

Projected Amount of Costs Avoided Report of the Nevada Sentencing Commission August 2022

STATUTORY REQUIREMENTS

Per NRS 176.01347, the Nevada Sentencing Commission (Commission) is required to develop a formula, using a comparison of the 2018 annual prison population projections and the actual Nevada Department of Corrections (NDOC) population numbers, to calculate the costs avoided attributed to the enactment of Assembly Bill No. 236 (AB 236) from the 2019 Legislative Session (effective July 1, 2020). The Commission is required to submit a statement of these costs avoided by December 1 of each fiscal year.

Additionally, per the statute, a separate report shall be prepared by August 1 of each even-numbered year projecting the costs avoided for the next biennium and providing recommendations for the reinvestment of these avoided costs prioritized to certain programs and resources to support reentry and reduce recidivism for justice-involved individuals.

DECEMBER 2021 STATEMENT OF COSTS AVOIDED REPORT

Along with the inherent difficulties of calculating costs avoided, the onset and continuation of the COVID-19 pandemic coinciding with the effective date of AB 236 has added complexity in isolating the exact cause of Nevada prison population changes over the preceding two fiscal years.

Due to this persisting issue, for the 2021 report, the Commission approved a pause in attempting to pinpoint the source of any costs avoided through the 2022-2023 biennium giving Nevada time to capture a reliable baseline for accurate comparison. This does not, however, translate into a pause in reinvestment. To continue to advance the intent of the Justice Reinvestment Initiative (JRI), passed and enacted as AB 236, the 2021 Nevada Sentencing Commission recommendation included: “providing ongoing ‘financial support to programs and services which address the behavioral health needs of persons involved in the criminal justice system in order to reduce recidivism’ (pursuant to subsection 3 of NRS 176.01347).”

Upfront investment to further the objective of justice reinvestment can be accomplished with the identified costs avoided presented, whether attributed solely to JRI or partially.

FORMULA

The December 2021 report, *Fiscal Impacts of Sentencing and Corrections in Nevada*, offered an updated costs avoided calculation method approved by the Commission as shown below.

$$\begin{array}{r}
 \text{February 2017 prison population projections} - \text{Actual inmate population as of June 30} \\
 \text{Difference} \\
 \times \\
 \text{The average daily operating cost of incarcerating an offender} \\
 = \\
 \text{TOTAL COSTS AVOIDED}
 \end{array}$$

As currently adopted, the costs avoided formula subtracts the actual June 30 NDOC in-house offender population from the published February 2017 prison projections then multiplies the result by the average individual daily incarceration cost.

There are difficulties in calculating avoided costs as it represents future savings and is typically a long-term benefit of continued growth and achievement that cannot always be immediately quantified and often requires an upfront investment to be attained.

To improve the calculation of costs avoided and assist lawmakers in appropriately funding for upfront and ongoing reinvestment, the Commission has revised the formula and methodology for identifying costs avoided for both the statement of costs avoided report and the projected amount of costs avoided report.

The new formula and analysis will compare projections used in 2018, current projections, the current prison population and will be organized as follows:

1. Where were we headed? (review February 2017 JFA Projections)
2. What if AB 236 was not enacted? (reference the projections cited in the January 2019 ACAJ Final Report)
3. What if AB 236 was enacted? (reference the projections cited in the January 2019 ACAJ Final Report)
4. Where are we today? (identify the most current NDOC prison population)
5. Where are we currently headed? (review the most recent JFA projections)
6. Have costs been avoided? (compare all the data above for an analysis on the progress of costs avoided)

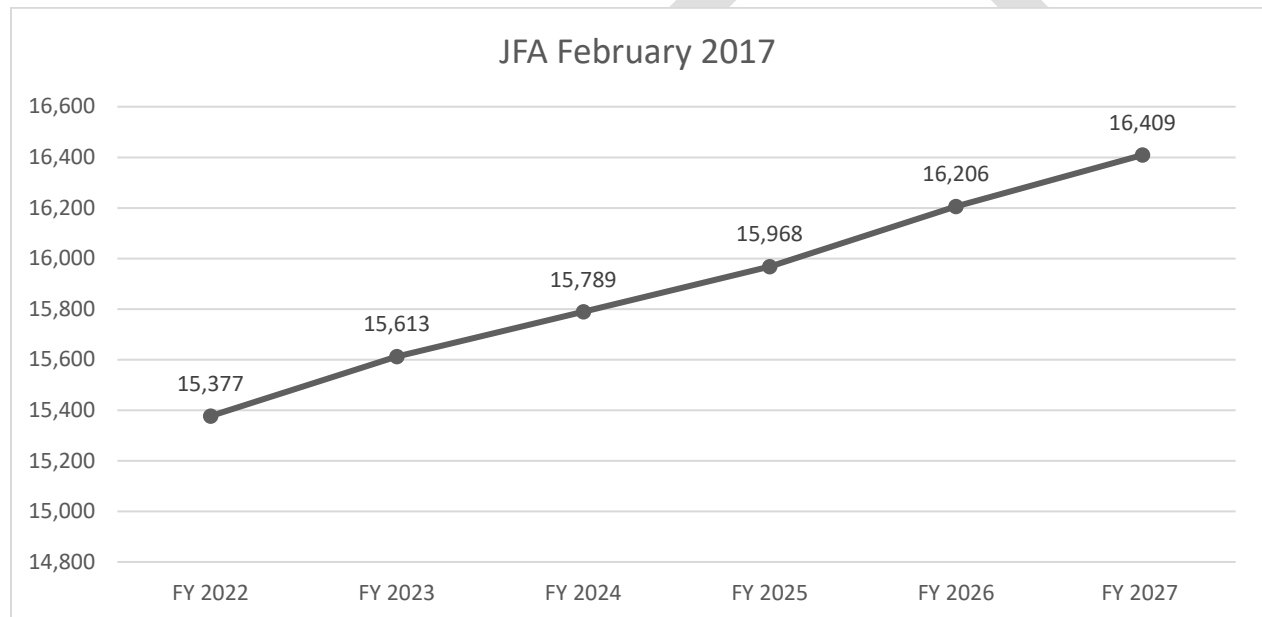
Accurately depicting future savings requires ongoing monitoring and analysis of the intended and unintended consequences of the intended policies. The Commission will continue this monitoring and analysis to offer guidance and modification for a data-driven formula concept to identify savings and support the objective of AB 236 for the Legislature, agencies, stakeholders, and citizens of Nevada.

CALCULATION OF PROJECTED AMOUNT OF COSTS AVOIDED

Using the revised formula and analysis, the Commission finds for the August 2022 report of the projected amount of costs avoided that the State is still on track to avoid at least **\$470 million** in correctional construction costs. Additionally, we are on track to avoid **\$170 million** in other correctional costs. See the Commission’s analysis below.

Where were we headed?

The Commission reviewed the February 2017 JFA prison population projections to identify where the prison population was headed. According to the projections, by 2022 the prison population was going to be at **15,377** in 2022 and keep trending up to **16,409** by 2027.



What if AB 236 was not enacted?

The findings in the January 2019 ACAJ Final Report projected that if AB 236 was not enacted then by 2028 the prison population would be at **15,074**.

AB 236 not enacted 15,074 prison population (2028)

What if AB 236 was enacted?

If enacted, the prison population was projected to be at **14,008** by 2028. This projected lower population promised to result in over **\$640 million** in correctional costs avoided if the population were reduced by just over 1000.

<i>AB 236 not enacted</i>	15,074 prison population (2028)
<i>AB 236 enacted</i>	14,008 prison population (2028)
<i>Projected prison population avoided</i>	1,066

Note: \$470 million of the projected \$640 million in costs avoided was attributed to the cost of building a new prison and remodeling existing facilities to add additional prison beds.

Current Prison Population

As of March 31, 2022, the prison population was at **10,076**.

Where are we currently headed?

The March 2021 JFA prison population projections show FY2022 projections at **11,627** and find that by 2028 the prison population will be at **13,067**. This means that to date the current prison population is **1551** below updated projections and continues to track toward remaining well below the 2028 AB 236 target.

Source	FY2020	FY2020 (2)	FY2021	FY2022	FY2022 (2)	FY2023	FY2024	FY2024 (2)	FY2025	FY2026	FY 2026 (2)	FY 2027	FY2028	FY2028 (2)
JFA February 2017	14,953	14,953	15,151	15,377	15,377	15,613	15,789	15,789	15,968	16,206	16,206	16,409	N/A	N/A
JFA February 2019	13,986	13,986	14,111	14,225	14,225	14,348	14,484	14,484	14,612	14,761	14,761	14,914	15,059	15,059
JFA March 2021		N/A	N/A	11,627	11,627	11,936	12,214	12,214	12,482	12,701	12,701	12,898	13,067	13,067
Actual in-house prison population	11,844	11,118	10,049	10,076										
Current prison population avoided	N/A	2,868	4,062	1,551										
	In-house population as of Jun 30, 2020	In-house population as of Dec 31, 2020	In-house population as of Dec 31, 2021	In-house population as of Mar 31, 2022										

Note:
 - AB 236 went into effect July 1, 2020, so population avoided was not calculated in early FY 2020
 - Current prison population avoided derived by subtracting the actual in-house population from the most recent projections
 - (2) indicates a projected amount of costs avoided report published in August of each even numbered year, otherwise calculations from statement of costs avoided published in December of each fiscal year

Additionally, the projections show that realizing more than the **\$640 million** in costs avoided is possible because at least **\$470 million** of the costs avoided are attributed to avoided correctional construction. The trends in the prison population indicate that this construction will not be needed.

Impacts of COVID-19 on the Prison Population

Of course, it is difficult to determine precisely how much of the decrease in the prison population is due to AB 236 and how much resulted from the challenges in responding to the COVID-19 pandemic. Ongoing analysis by the Sentencing Commission of the prison population and the prison population projections will help identify contributing factors to changes in the prison population. However, this does not change the fact that the population has decreased and correctional construction has been avoided for the last 3 years since AB 236 was first passed and 2 years since the bill became effective. Costs have been avoided and Nevada needs to rigorously reinvest in treatment and programs that will assist in keeping the prison population down while reducing recidivism and maintaining public safety.

RECOMMENDATIONS

With conservative calculation, allowing for future unknowns and even reserving the savings in construction costs for future biennia, using original projections from the ACAJ January 2019 Final Report, 2017 JFA projections, and updated 2021 JFA projections, Nevada is on track to avoid \$170 million in other correctional costs during the 8-year period of AB 236 projections. This would rudimentarily calculate to \$21 million per year. In keeping with the intent of AB 236, as passed in the 2019 Legislative Session, Nevada should begin by reinvesting the initial identified amount of costs avoided of \$42 million in the next biennium. The Nevada Sentencing Commission will track the reinvestment of the costs avoided over the next budget cycle to collect and analyze the data regarding fulfillment of the intent of the Justice Reinvestment Initiative (AB 236).

Due to the findings presented of avoidance of other correctional costs, the Commission recommends intensive and focused funding and reinvestment of \$42 million in the following:

- Additional funding to the Nevada Department of Corrections for reentry programs, vocational training programs, educational programs, substance use treatment programs, mental health programs and transitional work programs
- Additional funding to the Nevada Division of Parole and Probation (NPP) for reentry services and treatment programs
- Funding to the behavioral health field response grants program developed and implemented by the Peace Officers' Standards and Training Commission
- The Housing Division of the Department of Business and Industry
- The Nevada Local Justice Reinvestment Coordinating Council for the purpose of making grants to counties for programs and treatment that will reduce recidivism

Specifically, the Commission recommends the funding of the \$3 million requested by the Coordinating Council for the 2024-2025 budget for the upfront investment in reinvestment of the grants statutorily required to be administered to Nevada counties by the Coordinating Council. Due to the status of the current projected amount of costs avoided, the Commission recommends additional funding beyond the requested \$3 million be allocated to this item.

And finally, a significant amount of the \$42 million in costs avoided should be invested in the NDOC and NPP in improving their respective data systems. Improved data will help address gaps in criminal justice data sharing in the State and improve the analysis conducted by the Sentencing Commission.

This upfront reinvestment of costs avoided is paramount in furthering the mission of the Justice Reinvestment Initiative in Nevada and upholding the intent of the AB 236 legislation.