents an approximate **(\$140 million) reduction from the Current Service Level (CSL) in the 2013-15 Governor's Balanced Budget (GBB)** and is a \$34M increase over the final 2011-13 Legislatively Approved Budget, as noted in the table below. However, if community corrections supervision grants and other local subsidies are taken out of the equation, our budget for department operations is actually (\$8.3M) General Fund less than last biennium's budget.

	2011-13 Final Budget (Including Rebalance)	2013-15 LAB	Net Change	% Change
DOC w/out Community Corrections	\$1,184,716,750	\$1,176,410,119	(\$8,306,631)	(0.70%)
Community Corrections Funding	\$178,127,813	\$220,580,385	\$42,452,572	23.83%
Agency Total	\$1,362,844,563	\$1,396,990,504	\$34,145,941	2.51%

A policy package was approved to allow the department to continue providing the Basic Corrections Course, with projected savings of (\$4,987,843) General Fund. Existing authority to provide in-house training for new security staff was scheduled to sunset on January 2, 2014, but was extended in HB 2235-A (2013) to January 2, 2026. Funding for a shift back to DPSST training had previously been restored as part of the Agency Request CSL Budget.

Additional funding of \$17,086,534 was provided in HB 5008-A for the reset of a new General Fund baseline for Community Corrections supervision grants to local counties, and \$5M General Fund was provided for enhancing local jail operations. In addition, sentencing reform was approved by the legislature in HB 3194 and provided for a reduction in the 2013-15 prison population forecast, which resulted in a reduction of (\$19,745,704) General Fund. HB 2087 was also approved by the legislature and provided a reduction of (\$12,571,570) based on projected Medicaid reimbursement for specific offsite medical care.

The 2013-15 legislatively adjusted CSL budget was the result of several actions against the \$1,536,727,437 General Fund CSL in the GBB. These actions included:

- Management position cuts directed by the May 2012 Emergency Board (\$7,295,641)
- PERS rate/policy/technical adjustments (\$17,818,953)
- Ballot Measure 73 local jail reimbursement funding reduction (\$6,300,000)
- Changes resulting from the April 2013 prison population and community corrections caseload updates (\$11,004,701)
- One-time Debt Service refinance savings (\$1,733,940)
- DAS assessment and statewide service charge reductions (\$2,492,400)
- HB 2087 Medicaid savings (\$12,571,570)
- Policy package extending Basic Corrections Course (BCC) (\$4,987,843)
- HB 3194 sentencing changes (\$19,745,704)
- Community Corrections base reset and jail supplemental \$22,086,534

The net of all these actions produced an adjusted budget of \$1,474,863,219, representing the biennial cost of operating the department based on the April 2013 Corrections Population Forecast, adjusted by HB 3194 sentencing reform population reductions.

### **Unspecific Budget Reductions**

Further reductions to the Department of Corrections' budget occurred in two bills: HB 5005-A, which is the agency's primary budget bill, and HB 5008-A, which is the statewide rebalance bill approved near the end of the 2013 legislative session. A detailed listing of the legislative actions contained in HB 5005-A and HB 5008-A for the department is provided as **Attachment A**. For the purpose of this report, the following reductions are considered to be "unspecified reductions."

- |  |                |
|--|----------------|
| 1. Unspecified "vacancy target" (Operations Division)                              | (\$10,000,000) |
| 2. Agency share of \$40M Public Safety Program Area reduction (All divisions)      | (\$27,662,417) |
| 3. Administrative efficiency savings target (General Services & Human Resources)   | (\$2,751,788)  |
| 4. 5% Services & Supplies and Capital Outlay reduction (All operating divisions)   | (\$11,360,700) |
| 5. 2% Legislative Supplemental Ending Balance hold-back (only Debt Service exempt) | (\$26,097,810) |

Total Unspecified Reductions:	<u>(\$77,872,715)</u>
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Unlike the reductions imposed as a result of passage of HB 3194, which provided a companion reduction to the inmate population forecast and related workload, or passage of HB 2087, which provided for a different reimbursement source for certain offsite medical care, the (\$77,872,715) of reductions noted above as “unspecified” represent inevitable cuts to basic corrections staffing, services, and programs – *none of these reductions are functions of workload or caseload reductions that would produce natural savings in and of themselves.*

### **Unspecified Reduction Impacts by Category**

The impact to **Personal Services** is the greatest, at \$45,543,308 GF, affecting all operating divisions and constituting more than a 9% reduction in funding for all authorized positions.

The (\$10M) reduction to the Operations Division/Institutions budget for “vacancy savings” will result in the division holding the equivalent of about 70 positions vacant for the entire biennium and about 10 more would be needed to satisfy the “normal vacancy” reduction of (\$1.4M). The equivalent of an additional 150 positions would need to be held vacant for the entire biennium in order to meet the Personal Services reductions imposed by the Public Safety Program Area cut and the 2% legislative Ending Balance holdback. The Operations Division/Institutions had only 143 vacant positions at the beginning of December 2013; further savings could only be realized by layoffs or shifting the reduction to other expenditure categories or divisions.

**Services & Supplies** was reduced by (\$28,224,262) GF (about 10%) resulting in a categorical budget for 2013-15 that is only about \$3M GF more than actually expended in this category during the 2005-07 biennium.<sup>1</sup>

Of the \$89,817,699 Services & Supplies budget for the Operations Division/Institutions, \$76.7M (85.4%) is contained in Fuels & Utilities, Facility Maintenance, Other Care of Residents and Food & Kitchen Supplies, with all other accounts making up the remaining \$13M (14.6%).

With our minimal budget for **Capital Outlay**, this category was only reduced by \$53,975 GF.

**Special Payments** was reduced by \$4,051,170 GF for payments to counties for local supervision and for jail incarceration under BM 73. Full funding for county Community Corrections supervision was provided in the first year of the biennium to avoid triggering the “opt-out” provision in statute, which allows counties to return this supervision responsibility to the state if funding falls below the statutory formula calculation. By delaying the entire reduction to the second year of the biennium, it compounds to a 4% cut to funding for the last half of the biennium.

### **Projected Biennial Spending**

Based on actual expenditures through the end of November 2013, the department was projected to spend \$1,487,054,149 General Fund this biennium. This estimate exceeds the current LAB of \$1,396,990,504 by \$90,063,646 General Fund. By comparison, this projected spending level represents only a 10% increase compared to actual spending last biennium for the operations portion of the budget, excluding Community Corrections grants, Debt Service, and Capital Improvement. However,

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<sup>1</sup> In addition, if the remaining \$29.6M of Operations Division/Institutions Personal Services reductions discussed above cannot be achieved through layoffs or HB 3194 population reductions, taking the reduction in Services & Supplies will result in a 32% cut in that category.

the Personal Services category reflects growth of just over 15% (\$117M), using the assumptions described below, in addition to normal biennial rollup impacts.

### **Assumptions**

- All positions receive available merit steps when eligible based on their Salary Eligibility Date – estimated at \$15M, but not funded in the current budget.
- Cost-of-living adjustments (COLAs) are reflected as approved for non-represented and AOCE represented staff – also not yet funded in the budget.
- Cost-of-living adjustments are included for AFSCME represented staff using the AOCE award as a placeholder; AFSCME and DOC have not yet reached an agreement for this biennium. Also not funded in the current budget.
- Projected General Fund savings resulting from Medicaid reimbursements for certain offsite inmate medical care are included in the spending plan at the full value – (\$12,571,570).
- As mentioned earlier, based on the current population trends, the projected savings from passage of HB 3194 (\$19,745,704) have not been reflected in the spending estimates; neither for the reduced number of intakes or the projected savings from expansion of the Transitional Leave program to 90 days, which only became operational in January 2014. We have no reasonable experience upon which to base future savings at this point, given current circumstances.
- Projected savings from statewide administrative efficiencies (\$2,751,788) are not included in the spending plan: no statewide strategies have been finalized in a manner that results in modified business practices at the agency level, although statewide workgroups continue to meet on this initiative. The Legislative Fiscal Office is requiring that DOC make permanent staffing reductions as part of this plan.
- More than 200 positions will be held vacant for the entire biennium; most in the Operations Division.
- None of the suggested reduction strategies are reflected in the spending plan (*i.e.*, institution consolidations, program cuts or eliminations, etc.), as they have not yet been approved.

### **The Uncertain Future**

The uncertainty of future events makes the expenditure and budget management process challenging. Examples include:

- Employee Compensation:
  - The first three assumptions listed above focus on costs related to employee compensation that are not yet quantifiable and are not likely to be so until the allocation computations of the “salary pot” set aside in the Emergency Fund are completed later in the biennium. Full funding for these liabilities is not expected, so the unfunded portion will need to be absorbed elsewhere within the budget.
- Population Management:
  - The difficulty in identifying budget reduction strategies is further compounded by the recent growth in the inmate population. In roughly the first six months of the biennium, through January 21, 2014, we are 18,510 bed-days over the end of session funded population forecast. Most of the growth began between mid-September and the end of December, with 15,502 unbudgeted bed-days realized. The month of December

- alone accounted for 7,414 of those days. January population numbers have slowed, but we continue to run close to 200 inmates per day over the funded forecast.
- The end-of-session Population Management Plan developed in response to the passage of HB 3194 called for deactivation of 86 male temporary beds by January 2014 and 276 male beds by the end of the current biennium; in fact, we have had to activate an additional 136 unfunded male temporary beds to accommodate the unanticipated growth.
- As a significant cost-saving measure, the department has been utilizing temporary/emergency beds to house inmate population growth for the past several biennia, and continues that practice in 2013-15, with 926 temporary beds and 10 rented jail beds currently activated: this includes 100% of the existing male temporary bed inventory. All of the department's temporary beds have been added without additional staff.
- We remain optimistic that the other elements included in HB 3194 will result in anticipated savings. Assuming the success of HB 3194, spending will drop by \$19,745,704 General Fund against the projected deficit. However, the longer it takes for the projected population reductions to take effect, the less likely to fully realize the expected biennial savings already removed from the budget.
- No One-Time Windfalls:
  - Unlike 2011-13's rebalance plan, there are no known one-time solutions or windfalls available this biennium. In 2011-13, almost \$7M of one-time rebalance funding was provided by several Debt Service refinance decisions by the Department of Administrative Services. Bond financing activity has declined in response to construction delays, so this source is no longer viable. \$5M of 2011-13 rebalancing funding from BM 73 reimbursements to local jails for pre-trial and sentences related to third DUII convictions is no longer an option – the baseline for 2013-15 funding has already been reduced by \$6.3M as part of the agency's 10% Reduction Plan.

## **Managing the Deficit**

Last biennium, the agency managed a (\$56M) deficit, and through the exceptional work of our staff, we were able to end the biennium within budget. The agency's spending projection as of November 30, 2013, is a (\$90M) deficit. To begin filling the (\$90M) gap, the department has implemented reduction strategies totaling \$17.2M. This includes an extraordinary effort on the part of institution superintendents through the use of pulled posts, reduced travel, savings through sustainability and other operational initiatives. Agency-wide efforts include vacancy savings, Earned Time credit modifications, and aggressively managing the 30-day short-term transitional leave (STTL) population – resulting in savings already realized in December 2013 and January 2014. In addition, the agency has identified \$1.7M in reduction strategies that are yet to be implemented. This is a total of \$18.9M in agency actions taken to reduce costs.

If everything else goes as expected, and the department realizes the full projected savings from HB 3194 (\$19.7M) and HB 2087 (\$12.5M), *and* receives its proportionate share from the legislative compensation reserve, we anticipate we can manage the budget deficit absent the 2% holdback and approximately \$10M to \$15M; \$15M if annual in-service is funded, which the agency has not conducted in five years, or \$10M if annual in-service is not funded. See **Attachment B** for more detail concerning the overall deficit.

## Addressing the Unspecified Reductions

Three key areas of interest are being actively investigated:

- **Inmate cost-sharing or fees for services** – An agency workgroup is currently evaluating options for implementing an inmate fee or assessment to provide an offset to their cost of care. A recommendation is expected within the next 60 days.
- **Institution Food Service operations** – The Association of State Correctional Administrators (ASCA) recently conducted an audit of the department's food service operations to determine if there are ways the department can operate food services more efficiently and cost-effectively.
- **Security staffing analysis** – ASCA is also conducting an audit of the department's security staffing to determine if there are ways to staff institutions more efficiently<sup>2</sup>.

Given the broad implications for reduced staffing and services across the agency, ideas and strategies were solicited from executive leadership across the state and from all labor organizations. The following is a synopsis of those ideas.

- **Consolidation** – Consolidate multiple minimum-custody facilities into one larger facility (Deer Ridge medium unit).
- **Human Resources** – Remove all differentials and work-out-of-class pay and make early retirement more attractive.
- **Staffing/compensation** – Mandatory agency-wide lockdowns for institutions to allow for minimum staffing levels, mandatory telecommuting for non-essential staff, across-the-board staffing analysis, review use of overtime and review fixed/pull post, abandon the seniority system for overtime bids, create a "Cadet" classification at lower pay scale, and/or eliminate Armed Post Qualification training unless assigned post.
- **Staff training** – Defer, eliminate or limit annual in-service training for all staff.
- **Health Services** – Reduce medical services for joint replacements, hernias, etc., eliminate or reduce the level of mental health services (address only crisis-level care), increase early compassionate releases, rent a separate wing at local hospital for offsite care, provide more services on-site, change how prescriptions are administered, and/or move all dialysis to Salem area and institute tele-health kiosks.
- **Programs and treatment** – Eliminate or only provide legally-mandated education, cognitive and addiction treatment, remove Earned Time retraction from sanction menu to maximize early release, more aggressive Transitional Leave practice, expand re-entry programs to all counties, and use Correctional Officers to provide education/treatment programming.
- **Legal Services** – Establish agency legal counsel rather than using the Department of Justice and/or use DAS Labor Relations as our representative in arbitrations.
- **Department of Administrative Services** – Purchase and maintain our own motor pool.
- **Procurement** – Expand use of SPOTS cards.
- **Efficiencies** – Review Food Services delivery systems and food waste, create joint Public Safety Program Area payroll unit, conduct energy audits.
- **Privatization** – Privatize the distribution network, security at hospitals, mail rooms, and/or inmate trust and commissary systems.

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<sup>2</sup> Both ASCA audit reports are in draft form and are being reviewed by the department. Preliminary indications are that these are not areas projected to provide substantial savings, but we look forward to sharing those results with you in the near future.

- **Technology** – Require staff to bring their own computers to work, review and reduce the number of mobile electronic devices needing to be maintained, eliminate duplicate technology (desktop and Tablet/Laptop), and/or duplicate phones (mobile and desk).
- **Inmate Issues** – Institute inmate co-pays for a variety of services or operating expenses, change inmate clothing from denims to scrubs or overalls, eliminate fire crews, and/or establish mandatory inmate savings accounts.
- **All Other** – Sell or lease all unused DOC property, renegotiate all utility service contracts, restrict implementation of the federal Prison Rape Elimination Act (PREA) standards, install charging stations at all facilities to encourage use of electric vehicles, sell used grease and cooking oils or create an internal capability to produce biodiesel for DOC use, and/or add motion sensors and switch to LED lights.

The Policy Group (executive team) reviewed the suggestions extensively to determine if any had the potential to provide the needed cost savings in the current biennium. Some ideas have already been implemented, but many are not feasible. For example, statutory authority to operate motor pools is currently limited to the Department of Administrative Services (DAS) and expansion of that authority to other agencies would require legislative authorization in the form of a law change.

Other issues have security or privacy concerns: employee computers storing state-owned data are subject to the same security exposure as a state-owned computer, and a privatized mail processing service for inmate mail would be inappropriate given the nature and confidentiality of inmate communications.

Elimination or substantial restriction of inmate education, cognitive, and addictions treatment programming does not make operational sense and is inconsistent with our constitutional reformation mandate and the agency mission. While not all services are legally required, they are the backbone for successful re-entry back into our local communities that help prevent future crime and victimization. Correctional Officers are hired to provide essential security oversight and would not necessarily have the time, specialized training, or credentials required to deliver education/treatment programming services.

The suggestion regarding the deferral or elimination of all in-service training for staff is particularly concerning. Other than a few contractual or legally mandated courses, the broader in-service training program for staff has been suspended for more than five years as a consequence of the ongoing budget crisis. This is an unacceptable condition and we have reinstated the 40-hour in-service program, effective January 2014. If the suspension were to be continued throughout the biennium, the department would realize approximately \$4M in savings, but with obvious safety and staff morale concerns.

Many, if not all, of the suggestions relating to staffing and compensation are subject to the bargaining process or are well-established practices or policies. Even if appropriate, these would not likely be candidates for cost savings this biennium.

The first bulleted item in this section is the concept of compression: closing multiple minimum-custody male facilities and moving those populations into the inactive medium-custody facility at Madras, and from then on, operating the entire institution as a minimum-custody facility. This idea has been discussed several times over the past few years, but there are several impacts to consider.

Compression can only reasonably be considered if there is a high degree of certainty the inmate population will stabilize for an extended period of time. Closure of prisons in rural communities has significant economic and human implications. This approach could impact as many as 370 positions,

partially offset by the need for 103 staff at the Madras facility. There is no certainty that the Madras staffing would all be provided by internal transfers; if not, the layoff, hiring and training processes are time-consuming and costly. This action would consolidate the current populations of over 1,600 minimum-custody inmates and house them in a facility designed and constructed to house 1,200 medium-custody inmates. Finally, the Madras medium-custody facility is the only remaining male medium-custody capacity currently constructed and available to accommodate future growth.

Should the inmate population not stabilize, but rather continue to increase, the deactivated facilities would eventually need to be reactivated to provide needed housing. Temporary beds across the system are no longer an option to address short-term or long-term male inmate population growth – the existing inventory of male temporary/emergency beds has already been fully activated. If compression is implemented by July 1, 2014, estimated savings could be approximately \$16M General Fund for the last twelve months of the biennium, but would require staff layoffs to achieve the savings and an immediate decision to do so in order to provide adequate time for personnel-related processes to be completed on time.

### **Action Requested**

- Acknowledge receipt of this report as satisfaction of the HB 5008-A Budget Note.
- Allocate \$40,997,810 General Fund by providing \$14,900,000 for unfunded operational costs and reinstate the full 2% legislative Supplemental Ending Balance reduction of \$26,097,810 General Fund.

The table included in **Attachment C** describes the methodology and calculation of the overall funding request.

### **Legislation Affected**

To restore the 2% legislative Supplemental Ending Balance holdback, amend the General Fund appropriations to the Department of Corrections established by Section 1, Chapter 496, OL 2013 and amended by Section 9, Chapter 723, OL 2013, as follows:

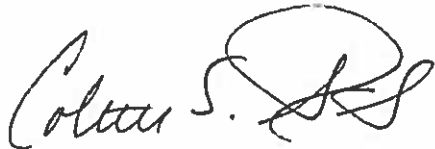
Subsection (1)	Operations and health services	\$17,849,890
Subsection (2)	Administration, general services and human resources	\$2,570,120
Subsection (3)	Offender management and rehabilitation	\$1,281,735
Subsection (4)	Community corrections	\$4,342,090
Subsection (6)	Capital improvements	\$53,975
Item Total		<u>\$26,097,810</u>

To partially restore other appropriation reductions, amend the General Fund appropriation to the Department of Corrections established by Section 1, Chapter 496, OL 2013 and amended by Section 9, Chapter 723, OL 2013, as follows:

Subsection (1)	Operations and health services	<u>\$14,900,000</u>
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I humbly submit this report, and thank you for your consideration of our request.

Sincerely,

A handwritten signature in cursive script, appearing to read "Colette S. Peters". The signature is fluid and stylized, with a large loop at the end.

Colette S. Peters  
Director

Attachment A  
2013 Legislative Session Summary  
HB 5005-A & HB 5008-A

**HB 5005-A (Ch. 496, OL 2013) is the primary budget bill for the Oregon Department of Corrections.**

HB 5005-A is based on the 2013-15 Current Service Level General Fund Budget recommended by the Governor.

**\$1,536,727,437**

Actions included in the bill are listed below:

- Elimination of 21 management positions as directed by the Emergency Board (5/2012) (\$7,295,641)
- PERS rate adjustment and policy changes (19,355,432)
- Basic Corrections Course sunset extension (4,987,843)
- Unspecified vacancy target (10,000,000)
- Reset baseline funding for BM 73 jail reimbursements (6,300,000)
- PERS Police & Fire rate correction 1,536,479
- Unspecified reduction targets (27,662,417)
- April 2013 prison population and community caseload adjustment (11,004,701)
- HB 2087 anticipated Medicaid savings (12,571,570)
- 2012 Bond and COP refinance savings (1,733,940)
- Statewide administrative efficiency savings target (2,751,788)

**Net 2013-15 General Fund budget adjustments in HB 5005-A**

**(\$102,126,853)**

**2013-15 General Fund budget approved by HB 5005-A**

**\$1,434,600,584**

**HB 5008-A (Ch. 723, OL 2013) is the statewide budget rebalance bill and contains several adjustments for the department.**

- Budget impacts from the sentencing reforms approved in HB 3194-A resulting from projected reductions in prison population growth (\$19,745,704)
- Supplemental funding to reset the Community Corrections funding formula was approved to establish a new baseline at \$215M for 2013-15 \$17,086,534
- Supplemental funding was provided to enhance local jail operations \$5,000,000
- DAS assessment and service charge rate adjustments (\$2,492,400)
- 5% reduction to Services & Supplies (AG, DAS, rent/fuels/utilities are exempt) (\$11,360,700)
- 2% Legislative Supplemental Ending Balance – potential to restore during biennium (\$26,097,810)

**Net 2013-15 General Fund budget adjustments in HB 5008-A**

**(\$37,610,080)**

**2013-15 Legislatively Adopted Budget – General Fund**

**\$1,396,990,504**

# Attachment B

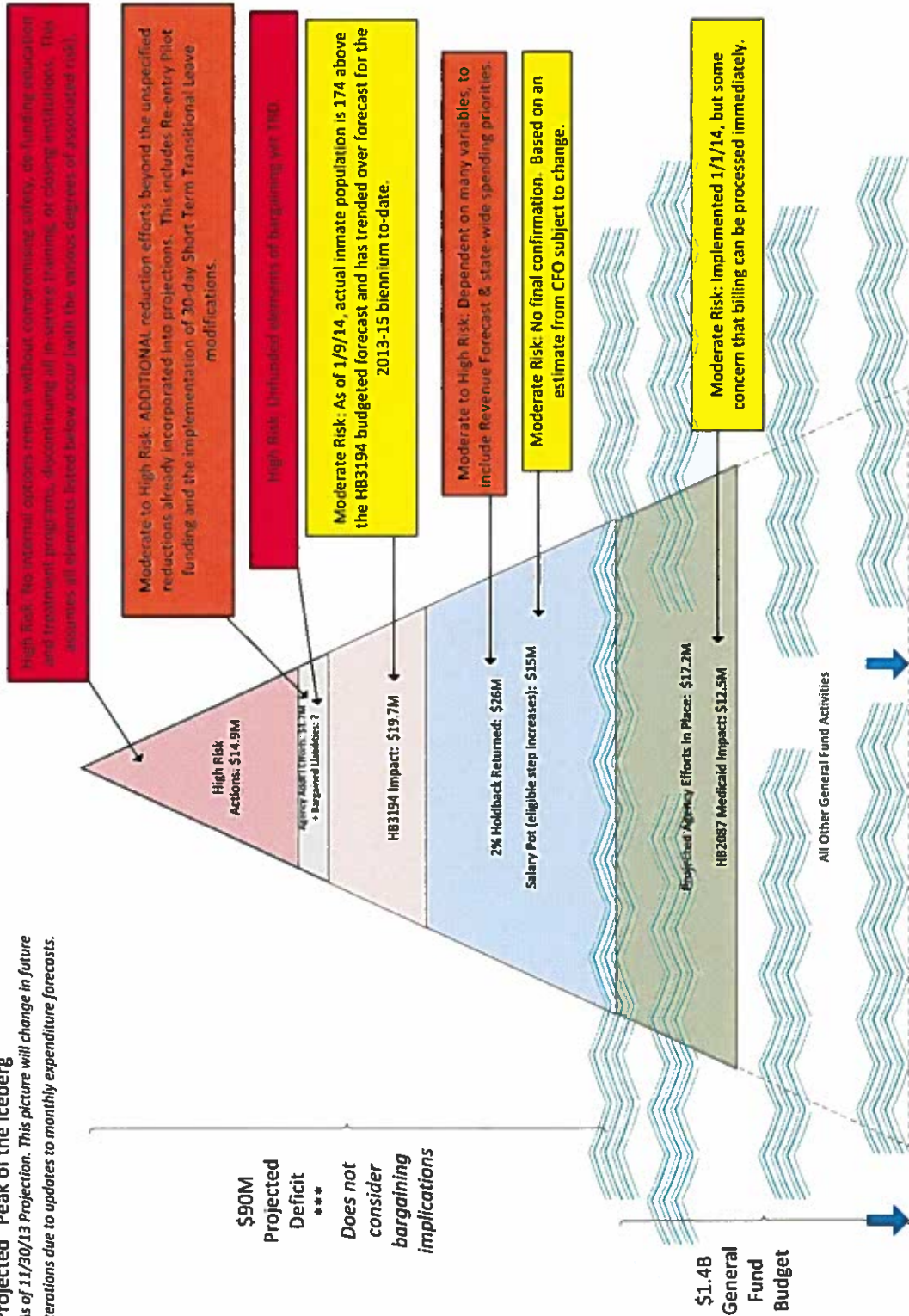
## Oregon Department of Corrections

2013-15 Legislatively Adopted Budget

Projected "Peak of the Iceberg"

As of 11/30/13 Projection. This picture will change in future iterations due to updates to monthly expenditure forecasts.

Risk Level:



## Attachment C

Oregon Department of Corrections		
General Fund Restoration Request		
	Detail	Balance to Fund
2013-15 General Fund Legislatively Adopted Budget	\$ 1,396,990,504	
Less: Projected spending based on actual expenditures through 11/30/2013	(1,487,054,149)	
Unfunded Liabilities		\$ 90,063,645
<u>Assumptions:</u>		
1. Projected HB 3194 sentencing reform impacts on population are fully realized by end of biennium	19,745,704	70,317,941
2. Normal employee steps are funded at the original DAS estimate for 2013-15: future Emergency Fund allocation	15,000,000	55,317,941
3. Estimated cost of COLA's for all staff - awarded and unbargained: future Emergency Fund allocation	12,571,569	42,746,372
4. Agency reduction strategies:		
Offender Management and Rehabilitation re-entry pilot program and Operations Division 30-day Short Term Transitional Leave	1,748,562	40,997,810
5. The 2% legislative supplemental ending balance is fully restored	26,097,810	14,900,000
Total Funding Request for February 2014 Session	\$40,997,810	