

Cost Avoidance Report ***Per House Bill 3194 (2013)***

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Oregon Criminal Justice Commission

Michael Schmidt
Executive Director

Introduction

House Bill 3194 (2013) requires the Oregon Criminal Justice Commission (CJC), in conjunction with the Oregon Department of Corrections (DOC), to deliver a report no later than January 1, 2017 to the Justice Reinvestment Grant Review Committee that effectively identifies the avoided costs to state government resulting from the passage of the bill, as well as any increased costs to local government resulting from the passage of the bill. In addition to this report, the CJC, in accordance with ORS 192.245 (as outlined in the bill), must provide an Executive Summary of the report to the Legislative Assembly by electronic mail.

Background

A 2011 report from the Oregon Commission on Public Safety found that Oregon would need an additional 2,300 prison beds by 2021. It also estimated that the state would need to invest an additional \$571 million to accommodate the growing population. As prisons consume a growing share of Oregon's public safety budget, many local public safety programs have received inadequate resources.

In 2012, Governor John Kitzhaber charged the commission with recommending structural and funding changes to control the growth of the prison population, to hold offenders accountable, and to protect the public.

Those recommendations formed the basis for 2013 House Bill 3194 – landmark legislation that was designed to reduce prison population growth to just 500 inmates over the next 10 years resulting in a state cost avoidance of an estimated \$326 million. The reduction in prison population growth was driven by changes made to sentencing laws for individuals sentenced on or after August 1, 2013. It did not change the law for anyone sentenced prior to this date.

The changes to sentencing laws included allowing probation for some felony marijuana offenses; imposing probation for individuals charged of driving while suspended; and reducing presumptive sentences for Ballot Measure 57 crimes from 24 to 18 months (crimes include robbery in the third degree, identity theft, and certain drug trafficking crimes).

In addition to sentencing law changes, HB3194 also reduced projected prison cost by increasing the transitional leave period for eligible inmates. Historically, certain DOC inmates have been eligible for a 30-day Short-Term Transitional Leave (STTL) period. The bill expands the amount of STTL eligible inmates can receive from 30 days to up to 90 days. This allows offenders to participate in re-entry supervision programs, which are far cheaper than the cost of remaining in prison.

HB 3194 provided additional funding to counties in the form of Justice Reinvestment Grants administered through the CJC. In the 13-15 biennium the Justice Reinvestment Grants provided \$15 million in grants funds for community based programs, sanctions, and services. In the 15-17 biennium the Justice Reinvestment Grants provided \$38.7 million in grant funds. These additional grant funds are not reflected in the analysis below.

State Cost Avoidance Methodology

The \$326 million state cost avoidance was the accumulation of five separate biennial cost avoidance calculations beginning with the 2013-15 biennium. The estimated state cost avoidance was \$19.7 million in 2013-15, \$70.3 million in 2015-17, and \$80.7 million in 2017-19. The methodology used to calculate the state cost avoidance for each biennium was to compare the estimated cost increase of serving the forecasted inmate population prior to the passage of HB3194 (Variable A) with the estimated cost increase to serve the forecasted inmate population after the passage of the bill (Variable B).

The estimated cost associated with both Variable A and B was driven by a housing plan completed by the Department of Corrections that specifically identified the activation and deactivation of emergency and/or permanent beds that were necessary to effectively serve the forecasted population (as of April 2013) based on each variable. These activations and/or deactivations were priced on the timing (month) in which either the emergency and/or permanent bed would be brought online. The balance of all actions was then fully priced to determine the biennial cost increase to serve the forecasted population. This calculation was first performed for both Variable A and B for the 2013-15 biennium.

The 2015-17 estimated cost avoidance was then calculated by taking all of the 2013-15 activations and/or deactivations and pricing them for a full biennium for each variable. These amounts were then added to a calculation of Variable A and B for just the 2015-17 plan of activations and deactivations. This created Variable A and B for the 2015-17 biennium, which reflected all actions taken since the passage of HB 3194. The same methodology was used to estimate the 2017-19, 2019-21, and 2021-23 cost avoidance.

To arrive at the estimated cost avoidance for each biennium, Variable B was then simply subtracted from Variable A. The results of these actions are depicted in Table 1 below. Note that the DOC cost increase in the 2017-19 biennium includes construction costs for the Junction City facility.

Table 1: Estimated State Cost Avoidance

Biennium	Variable A (From April 2013 Corrections Population Forecast)	Variable B (From HB 3194 Funded Forecast July 2013)	Cost Avoidance Estimate (From HB 3194 Funded Forecast July 2013)
2013-15 DOC Cost Increase	\$22,646,065	\$2,918,816	\$19,727,249
2015-17 DOC Cost Increase	\$72,207,449	\$1,950,595	\$70,256,854
2017-19 DOC Cost Increase	\$230,962,717	\$150,262,487	\$80,700,230
2019-21 DOC Cost Increase	\$116,763,866	\$47,912,906	\$68,850,960
2021-23 DOC Cost Increase	\$141,149,766	\$58,136,103	\$83,013,663
Total	\$583,729,863	\$261,180,907	\$322,548,956

Local Government Cost Methodology

In addition to the state avoided cost created through the passage of HB3194, there was also a possibility of additional cost incurred by local governments due to an increase in number of days to supervise inmates on short-term transitional leave. In order to estimate the cost, the chosen methodology was to rely on any increase cost derived from forecasted community correction case loads. This is represented in the Department of Correction Budget as Grants-In-Aid, which also includes, per ORS 144.103, the allocation for sexually violent dangerous offenders.

The methodology used to calculate the increase in community corrections was to use the forecasted caseloads for both 2013-15 and 2015-17 and establish a base cost prior to the passage of HB3194. This calculation was completed for the first two biennia, but was not done for the later years. The forecasted caseloads are separated by offenders under supervision and local control, as well as Interstate Compact for Adult Offender Supervision (CMPO). The cost calculation was completed by using an average cost per day of \$8.64 (Approved Capitated Rate for 2013-15) for supervision and local control, and \$0.58 for CMPO. Each of these rates were multiplied by the number of days in each month of the biennium. This established the monthly cost which was then multiplied by each categories average forecasted caseload for each month. The result of each month, within the appropriate biennium, was added together to create the total estimated biennial cost for both supervision and local control, and CMPO. The addition of the biennial cost for supervision and local control to the biennial cost for CMPO represented the total community correction cost prior to the passage of HB3194.

The same methodology was then applied to establish the community correction cost after the passage of House Bill 3194 by simply using the new forecasted caseload for 2013-15 and 2015-17. The result of this calculation represented the new estimated community correction caseload cost, which when compared to the base calculation as described above, rendered either a cost increase or savings. In the 2013-15 biennium this results in an estimated local government cost of \$1,318,711. In the 2015-17 biennium this is an estimate local government cost of \$3,587,164.

Net Avoided Cost

Appropriately estimating the net avoided cost of HB3194 during its implementation requires subtracting the estimated local government cost from the estimated state cost avoidance. The estimated net cost avoidance for 2013-15 was \$18,408,538; for 2015-17 it was \$66,669,690. Each of these estimates was represented in the DOC fiscal impact statement for HB3194 during the 2013 Legislative Session. The estimated net cost avoidance for the 2017-19 biennium is \$80,700,230.

Table 2: Estimated Net Cost Avoidance

Biennium	Cost Avoidance Estimate (From HB 3194 Funded Forecast July 2013)	Estimated Local Government Cost	Net Avoided Cost (From HB 3194 Funded Forecast July 2013)
2013-15	\$19,727,249	(\$1,318,711)	\$18,408,538
2015-17	\$70,256,854	(\$3,587,164)	\$66,669,690
2017-19	\$80,700,230		\$80,700,230
2019-21	\$68,850,960		\$68,850,960
2011-23	\$83,013,663		\$83,013,663
Total	\$322,548,956	(\$4,905,874)	\$317,643,081

Updated Net Avoided Cost Based on October 2016 Corrections Population Forecast

In developing the updated calculation, the values for both Variable A (Pre-3194 Cost Increase) for the State Cost Avoidance and the Base Cost Calculation for the Amount for the Local Government Cost will remain the same. These amounts establish the baseline cost prior to the passage of HB 3194.

In using the October 2016 population forecast as a basis, a revised housing plan for activations and/or deactivations for emergency and/or permanent beds has been established and priced out for the 2017-19 biennium. This amount was then added to the biennialized cost for all actual and estimated activations and deactivations for the 2015-17 biennium to generate a revised State Cost Avoidance for Variable B.

The 2013-15 DOC Cost Increase is based on the actual prison population in that biennium. The 2015-17 DOC Cost increase is based on the actual prison population up to October 2016, and then the October 2016 Corrections Population Forecast for the prison population estimate from October 2016 to June 2017. The October 2016 corrections population forecast estimates the Junction City facility will not be needed within the 10 year forecast window, and the avoided construction costs have been included in the estimated cost avoidance for the 2017-19 biennium.

Table 3: Revised Estimated State Cost Avoidance

Biennium	Variable A (From April 2013 Corrections Population Forecast)	Variable B (From October 2016 Corrections Population Forecast)	Cost Avoidance
2013-15 DOC Cost Increase	\$22,646,065	\$8,487,698 ¹	\$14,158,367
2015-17 DOC Cost Increase	\$72,207,449	\$15,790,656	\$56,416,793
2017-19 DOC Cost Increase	\$230,962,717	\$36,685,599	\$194,277,118
2019-21 DOC Cost Increase	\$116,763,866	\$42,997,946	\$73,765,920
2021-23 DOC Cost Increase	\$141,149,766	\$61,901,946	\$79,247,820
Total	\$583,729,863	\$165,863,845	\$417,866,018

In terms of the Local Government Cost, the October 2016 population forecast provided a new caseload impact for the 2015-17 biennium. In addition, because of the \$15.8 million investment of funds for 2013-15, a new average cost per day of \$9.32 (Based on 2013-15 Legislatively Approved Budget) is calculated for supervision and local control, and \$0.64 for CMPO. With the updated caseload impact multiplied by the new rates, the Revised Calculation is updated for Local Government Cost.

Table 4: Revised Estimated Local Government Cost

Biennium	Base Calculation	Revised Calculation	Cost Increase
2013-15 DOC Comm Corr Caseloads	\$198,035,545	\$199,354,256	(\$1,318,711)
2015-17 DOC Comm Corr Caseloads	\$205,767,311	\$210,732,300	(\$4,964,989)
2017-19 DOC Comm Corr Caseloads	\$207,933,272	\$211,880,844	(\$3,947,572)
Total	\$611,736,128	\$621,967,400	(\$10,231,272)

Based on the revisions, the estimated net cost avoidance for HB3194 for the first six years is \$254,621,006. This is broken down as \$12,839,656 for 2013-15, \$51,451,805 for 2015-17, and \$190,329,546 for 2017-19.

¹ Based on actual prison population in 2013-15 biennium

Table 5: Revised Estimated Net Cost Avoidance

Biennium	Cost Avoidance Estimate (From October 2016 Corrections Population Forecast)	Estimated Local Government Cost	Net Avoided Cost (From October 2016 Corrections Population Forecast)
2013-15	\$14,158,367	(\$1,318,711)	\$12,839,656
2015-17	\$56,416,793	(\$4,964,989)	\$51,451,804
2017-19	\$194,277,118	(\$3,947,572)	\$190,329,546
2019-21	\$73,765,920	(\$4,729,408)	\$69,036,512
2021-23	\$79,247,820	(\$4,868,622)	\$74,379,198
Total	\$417,866,018	(\$19,829,302)	\$398,036,716

Table 6 below shows a summary of the Justice Reinvestment net cost avoidance analysis. For the 2013-15 biennium, the net avoided cost estimate from July 2013 was \$18.4 million. The updated net avoided cost, based on the actual prison population in the 2103-15 biennium, is \$12.8 million. Justice Reinvestment programs were funded at \$15 million in the 2013-15 biennium.

For the 2015-17 biennium, the net avoided cost estimate from July 2013 was \$66.7 million. The updated net avoided cost, based on the October 2016 corrections population forecast, is \$51.4 million. Justice Reinvestment programs were funded at \$38.7 million in the 2015-17 biennium.

For the 2017-19 biennium, the net avoided cost estimate from July 2013 was \$80.7 million. This figure assumes construction costs for Junction City would be incurred in the 2017-19 biennium. The updated net avoided cost, based on the October 2016 corrections population forecast, is \$190.3 million. The October 2016 corrections population forecast estimates the Junction City facility will not be needed within the 10 year forecast window, and the avoided construction costs have been included in the net avoided cost.

For the 2019-21 biennium, the net avoided cost estimate from July 2013 was \$68.9 million. The updated net avoided cost, based on the October 2016 corrections population forecast, is \$69.0 million. For the 2021-23 biennium, the net avoided cost estimate from July 2013 was \$83.0 million. The updated net avoided cost, based on the October 2016 corrections population forecast, is \$74.4 million.

Table 6: Justice Reinvestment Net Cost Avoidance Summary

Biennium	Net Avoided Cost (From HB 3194 Funded Forecast July 2013)	Net Avoided Cost (From October 2016 Corrections Population Forecast)	Justice Reinvestment Program Funding
2013-15	\$18,408,538	\$12,839,656 ²	\$15,000,000
2015-17	\$66,669,690	\$51,451,805	\$38,700,000
2017-19	\$80,700,230	\$190,329,546	To Be Determined
2019-21	\$68,850,960	\$69,036,512	To Be Determined
2021-23	\$83,013,663	\$74,379,198	To Be Determined
Total	\$317,643,081	\$398,036,716	\$53,700,000

² Based on actual prison population in 2013-15 biennium