

JAIL CONTRACTING, JAIL REIMBURSEMENT
AND THE
CORE RATE
AN IN-DEPTH BUDGET REVIEW

OFFICE OF THE LEGISLATIVE FISCAL ANALYST
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EXECUTIVE SUMMARY

Jail Contracting, Jail Reimbursement and Core Rate Study

Legislative Request (Page 1)

The Legislature requested a study of items from the Master Study Resolution (HJR 20) to review Jail Contracting, Jail Reimbursement and the calculation of the Core Rate and to fulfill the requirements of Rule 3.02 P13(d)(i) for an in-depth budget review. (Page 1)

The Executive Offices and Criminal Justice Appropriations Subcommittee held public hearings and received testimony related to jail funding and the calculation of the core rate. The Subcommittee also developed a number of their own recommendations. (Page 27)

The Legislative Auditor General has also been asked to audit the core rate calculation process and compare Utah's procedures with other states. A report is being prepared for January 2006. (Page 28)

Prison Inmate Housing Overview (Pages 1-8)

The housing of offenders sentenced to jail or prison has been a continuing topic of concern. Utah's inmate population continues to grow more than 250 offenders per year. This net growth rate requires additional "secure bed space" to be added to the State's inventory on a regular basis. Jail Contracting and Jail Reimbursement are two of several tools used by the Utah Department of Corrections (UDC) and the judiciary to manage this population.

Key Findings and Recommendations (Pages 7-8)

- Long-range planning for inmate housing can reduce costs, avoid potential lawsuits and prevent federal involvement.
- The State of Utah does not have as many inmates qualified for "early release" as were available when it was done in 2001. This puts greater pressure on housing.
- The five year inmate population projection estimates an annual net increase of 250 inmates per year.

Recommendation

- Recommendation: The Department should prepare both a 5 year and a 10 year inmate housing plan, to be updated and reported annually to the Law Enforcement Interim Committee, the Executive Offices and Criminal Justice Appropriations Subcommittee and to the Executive Appropriations Committee during interim meetings.

Jail Contracting (Pages 9-13)

Jail Contracting provides inmate housing to the State prison system through contracts with individual county jails. The program provides needed overflow inmate housing for the State. Approximately 22 percent of the state's prisoners are contracted to and housed at county jails. The State pays the full approved core rate per bed day and provides both medical and transportation services to these inmates housed at county facilities. (Page 9)

EXECUTIVE SUMMARY

Jail Contracting Key Findings and Recommendations (Page 13)

- Legislative policy as defined by line item and nonlapsing funds status could make the Department's use of Jail contracting more effective. (Page 11)
- It would take a capital investment of over \$102 million in addition to the approximately \$22 million in ongoing operational expenses to house the 1,300+ inmates contracted to county jails. (Ongoing expenses could be shifted from the current Jail Contracting budget.) (Page 13)
- Jail Contracting saves the State and the Department money and is an integral part of the Departments program to accomplish its statutory mission. (Page 12-13)

Recommendations (Page 13)

- The Jail Contracting line item should be combined as a program within the Division of Institutional Operations and not listed as a separate line item.
- The nonlapsing balances carried over from one year to the next should be reported to the Executive Offices and Criminal Justice Appropriations Subcommittee during their regular legislative hearings. This report should include a discussion of how the nonlapsing funds will be spent.

Jail Reimbursement (Pages 14-20)

The Jail Reimbursement Program is the payment by the State for the “incarceration of state prisoners in county facilities”. When an offender has been convicted of a felony, the court may sentence that person to jail, as a condition of probation. When this happens, the State “reimburses” the county 70 percent of the approved core rate incarceration cost. Unlike Jail Contracting where a county decides whether to contract with the State or not, each county is required to accept all inmates assigned to their county jail as a condition of probation.

Jail Reimbursement Key Findings and Recommendations (Page 20)

- Jail Reimbursement was originally established in 1984. Since then, it has been modified, repealed, reestablished and modified. The most recent statutory changes was at the 2002 General Session establishing a “core rate committee”, and directing payment of jail reimbursement at 70 percent of the core rate.
- Estimates of Jail Reimbursement bed days have been too low and have resulted in insufficient funding to meet the 70 percent statutory funding level.
- No medical or transportation expenses have been paid for Jail Reimbursement inmates since FY 2002. It is paid only when funds are available.

Recommendations (Page 20)

- The Utah Department of Corrections should update bed day estimates during the Legislative Session.
- The EOCJ Appropriations Subcommittee recommends that the Department request funding for 110 percent of the Jail Reimbursement bed days to assure sufficient funding to meet statutory requirements.
- The Legislative Auditor General may make recommendations after completing the audit currently in process.

EXECUTIVE SUMMARY

The Core Rate – Overview (Page 21)

Though the Legislature reestablished the Jail Reimbursement Program and a method of payment in FY 1993, it was during the 2002 General Session that the program was modified with its current statute. Along with another reiteration of the “Inmate Costs Reimbursement Program” was 64-13c-302 “Procedures for setting county reimbursement for core inmate incarceration costs, and medical and transportation costs.” Until FY 2003, the UDC set the core rate at 80 percent of the Department’s cost of housing inmates.

Currently, a “core rate committee” established by 64-13c-302 meets and reviews the data collected from all of the counties regarding their “core” costs. These costs are specified by the committee as established in rule. These were initially negotiated and compared to those costs used by the federal government for their reimbursement to states and counties for the use of jail or prison bed space. There are some noticeable differences which will be addressed later in this report.

Core Rate Key Findings and Recommendations (Pages 21-26)

- The core rate is developed with data over a year old and submitted more than six months before the year in which it will be implemented.
- The Inmate Placement Program verifies core rate data submitted by counties.
- Currently, the core rate used by the Department is a straight average of the county core rates.
- When a single rate is used to pay all counties, there are some counties that benefit more than others.

Recommendation

- The Legislature should consider statutory changes to funding the core rate and jail reimbursement based on results of the audit by the Legislative Auditor General.

Executive Offices and Criminal Justice Appropriations Subcommittee (Page 27)

The EOCJ Appropriations Subcommittee held two public hearing related to Jail Contracting and Jail Reimbursement issues. The key recommendations of the EOCJ Appropriation Subcommittee are:

- The Legislature should add indirect costs, including building depreciation into the qualified categories for core rate calculations;
- The Legislature should verify through the Department of Corrections that the bills submitted by the counties are legitimate expenses for reimbursement; (This is being investigated by the Legislative Auditor General.)
- The Department of Corrections should request 110 percent of the estimate for jail reimbursement days resulting in sufficient funding to meet the 70 percent statutory funding level.
- Since the Legislature does not fund medical and transportation expenses for Jail Reimbursement inmates, the Legislature should remove the section of the Jail Reimbursement code that allows extra money to be used for transportation and medical expenses for jail reimbursement inmates.

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Jail Contracting, Jail Reimbursement and Core Rate Study

The Utah Department of Corrections (UDC) is the state agency responsible for the supervision and management of convicted felons. Community protection is accomplished by operating safe, secure facilities that hold offenders accountable through humane, firm, fair and consistent practices. The Department provides a wide range of treatment, education and vocational programs to help offenders become productive citizens.¹

Prison Inmate Housing Overview

The housing of offenders sentenced to jail or prison has been a continuing topic of concern. Courts sentence state citizens, who are also residents of cities and/or counties, to jail or prison. The courts may be justice courts under local jurisdiction or district courts under state responsibility. Though the State's prison population is growing, estimates of the future population rate of growth have decreased from over 500 per year² back in FY 1995 to approximately 250 per year in FY 2006. However, this number still reflects a net growth rate and consequently requires additional "secure bed space" to be added to the State's inventory on a regular basis.

Legislative Request

The Executive Appropriations Committee requested a review of the Jail Contracting and Jail Reimbursement line items to meet the requirements of Joint Rule 3.02 P13(d)(i). In addition, an overview of offender housing has been provided. Three study items from the 2005 General Session H.J.R 20, Master Study Resolution are included:

- "Jail Contracting - to study and review the process for contracting and how to reimburse.
- Jail Reimbursement - to study a method of determining and paying for jail reimbursement.
- Jail Contracting and Jail Reimbursement - to study the core rate adjustment, equity throughout the state, and recommended legislation."³

A working group including representatives from the Department of Corrections, Utah Association of Counties (UAC), the Utah Sheriffs Association, the Commission on Criminal and Juvenile Justice (CCJJ), and the Governor's Office of Planning and Budget met four times to provide data and discuss the related issues. The Executive Offices and Criminal Justice Appropriations Subcommittee also held two public meetings⁴ primarily to hear testimony and gather data. Discussions were conducted regarding the process of housing offenders and alternatives to current practices for jail contracting and jail reimbursement. The determination of the "core rate" (the daily rate used to fund both jail contracting and jail reimbursement) was a key issue. The role and impact of the courts was also discussed.

Many similar studies and others covering related topics have been prepared over the years. A brief review is included to gain historical perspective.

¹ Department Website - <http://www.corrections.utah.gov/about.html>

² Jail Study 1992, Office of the Legislative Fiscal Analyst

³ H.J.R. 20, 2005 General Session

⁴ May 17, 2005 and June 14, 2005

A number of issues have been raised through conversations with various entities regarding the circumstances and motivation for policy changes, funding levels and past legislative actions. This study reviews the statute and addresses the issues as they relate to actual policy implementation, current law and rule.

Current Status of Inmate Housing and Funding

As of September 7, 2005, the Utah Department of Corrections had 6,222 offenders incarcerated at either state prison facilities or contracted to county jails. The State's operational capacity was 6,299 beds with a maximum capacity of 6,507. This included 1,356 contracted county jail beds. Since July 1, 2005, over 150 inmates have been added to the State's prison population. Table 1 on the next page lists the facilities and the number of inmates housed there as of September 7th.

Table 1: Facilities Housing Inmates of Utah State Prisoners

Sex	Complex	Unit	Count	Sex	Complex	Unit	Count
F	JAIL	BOX ELDER CO JAIL	3	F	NORTH POINT	OLYMPUS	12
F	JAIL	DAVIS CO JAIL	8				
F	JAIL	GRAND CO JAIL	4	F	NORTH POINT	TIMPANOGOS 2	137
F	JAIL	SUMMIT CO JAIL	8	F	NORTH POINT	TIMPANOGOS 3	122
F	JAIL	WASATCH CO JAIL	45	F	NORTH POINT	TIMPANOGOS 4	142
F	JAIL	WASHINGTON CO JAIL	27				
F	JAIL	WEBER CO JAIL	10	M	NORTH POINT	LONEPEAK	298
				M	NORTH POINT	OLYMPUS	103
M	JAIL	BEAVER CO JAIL	167	M	NORTH POINT	OLYMPUS DORM	36
M	JAIL	BOX ELDER CO JAIL	32	M	NORTH POINT	PROMONTORY	397
M	JAIL	CACHE CO JAIL	85	M	NORTH POINT	TIMPANOGOS 1	112
M	JAIL	CARBON CO JAIL	4				
M	JAIL	DAGGETT CO JAIL	81	M	SOUTH POINT	OQUIRRH 1	143
M	JAIL	DUCHESNE CO JAIL	141	M	SOUTH POINT	OQUIRRH 2	143
M	JAIL	GARFIELD CO JAIL	89	M	SOUTH POINT	OQUIRRH 3	142
M	JAIL	KANE CO JAIL	11	M	SOUTH POINT	OQUIRRH 4	141
M	JAIL	MILLARD CO JAIL	55	M	SOUTH POINT	OQUIRRH 5 ANNEX	250
M	JAIL	SAN JUAN CO JAIL	57				
M	JAIL	SANPETE CO JAIL	2	M	SOUTH POINT	SPEC SERV DORM	134
M	JAIL	SEVIER CO JAIL	65				
M	JAIL	SUMMIT CO JAIL	17	M	SOUTH POINT	UINTA 1	91
M	JAIL	UINTAH CO JAIL	25	M	SOUTH POINT	UINTA 2	186
M	JAIL	WASATCH CO JAIL	1	M	SOUTH POINT	UINTA 3	192
M	JAIL	WASHINGTON CO JAIL	149	M	SOUTH POINT	UINTA 4	182
M	JAIL	WEBER CO JAIL	62	M	SOUTH POINT	UINTA 5	117
M/F	JAIL Subtotal	TOTAL CONTRACTED to JAILS	1,148	M	SOUTH POINT	WASATCH A EAST	91
F	OUTCOUNT	NON UDC FACILITIES	3	M	SOUTH POINT	WASATCH A WEST	164
				M	SOUTH POINT	WASATCH B BLOCK	191
M	OUTCOUNT	NON UDC FACILITIES	135	M	SOUTH POINT	WASATCH B NORTH	27
				M	SOUTH POINT	WASATCH C BLOCK	68
M/F	OUTCOUNT Subtotal	NON UDC FACILITIES	138	M	SOUTH POINT	WASATCH D BLOCK	192
				M	SOUTH POINT	WASATCH INFIRMA	20
M		ENFORCEMENT TRANSPORT	1	M/F DRAPER Subtotal	DRAPER FACILITIES		3,833
F	CCC	ORANGE ST CCC	2				
				TOTAL INCARCERATED as of SEP 7, 2005			6,222
M	CCC	BONNEVILLE CCC	2				
M	CCC	FREMONT	2				
M/F	CCC Subtotal	OTHER UDC FACILITIES	7				
M	GUNNISON	GUNN ASPEN	188				
M	GUNNISON	GUNN BIRCH	191				
M	GUNNISON	GUNN CEDAR	191				
M	GUNNISON	GUNN DOGWOOD	54				
M	GUNNISON	GUNN ELM	186				
M	GUNNISON	GUNN FIR	286				
M	GUNNISON Subtotal	CUCF/GUNNISON	1,096				

The 2005 Utah Legislature approved \$14 million for a new 288 dormitory style minimum security housing unit at the Gunnison Prison Facility. This is scheduled for completion by the end of FY 2006. The Department of Corrections is preparing a budget request for the 2006 Legislative Session which will address the need for one additional medium security unit. This unit could provide 192 beds.

In addition to the new prison bed space, the 2005 Legislature appropriated additional funding of \$4,527,000 General Fund for **Jail Contracting** (FY 2006) and \$250,000 General Fund (FY 2005) for 250 additional beds to be contracted from the counties. During a special session in April 2005, the Legislature passed H.J.R. 101 which authorized three counties to expand their jail bed space for contracting with the State. Sanpete, Millard and Beaver counties were included in this resolution totaling 350 beds. Millard County and Sanpete County have since withdrawn plans to expand their jail facility to accommodate a combined 150 state prisoners. Davis County is currently expanding their facility and indicated they would be willing to make some additional beds available to the state for a short time once their facility is completed. This would not make up the loss of beds from Millard and Sanpete.

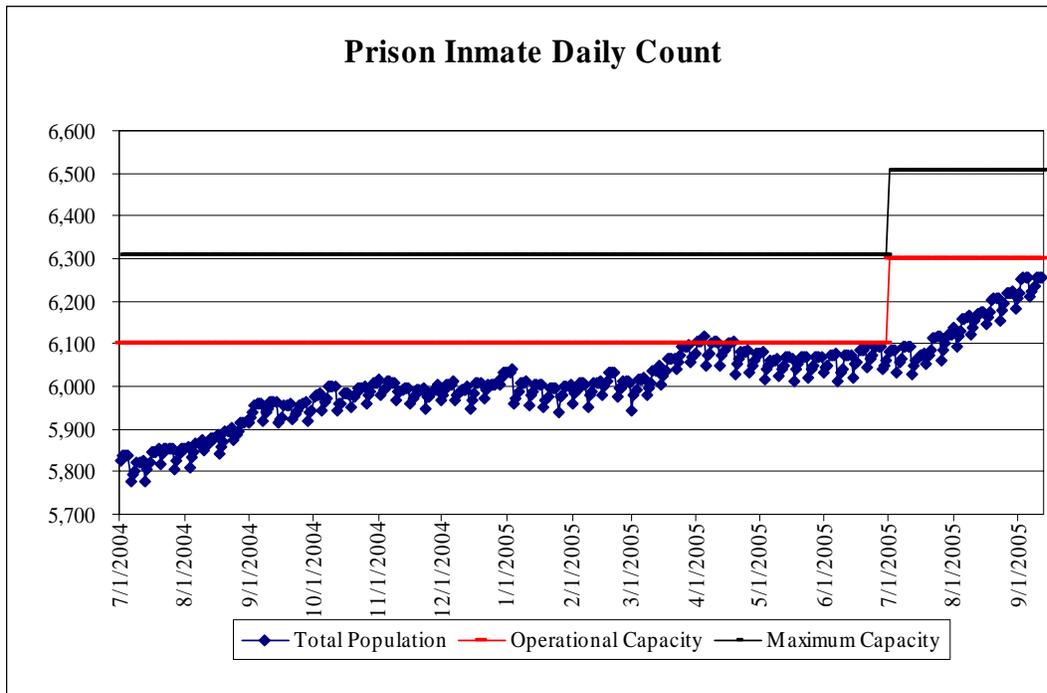
The 2005 Legislature also appropriated \$524,900 General Fund for FY 2006 to fund the estimated increase of bed days for **Jail Reimbursement**. During the Legislative Session, the estimate of FY 2005 bed days was increased. A supplemental funding request was not formally presented to the Legislature and was not funded. The FY 2005 shortfall was increased further after the General Session and is \$2,317,960 as of the close of FY 05. (Funding the shortfall would reach the statutorily authorized 70 percent funding level.)

No funding was provided to increase the FY 2006 core rate.

Inmate Housing Growth Rate

Utah's inmate population is currently growing at an estimated rate of more than 250 persons per year. Policy changes within the Department's Adult Probation and Parole Division (AP&P), Drug Courts, Drug Boards, lower crime rates and federally sponsored reentry programs have all contributed to a reduction in the rate of incarceration. Chart 1 shows the inmate population from the beginning of Fiscal Year 2005 to the present.

Chart 1: FY 2005 Inmate Population Growth



Surrounding State's Incarceration Rate Comparison

While the growth in the number of people being incarcerated in Utah is a major expense and concern for State legislators, as of the end of FY 2004, the overall rate of incarceration is less than any of the other western or southern states. Of the surrounding states, the next closest incarceration rate is New Mexico with over 30 percent more persons per hundred thousand incarcerated than Utah. Table 2 below shows the comparison of the western states as reported by the Department of Justice, June 30, 2004.

Table 2: State Prison Population Comparison – Incarceration per 100,000 state residents

State Prison Populations and State Incarceration Rates				
U.S. Department of Justice *				
Jurisdiction	Total Inmate Populations			Prison
	<u>06/30/03</u>	<u>12/31/03</u>	<u>06/30/04</u>	<u>Incarceration</u> <u>Rate</u> <u>06/30/04</u>
United States Total	1,464,197	1,468,530	1,494,216	486
Western States Total	285,308	288,454	292,828	421
Alaska	4,431	4,527	4,515	367
Arizona	30,741	31,170	31,631	506
California	163,361	164,487	166,053	457
Colorado	19,085	19,671	19,756	429
Hawaii	5,635	5,828	5,946	320
Idaho	5,825	5,887	6,312	454
Montana	3,440	3,620	3,800	410
Nevada	10,527	10,543	10,971	468
New Mexico	6,145	6,223	6,341	319
Oregon	12,422	12,715	13,219	366
Utah	5,603	5,763	5,802	239
Washington	16,284	16,148	16,559	264
Wyoming	1,809	1,872	1,923	382

* - Prison and Jail Inmates at Midyear 2004, Bureau of Justice Statistics Bulletin, U.S. Department of Justice, April, 2005

Utah’s rate of incarceration is 42nd in the United States according to the United States Department of Justice.

Possible reasons for growth of Utah’s incarceration rate

Although Utah’s incarceration rate is one of the lowest in the country, there are a number of possible reasons why the number of people in Utah’s prisons continues to climb while crime rates are declining. The key factors are:

- State demographics – Utah’s prison population grows as the State general population grows;
- New Penalties – New penalties passed by the state legislature increase the numbers to jail and state prisons;
- Upgrade of penalties and penalty enhancements – Legislation is passed each year that increases the class of misdemeanors and felonies and sometimes shifts crimes from misdemeanors to felonies. This upgrade of penalties increases both the fines and the potential length of stay of an offender in a jail or prison. Table 3 lists some of the legislation that has been passed in the last few years and shows the impact on penalties.

Table 3: Recently passed legislation with impact on sentencing

Passed Legislation and Its Impact on the Prison Population		
<u>Session</u>	<u>Legislation</u>	<u>Impact on Sentence</u>
2005 GS	HB 55 Drug Offense Penalty Enhancements	Increases Length of Prison Term
	HB 76 Habitual Violent Offenders Amendments	Increases Length of Prison Term
	HB 297 Aggravated Murder Amendments	Increases Length of Prison Term
	SB 43 Penalty for Providing False Information to a State Agency	Increases Length of Prison Term
2004 GS	HB 128 Amendments to Operating Under the Influence	Increases Number of Admissions
	SB 84 Party to Felony Offense Enhancement	Increases Length of Prison Term
2003 GS	HB 178 Firearms Amendments	Creates new Felony Offense
	SB 7 Automobile Homicide Amendments	Creates new 2nd Degree Felony Offense
2002 GS	HB 99 Consecutive Sentencing	Increases Length of Prison Term
	HB 224 Giving False Information to a Police Officer	Creates new Class A Misdemeanor
2001 GS	HB 181 Penalties for Soliciting Minors	5 new offenses ranging from Class C Misdemeanor to Second Degree Felony
	HB 201 Revisions to Driving Under The Influence	Expands time frame for using prior DUI convictions and increases potential penalties and length of prison term

* This is not a complete list of proposed or passed legislation from any given year. It is only a sample of passed legislation.

Managing the Offender Population

The State of Utah owns and operates a number of facilities ranging from Community Correctional Centers (halfway houses) to maximum security cells. There are restrictions on where an offender can be housed. The Department of Corrections has an offender management system that classifies inmates by level of security and threat.

Secure facilities, ranging from minimum to maximum security, house prisoners at two major complexes in Draper and Gunnison. Some inmates are placed in county jails, either by the court as a condition of probation or by contract with the UDC.

The Community Correctional Centers, Day Reporting Centers and community supervision are controlled by UDC's Adult Probation and Parole. The community supervision may include electronic monitoring, random drug testing and home visits.

Jail Contracting and Jail Reimbursement have become important tools to manage Utah's growing offender population.

Long Term Planning

The Department has little, if any, control over the size or make-up of the prison population. Offenders are arrested by local, state or federal law enforcement officers. The offenders are sentenced to prison by the courts. Prisoners are released by the Board of Pardons and Parole. The UDC must house and manage all offenders assigned to their responsibility.

The UDC has a research department that estimates future prison populations and population growth rates. The Division of Facilities and Construction Management (DFCM) requires a long-term look at housing needs before accepting requests for additional correctional facilities.

Findings and Recommendations

Findings

- Utah's prison population is growing at more than 250 inmates per year.
- Planning ahead for inmate housing can reduce costs and avoids potential lawsuits and federal involvement.
- Over 98 percent of incarcerated inmates will be released back to society.
- Current federal and state recidivism reduction programs indicate that housing inmates at counties closer to their permanent residence can have a positive impact on recidivism.
- The State of Utah does not have as many inmates qualified for "early release" as were available when it was done in 2001.
- It is important for the State to avoid an inmate housing crisis.

Recommendation

- Recommendation: The Department should prepare both a 5 year and a 10 year inmate housing plan, to be updated and reported annually to the Law Enforcement Interim Committee, the Executive Offices and Criminal Justice Appropriations Subcommittee and to the Executive Appropriations Committee during interim meetings.

Jail Contracting – In-Depth Budget Review

Jail Contracting provides inmate housing to the State prison system through contracts with individual county jails. The program provides needed overflow inmate housing for the State.⁵ Approximately 22 percent of the state’s prisoners are contracted to and housed at county jails. The Legislature has funded 1,417 jail contract beds for FY 2006. (Note- Even though the Legislature funded the 1,417 beds, less than 1,300 are currently available.) The counties provide security, supervision, food, programs and other services on a per bed, per day cost basis. It would cost the State between \$102 million and \$122 million to build facilities to house this number of prisoners in State facilities.

Statutory Authority

The authority for jail contracting is UCA 64-13c-401. This section authorizes the UDC to “enter into a contract with a county government to house inmates only if the Legislature has previously passed a joint resolution ...” Subsection (3) of this chapter states, “Any resolution passed by the Legislature under Subsection (1) does not bind or obligate the Legislature or the department regarding the proposed contract.

Jail Contracting was originally part of the Division of Institutional Operations, but was divided into a separate line item starting in FY 2003.

The Process

Once the Legislature has passed a resolution authorizing a county to contract with the State, and funding is appropriated to cover the costs, the Department establishes a contract with the County to provide the authorized and available number of beds. The County bills the State for each bed day used for State inmates. The Inmate Placement Program verifies the State usage. The State pays the current jail core rate of \$42.32 per day per bed. Medical and Transportation services are provided or paid for by the UDC for all State inmates in contracted beds.

Budget Revenue Detail and History

The budget for Jail Contracting since FY 2000 is primarily General Fund, with small nonlapsing balances and federal funds from time to time. For FY 2006, there is an estimated \$50,000 Federal Funds as a result of an imbalance in the interstate compact. This is due to the number of federal prisoners that the state houses verses the number of State inmates housed by the federal government.. These are primarily persons being held for immigration violations. No funding changes hands when the state and the federal government have an equal number of prisoners in the other’s facilities.

There was an increase in the line item budget of 23 percent between FY 2000 and FY 2001. This was due to a shift of funds made available from the closing of the privatized Promontory facility. Some of the savings was shifted to jail contracting and some was used to reduce the Corrections budget. The shift was possible because all funds were a part of the same Division of Institutional Operations line item. A small overrun of the budget in FY 2002 was also offset by shifting funds

⁵ Compendium of Budget Information, December 6, 2004

within the line item. As a separate line item, this would not be possible under the current financing structure. Table 4 depicts the funding history of Jail Contracting.

Table 4: Revenue History – Jail Contracting

Financing	FY 99 Actual	FY 00 Actual	FY 01 Actual	FY 02 Actual	FY 03 Actual	FY 04 Actual	FY 05 Est.	FY 06 Approp
General Fund	\$11,207,700	\$13,923,000	\$17,193,200	\$17,181,000	\$18,086,200	\$18,086,200	\$18,086,200	\$21,926,600
Federal Funds	49,200	2,800						50,000
Dedicated Credits Rev	800	1,200						
Transfers - Federal								
Beginning Nonlapsing				10,200		160,000	479,600	
Closing Nonlapsing	34,100		(10,200)	4,000	(160,000)	(479,600)		
Lapsing Balance		(16,100)						
	<u>\$11,291,800</u>	<u>\$13,910,900</u>	<u>\$17,183,000</u>	<u>\$17,195,200</u>	<u>\$17,926,200</u>	<u>\$17,766,600</u>	<u>\$18,565,800</u>	<u>\$21,976,600</u>
		23.19%	23.52%	0.07%	4.25%	(0.89%)	4.50%	18.37%

Expenditure History and Explanation

Until FY 2003, the Jail Contracting program was listed as part of the Division of Institutional Operations Program. Starting in FY 2003, the funding for this program was separated as its own single line item.

Table 5 details the expenditure history of this program. Over 99 percent of the budget is for contracts paid to counties for bed space. A small sum of \$50,000 Federal Funds is received for payment due to estimated imbalances in the interstate compact with the federal government. Once again, it is for bed space. The remaining expenditures of \$31,000 listed under Current Expenses are for contracts with barbers throughout the State.

The Department personnel that write and manage the contracts with the counties are part of the Inmate Placement Program (IPP). This is discussed in more detail later in the report.

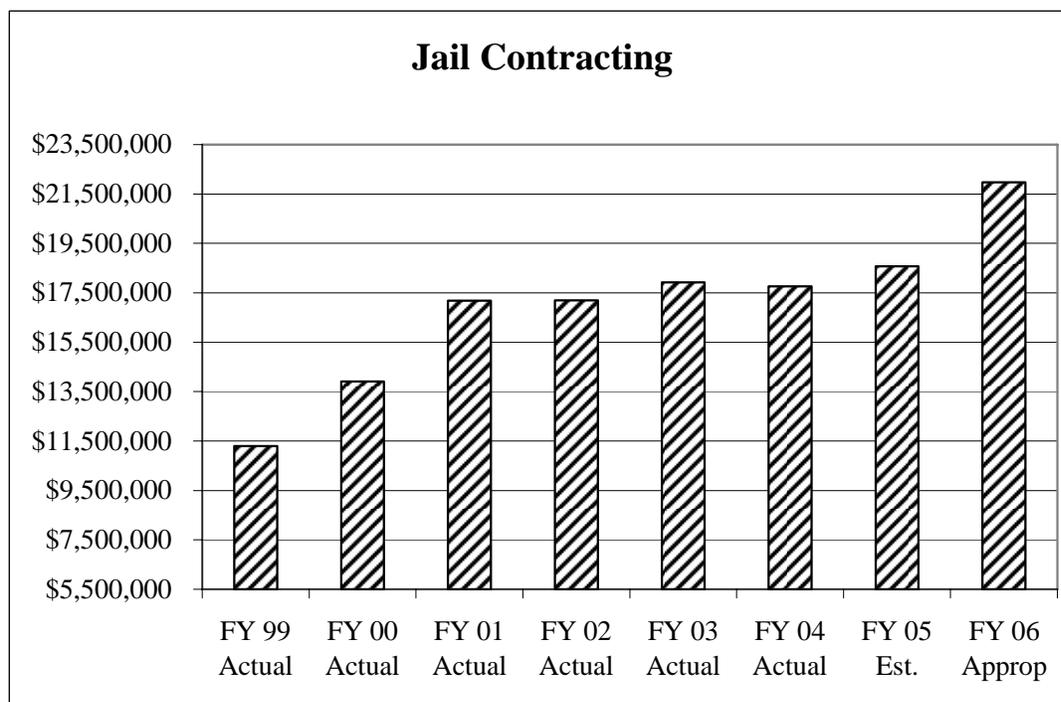
Table 5 details the expenditure history. Also listed are the number of bed days that were utilized and funded.

Table 5: Expenditure History - Jail Contracting

Expenditures	FY 99 Actual	FY 00 Actual	FY 01 Actual	FY 02 Actual	FY 03 Actual	FY 04 Actual	FY 05 Est.	FY 06 Approp
Personal Services	\$512,400	\$727,500	\$0	\$0	\$0	\$0	\$0	\$0
In-State Travel	9,600	7,700						
Out of State Travel	1,100	4,000						
Current Expense	495,600	259,800	31,700	31,200	33,100	34,800	31,000	31,000
DP Current Expense	29,900	27,500						
DP Capital Outlay								
Capital Outlay								
Other Charges/Pass Thru	10,243,200	12,884,400	17,151,300	17,164,000	17,893,100	17,731,800	18,534,800	21,945,600
	<u>\$11,291,800</u>	<u>\$13,910,900</u>	<u>\$17,183,000</u>	<u>\$17,195,200</u>	<u>\$17,926,200</u>	<u>\$17,766,600</u>	<u>\$18,565,800</u>	<u>\$21,976,600</u>
		23.19%	23.52%	0.07%	4.25%	(0.89%)	4.50%	18.37%
Rate Paid Per Day	50.72	52.56	43.07	43.07	42.32	42.32	42.32	42.32
Bed Days Funded	201,956	245,137	398,219	398,514	422,805	418,993	437,968	518,563
Beds Per Full Year	553	672	1,091	1,092	1,158	1,148	1,200	1,421

Chart 2 graphically illustrates the expenditures for Jail Contracting since FY 1999. The funding and number of beds are relatively stable. Increases occur when the Legislature approves counties to make bed space available to the State and then funds it.

Chart 2: Jail Contracting Expenditure History



Starting in FY 2003, the Legislature moved Jail Contracting from the Division of Institutional Operations to its own separate line item. This has reduced the flexibility of the Department to manage the housing of inmates.

Payment to the Counties

Counties are paid according to their contract with the Department. Utah Code 64-13c-401(1)(b) sets “the average daily rate the department will pay the county per inmate, as determined under Title 64, Chapter 13c, Part 3, Reimbursement of Inmate Costs;” (Note - The determination of the current core rate will be reviewed in-depth later in this report.) The Legislature approves the core rate and this amount is paid per inmate, per day. The same core rate is paid per bed day to all counties. The current process and the current rate went into effect for FY 2003.

Jail Contracting expenditures are for contracts established by the Department with county jails for inmate bed space. The contracts provide housing, food and programming for the inmates. Medical services and transportation services are paid for or provided by the Department.

Medical Services

Inmates that are sent to county jails on contract are usually healthier than the general population at the prison. Those with chronic or extensive medical needs are kept at the Gunnison or Draper facilities where ongoing medical care is provided by the staff of the prisons. Additional care is accessible through contracts with the University of Utah and other local providers. Most services are provided directly by personnel of the Department’s Clinical Services Bureau.

Funding for the Medical Services is not part of the Jail Contracting line item. It is appropriated through the Medical Services budget. Medical services costs for FY 2005 to inmates contracted to county jails totaled \$541,200 General Fund. There are two FTE associated with this activity: one physician's assistant and one registered nurse. Travel and prescription medication are other significant cost factors.

If an inmate must be transported back to the prison or to a medical facility for care, the funding is provided by the Corrections Transportation budget.

Transportation Services – Institutional Operations Support Services

Contracting for inmate bed space with the counties requires the inmate to be transported securely to the county. Other transportation needs may arise when an offender must appear in court or may need medical care that can not be provided at the county facility. All transportation services are provided by the transportation section of the Institutional Operations Support Services Program of the Division of Institutional Operations. (DIO)

Funding for Transportation Services is not part of the Jail Contracting line item. Funding for this activity is in the Corrections Programs and Operations line item with the DIO budget. The funding is entirely General Fund. The FY 2005 transportation services provided to jail contracting inmates was estimated to be \$395,000 General Fund.

Costs and Benefits of Jail Contracting

The prison population fluctuates, but the trend is upward. Jail Contracting provides the State more flexibility in managing the prison population. Offenders can be imprisoned closer to home which can increase the success of reintegrating offenders back into the community. This could reduce the number of permanent state employees and overall operating costs. Jail Contracting is also used to house offenders when state facilities are at or near capacity and while additional facilities are under construction, as is currently the case.

Jail contracting can also benefit the counties. Many counties build facilities with excess bed capacity with the intent of contracting with the state in order to offset some of their building costs. Other counties offer housing on a temporary basis when extra beds are available.

Cost of Alternative

If the State were to eliminate Jail Contracting, bed space for over 1,300 inmates would need to be built immediately. Estimates from the Division of Facilities and Construction Management indicate that over \$102 million would be needed to build the necessary housing units. Ongoing operating expenses for personnel, equipment, food and maintenance costs of approximately \$22 million would also be required. The Jail Contracting budget for FY 2006 is \$21,976,600. Funding for the ongoing operations could be shifted from the current Jail Contracting budget.

Findings and Recommendations

Findings

- It would take a capital investment of over \$102 million in addition to the approximately \$22 million in ongoing operational expenses to house the 1,300+ inmates contracted to county jails. (Ongoing expenses could be shifted from the current Jail Contracting budget.)
- Jail Contracting saves the State and the Department money and is an integral part of the Departments program to accomplish its statutory mission.
- Legislative policy as defined by line item and nonlapsing funds status could make the Department's use of Jail contracting more effective.

Recommendations

- The Jail Contracting line item should be combined as a program within the Division of Institutional Operations and not listed as a separate line item.
- The nonlapsing balances carried over from one year to the next should be reported to the Executive Offices and Criminal Justice Appropriations Subcommittee during their regular legislative hearings. This report should include a discussion of how the funds will be spent.

Jail Reimbursement – An In-Depth Budget Review

The Jail Reimbursement Program is the payment by the State for the “incarceration of state prisoners in county facilities”⁶. When an offender has been convicted of a felony, the court may sentence that person to jail, as a condition of probation. When this happens, the State “reimburses” the county 70 percent of the approved core rate incarceration cost. Unlike Jail Contracting where a county decides whether to contract with the State or not, each county is required to accept all inmates assigned to their county jail as a condition of probation.

Statutory Authority

The Jail Reimbursement Program is governed by four key sections of Utah Code: UCA 64-13c-301 “Reimbursement Program Created”; UCA 64-13c-201(1)(a) “County Housing of State Prisoners”; UCA 64-13c-303 “Payment of Reimbursement – Any Shortfall”; and UCA 77-18-1(8)(v) “Probation – Terms and Conditions”.

Section 64-13c-301 creates the “Inmate Costs Reimbursement Program” and outlines the administration and funding parameters. Funds appropriated to this line item are not to be used for administrative expenses. It also makes the line item nonlapsing.

Section 64-13c-201 specifies the requirements of the counties to take inmates and requires the county to “negotiate with other counties” if sufficient housing is not available in their jail.

Section 64-13c-303 details the amount and manner in which jail reimbursement is paid. This limits the reimbursement to 70 percent of the core rate as established in UCA 64-13c-302.

Utah State Code 77-18-1(8) states, “While on probation, and as a condition of probation, the court may require that the defendant:

- (v) serve a period of time, not to exceed one year, in a county jail designated by the department, after considering a recommendation by the court as to which jail the court finds most appropriate.”

This section limits the time that a person can be housed at a county jail on a felony conviction. Any term longer than a year and the offender would have to be placed in the State prison.

Jail Reimbursement History Synopsis

The program and its funding have been reduced, repealed, reestablished and modified during the last 15 years.

Some of the highlights of Jail Reimbursement history are:

1980 - The entire criminal code was repealed and reenacted. Courts were given authority to sentence offenders to jail as a condition of probation. Jail Issue Committee established to study state policy related to jails. No jail reimbursement was required at this time or recommended.

1982 – HB 32 passed providing that the State reimburse counties for the actual costs of incarceration of a convicted felon sentenced to serve in a county jail as a condition of probation.

1988 – HB 60 abolished Jail Reimbursement effective July 1, 1990. The Commission on Criminal and Juvenile Justice (CCJJ) organized a task force to study the jail issue. A

⁶ UCA 64-13c-201 (heading)

recommendation of the task force was that the authority of the courts to place felons in jail as a condition of probation be removed.

It also determined that it would be less expensive for the state to pay the counties to house probationers in jail than to house them in state facilities.

1990 – HB 60 takes effect and Jail Reimbursement is repealed and funding is eliminated.

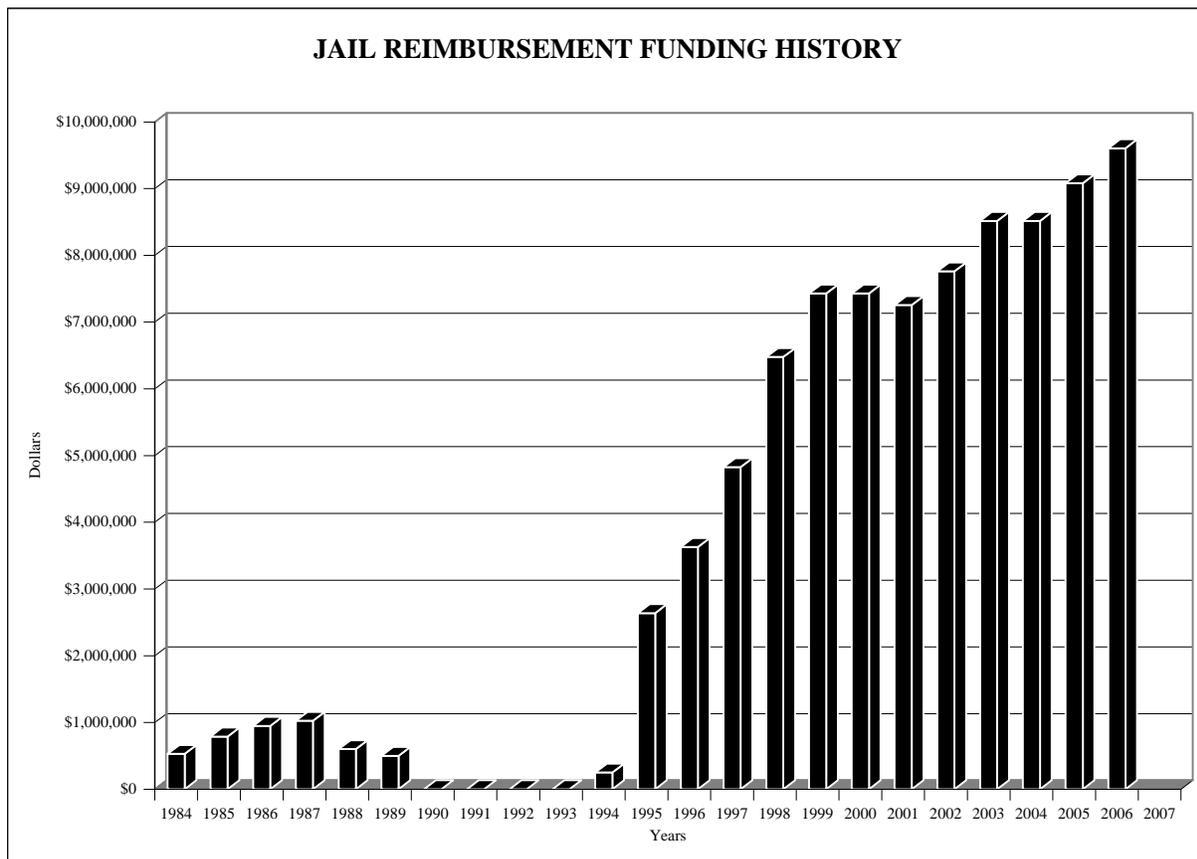
1993 – HB 162 reestablished the jail reimbursement program and provided an initial appropriation of \$250,000. The reimbursement rate was defined to be 80 percent of the daily state rate.

2002 – HB 319 Jail Reimbursement Amendments established the “core rate” committee and established a requirement for the legislature to fund jail reimbursement at 70 percent of the approved core rate. It also removed the requirement for the UDC to report an estimated shortfall in the funding of jail reimbursement.

The former Jail Reimbursement Program was repealed as of July 1, 1990. No funding was appropriated until the program was reestablished in FY 1993. The program was further modified at the 2002 General Session establishing “Procedures for setting county reimbursement for core inmate incarceration costs, and medical and transportation costs.”⁷ Note the years when the program was repealed and then again when funding was reestablished.

Chart 3 below illustrates the funding history of the program from FY 1984 to the present.

Chart 3: Funding History of the Jail Reimbursement Program



⁷ UCA 64-13c-302

Budget Revenue Detail and History

Jail Reimbursement is a separate line item program. It is funded entirely with State General Fund and has statutory nonlapsing status⁸.

The funding trend has been increasing since Jail Reimbursement was reestablished in FY 1993. Increases have resulted from legislatively approved building blocks reflecting an increase in the number of probationer inmate bed days. The core rate used to calculate the funding requirements has been flat since FY 2003. Table 6 shows the funding history since FY 1999.

Table 6: Revenue History – Jail Reimbursement

Financing	FY 99 Actual	FY 00 Actual	FY 01 Actual	FY 02 Actual	FY 03 Actual	FY 04 Actual	FY 05 Est.	FY 06 Approp
General Fund	\$7,428,200	\$7,428,200	\$7,261,000	\$7,760,600	\$8,515,900	\$8,515,900	\$9,081,000	\$9,605,900
General Fund, One-time						1,000,000		
Lapsing Balance		5,500						
TOTAL	\$7,428,200	\$7,433,700	\$7,261,000	\$7,760,600	\$8,515,900	\$9,515,900	\$9,081,000	\$9,605,900
		0.07%	(2.32%)	6.88%	9.73%	11.74%	(4.57%)	5.78%
Rate/Core Rate Approvec	50.72	52.56	43.07	43.07	29.62	29.62	29.62	29.62
# of Bed Days Submitted	174,558	202,557	247,520	236,270	279,890	290,175	384,840	398,916

Even though the Legislature has regularly funded the estimated number of bed days, the funding has been insufficient to meet the year end demand for the last few years. The estimates for program funding are initially made six months prior to the Legislative Session and a full year before the actual funding year begins. Because the initial estimates have missed the actual by as much as 18 percent the last few years, the statutory 70 percent reimbursement rate⁹ has not been met. The result has been a lower percentage of funding by the end of the fiscal year.

For many counties, the funded percentage of the actual costs is lower than the estimates based on the calculation of the core rate. Table 7 lists the final percentage of the funding paid to the counties based on the current approved core rate of \$42.32 which started in FY 2003. It can be seen from this table that the actual amount paid is less than the statutory funding level of 70 percent set by UCA 64-13c-303(1). The actual costs to some counties is higher or lower than the approved core rate which would impact the final percentage of actual costs that are reimbursed for a particular county.

Table 7: Percentage of Actual Jail Reimbursement Paid at Year-End Close

Fiscal Year	Short	% Paid
FY'03	953,236	62.40%
FY'04	1,155,500	66.84%
FY'05	2,317,800	56.40%

Expenditure History and Explanation

This budget is a pass-through of funds from the UDC to county governments to subsidize the incarceration of felons in county jails. One hundred percent of the program funding within the

⁸ UCA 64-13c-301(5)

⁹ UCA 64-13c-303(1)

line item is passed-through to the counties. The annual expenditure trend-line has been increasing. This reflects the growing number of inmate days billed to the State. Adding to the disparity, the counties continue to get better in their record keeping and reporting of qualifying expenses as well.

The administration and management of the program are funded through the Division of Institutional Operations Inmate Placement Program. Table 8 details the expenditure history for Jail Reimbursement from FY 1999 until the current appropriated year.

Table 8: Expenditure History – Jail Reimbursement

Expenditures	FY 99 Actual	FY 00 Actual	FY 01 Actual	FY 02 Actual	FY 03 Actual	FY 04 Actual	FY 05 Est	FY 06 Approp
Personal Services	\$53,500	\$0	\$0	\$0	\$0	\$0	\$0	\$0
In-State Travel	700							
Other Charges/Pass Thru	7,374,000	7,433,700	7,261,000	7,760,600	8,515,900	9,515,900	9,081,000	9,605,900
TOTAL	\$7,428,200	\$7,433,700	\$7,261,000	\$7,760,600	\$8,515,900	\$9,515,900	\$9,081,000	\$9,605,900
		0.07%	(2.32%)	6.88%	9.73%	11.74%	(4.57%)	5.78%

All funds within the line item are passed through to the counties for beds and housing. No funds are used to reimburse the counties for medical or transportation costs. These services are paid by the counties. These expenses can be reimbursed “if funds are available.” No funds have been available since FY 2002 because the housing has not been fully funded.

Authorization for Jail Reimbursement

The payment of jail reimbursement to house inmates in county jails is a decision of the Utah State Legislature set forth in statute. Arguments can be made that payment should be eliminated or that it should be increased. At the present time, authorization to pay counties jail reimbursement lies within current statute. Utah Code section 64-13c establishes the program, establishes a procedure to determine a “core-rate” and directs the Legislature to pay the counties 70 percent of the core rate. This is done with funds “covered by legislative appropriation.”¹⁰ This section of Utah Code governs the Jail Reimbursement Program. Any major change to the funding of Jail Reimbursement would require a modification or repeal of current statute.

Funding Process

The Legislature reviews the Jail Reimbursement budget request submitted by the Governor. This is based on projections developed by the Utah Department of Corrections. These estimates are developed based on historical billings for Jail Reimbursement. The Legislature has generally funded the requested increase for the additional bed days, but has not funded the core rate adjustment since FY 2003. No supplemental appropriations have been made for shortfalls in the program and no additional funding has been provided for medical and transportation expenses.

FY 2005 Revenue Shortfall

Estimates for FY 2005 were significantly lower than the final actual submitted billings. The disparity is 54,768 bed days, resulting in a funding shortfall of \$2,317,772.00. The biggest

¹⁰ UCA 64-13c-301(4)

disparity comes from some of the largest counties, including, Davis, Salt Lake, Utah and Washington counties. Together, they account for 91 percent of the disparity.

The main reason reported for the increase in billings is that the counties are now using the Court Exchange System which enables them to reliably gather information on the official disposition of offenders. Inmate counts for Jail Reimbursement are now more accurate. Additionally, some bills were just submitted late.

Inmate Placement Program

The Department personnel that write and manage the contracts with the counties are part of the Inmate Placement Program (IPP). The Inmate Placement Program provides the administrative support for both the Jail Contracting and the Jail Reimbursement programs. Administratively and financially, it is part of the Division of Institutional Operations.

They perform a variety of functions including:

- calculate and recommend the core rate to the “core rate committee”;
- manage the Jail Contracting Program;
- verify costs and bed days submitted by the counties;
- manage the Jail Reimbursement program;
- establish contracts for jail reimbursement and jail contracting with the counties.

The IPP FY 2006 appropriated budget of \$1,720,800 is primarily General Fund. It includes 22 FTE. Table 9 illustrates the programs revenue and expenditures from FY 2001 through FY 2006.

Table 9: Inmate Placement Program Financing and Expenditure Detail

Financing	FY 01 Actual	FY 02 Actual	FY 03 Actual	FY 04 Actual	FY 05 Est.	FY 06 Approp
General Fund	1,525,800	1,599,900	1,476,400	1,527,400	1,531,400	1,717,800
General Fund, One-time					9,500	0
Federal Funds					50,000	0
Dedicated Credits Revenue	5,600	3,500	3,200	4,000	3,000	3,000
Beginning Nonlapsing		5,200				0
Closing Nonlapsing	(5,200)	(145,500)	(69,000)	(27,700)		0
	<u>\$1,526,200</u>	<u>\$1,463,100</u>	<u>\$1,410,600</u>	<u>\$1,503,700</u>	<u>\$1,593,900</u>	<u>\$1,720,800</u>
		(4.13%)	(3.59%)	6.60%	6.00%	7.96%
Expenditures	FY 01 Actual	FY 02 Actual	FY 03 Actual	FY 04 Actual	FY 05 Est.	FY 06 Approp
Personal Services	1,064,800	1,082,900	1,090,300	1,174,400	1,185,500	1,346,000
In-State Travel	9,800	6,300	5,200	6,700	9,700	11,700
Out of State Travel	300			400		0
Current Expense	433,500	350,100	294,400	303,900	323,900	330,400
DP Current Expense	17,800	23,800	20,700	18,300	24,800	28,200
DP Capital Outlay						4,500
Other Charges/Pass Thru					50,000	0
	<u>\$1,526,200</u>	<u>\$1,463,100</u>	<u>\$1,410,600</u>	<u>\$1,503,700</u>	<u>\$1,593,900</u>	<u>\$1,720,800</u>
		(4.13%)	(3.59%)	6.60%	6.00%	7.96%
FTE	17	17	17	19	19	22
Vehicles	9	9	9	9	9	9

Court and Other Related Funding Agreements

When discussing Jail Reimbursement and Jail Contracting, there has been questions regarding funding of the courts and other security expenses as they relate to payments to the counties. It is true that the State took over funding of the courts from local governments. The state also took the revenue associated with those courts. It is recognized that this funding was insufficient to cover the costs of the courts.

Payment of bailiff and court facilities have also been mentioned, especially when jail reimbursement was eliminated and then again when it returned. Bailiffs have been funded with General Fund since this time and the 2004 Legislature passed HB 371 and reiterated their agreement to the funding arrangement through the development of a restricted fund which was then used to replace General Fund to cover bailiff costs.

No memorandums of agreement or memorandums of understanding have been signed to recognize any other intergovernmental funding accord. Current practices are based on current state statutes. The most current statutory changes were effected during the 2002 General Session with the adjustments made to UCA Chapter 64-13c.

Jail Reimbursement Findings and Recommendations

Findings

- Jail Reimbursement was originally established in 1984. Since then it has been modified, repealed, reestablished and modified.
- The Jail Reimbursement Program and funding has been significantly impacted by statutory changes, as recently as the 2002 General Session.
- Estimates of Jail Reimbursement bed days have been too low and have resulted in insufficient funding to meet the 70 percent statutory funding level.
- No medical or transportation expenses have been paid for Jail Reimbursement inmates in recent years, since, under current statute, it is paid only when funds are available.

Recommendations

- The Utah Department of Corrections should update bed day estimates during the Legislative Session.
- The EOCJ Appropriations Subcommittee recommends that the Department request funding for 110 percent of the Jail Reimbursement bed days to assure sufficient funding to meet statutory requirements.
- The Legislative Auditor General may make recommendations after the audit which is currently in process is completed.

The Core Rate – Overview

Though the Legislature reestablished the Jail Reimbursement Program and a method of payment in FY 1993, it was during the 2002 General Session that the program was modified with its current statute. Along with another reiteration of the “Inmate Costs Reimbursement Program” was 64-13c-302 “Procedures for setting county reimbursement for core inmate incarceration costs, and medical and transportation costs.” Until FY 2003, the UDC set the core rate at 80 percent of the Department’s cost of housing inmates.

This section of the Utah Code establishes a committee to develop a core rate to be used for both jail reimbursement and jail contracting. This committee consists of:

- one sheriff of a county that is currently under contract with the department to house inmates;
- one sheriff of a county that is currently receiving reimbursement for housing inmates committed to serve time in a county correctional facility as a condition of probation;
- the executive director of the Utah Department of Corrections or a designee;
- one member of the legislative body of one county that is currently under contract with the department to house inmates;
- one member of the legislative body of one county that is currently receiving reimbursement for housing inmates committed to serve time in a county correctional facility as a condition of probation;
- the executive director of the Commission on Criminal and Juvenile Justice (CCJJ) or the executive director’s designee; and
- the director of the Governor’s Office of Planning and Budget or a designee.

According to the statute, the committee “shall annually before January 1 negotiate for the fiscal year beginning on July 1 of the same year a single reimbursement rate applicable to all counties, for daily core inmate incarceration costs”¹¹

This committee meets and reviews the data collected from all of the counties regarding their “core” costs. These costs are specified by the committee as established in rule. These were initially negotiated and compared to those costs used by the federal government for their reimbursement to states and counties for the use of jail or prison bed space. There are some noticeable differences which will be addressed later in this report.

The Core Rate Calculation Process

The Inmate Placement Program (IPP) personnel collect data from each of the counties regarding their expenses from the most current completed calendar year (which is the county government fiscal year). The major categories of expense information collected are:

- Salaries and Wages
- Materials and Supplies
- Services
- Special Department Materials and Supplies
- Sundry Expenses
- Other Charges

¹¹ UCA 64-13c-302(1)(a)

Each of these is detailed sufficiently so the same information is collected from each of the county jails. (Note - A more detailed listing is exhibited in Table 11 in the next section comparing State and Federal expenses.)

The IPP section verifies expenses from the previous calendar year. A calendar year is used since the counties are on a calendar year budgeting basis instead of the State fiscal year which starts July 1. This means the FY 2007 core rate recommendation is prepared using calendar year 2004 data. The result is the state pays a lower rate than if current pay scales were used.

An average of all the county expenses is compiled and the core rate is calculated. This core rate is then proposed both to the governor and to the legislature. UCA 64-13c-301(1)(b) requires that the “reimbursement rate negotiated under Subsection (1)(a) shall be approved by the Legislature in the annual appropriations act before the rate may be implemented.” To date, this has not been formally done in the appropriations act as intent language, but has been done by the approval or disapproval of the funding increase required by a new or higher core rate. The Table 10 shows the history of the core rate recommendations and the actual rates used.

Table 10: Core Rate History

Fiscal Year	Total Days	Total Expenses	County days	Proposed Core Rate	State Legislature Approved Rate
FY 2001	1,425,495	\$61,390,511.41	1,425,495	\$43.07	43.07
FY 2002	1,557,910	\$68,469,546.58	1,163,020	\$43.95	43.07
FY 2003	1,914,397	\$81,016,440.79	1,530,576	\$42.32	42.32
FY 2004	2,052,677	\$90,988,885.00	1,630,694	\$44.33	42.32
FY 2005	2,098,252	\$94,941,714.82	1,697,305	\$45.25	42.32
FY 2006	2,321,867	\$102,080,000.12	1,861,410	\$43.96	42.32
FY 2007	2,418,642	\$104,254,444.62	1,986,155	\$43.10	

The Core Rate Committee began submitting core rate recommendations in FY 2003.

The Governor’s office has used the Core Rate Committee’s recommended rate each year since FY 2003 to prepare the Governor’s budget request for both Jail Contracting and Jail Reimbursement.

Summary of Expense Factors Affecting the Core Rate

Any authorized expense used to calculate the core rate can have an impact on the final core rate. The calculation of the core rate is mainly affected by economies of scale of the county jails. It is much cheaper to operate a jail running at or near capacity, than an empty jail. There are several other reasons core rates can vary between counties, namely:

- Inmate populations can vary from county to county, as well as within the county from month to month.
- Jails have expenses whether they have inmates or not. (For example, Rich County has every expense as another county, but very few inmates per year.)
- Some jail facilities, due to age, may cost more to maintain.
- New correctional facilities coming on-line, i.e., staffing, training, and other start-up expenses such as in Cache County.
- Differences in officer’s wages and benefit packages between counties (health insurance increased drastically this year (FY 2005)).

- Food costs, fuel costs, utilities, etc, can be much higher in rural parts of the state.
- Rural counties may find they are in competition for higher employee wages due to booming industries, or likewise for loss of industry.
- High turnover in personnel creates much higher wages, not only for wages and benefits, but actual job knowledge.
- Training and meeting costs includes transportation dollars not included in the transportation figures, consequently, expenses could be much higher for counties further from the metropolitan area.
- As the core rate process improves, counties are tracking expenses more correctly. Each county was given the opportunity to report expenses this fiscal year which were understated in past years (for example, many counties never reported liability insurance expenses in prior years.)¹²

Transportation and Medical Costs

Information on transportation and medical costs are also collected. An average rate for each of these is developed. The committee reviews the data and then accepts, modifies or rejects the data. Minor adjustments have been made to clarify information that has been gathered. This information would be used to pay medical and transportation costs for Jail Reimbursement inmates if there were funds available. The committee approved core rates are then recommended to the UDC to prepare their budget request and submit it to both the Governor and the Legislature. These costs have not been paid by the State since the Core Rate Committee was established in FY 2002.

(Note - Jail Contracting expenses for transportation and medical are covered by the Department either through providing the direct service or contracting with local providers.)

State Core Rate Comparison with Federal Rate

Many counties also contract jail bed space with the federal government. Their process is very similar to Utah's process. States must apply by submitted the required form and verifying expenses. Most of the expense categories are very close to Utah's categories especially as they relate to direct expenses.

The federal government regularly pays a higher rate per day than the State for the beds they use. This is primarily because they include indirect costs which the State core rate committee did not feel would be acceptable to the Legislature. Indirect costs would include building bond expenses, building depreciation and equipment depreciation. This has helped minimize costs for the State.

Table 11 on the next page shows a detailed comparison of the expenses allowed for both the State and Federal government contracts.

¹² From a memo from Joyce Fackrell, Inmate Placement Program Analyst, July 5, 2005

Table 11: Comparison of State and Federal Cost Categories

State	Federal
Nature of Expenditure	Nature of Expenditure
<u>Salaries and Wages</u>	<u>Direct Costs - Salaries and Benefits</u>
Salaries and Wages - Permanent Employees	Total Personnel Costs including indirect and administrative costs
Salaries and Wages - Temporary Employees	
Employee Benefits	Total Personnel Benefits
Other Benefits (Including Officer's Uniforms)	Uniforms (Jail Staff Only)
<u>Materials and Supplies</u>	<u>Other Direct Operating Costs</u>
Books, Subscriptions and Memberships	
Public Notices	
Travel	Travel
Office Expense, Supplies and Postage	Office Expense, Supplies and Postage
Equipment-Operating Supplies & Maintenance	Facility Maintenance & Supplies
Building and Grounds Operating Supplies	Equipment under \$5,000
Utilities	Utilities, Medical Care Supplies
Telephone	Telephone
Food	Food & Kitchen Supplies
Clothing	Clothing (Prisoner), Bedding & Linens, Uniforms (Jail Staff Only)
	Vehicles
<u>Services</u>	
Professional and Technical Services (Explain)	Total Consultants and Contract Service
General Health	
Education & Training	Training Materials
<u>Special Department Materials and Supplies</u>	
Special Public Safety Supplies (Explain & Attach List)	
Special Other Department (Explain & Attach List)	
<u>Other Charges</u>	
Insurance and Surety Bonds (Explain)	Liability Insurance
<u>Sundry Expense</u>	
Miscellaneous Supplies (Attach List of Items)	New Equipment Approved in Current Operating Budget
Miscellaneous Services (Attach List of Service)	Equipment Depreciation Costs
Inmate Services	Building Depreciation Costs

Alternative to a Single Core Rate

The single core rate used by UDC to pay all jail contracts and jail reimbursement results in some counties receiving a higher percentage of their costs reimbursed than others. For those with exceptionally high costs (usually smaller counties), the amount paid covers a smaller percentage of their actual costs.

One possible alternative would be to use each individual county's approved core rate as their repayment cost. This can be used for jail contracting, jail reimbursement or for both. Table 12 compares the funding allocation based on the 2004 data submitted for the April 2005 core rate committee meeting. Using this data, the costs for Jail Reimbursement would be higher using the counties' individual core rate, but there would be a savings of over \$1.8 million in Jail Contracting.

Table 12

County	County Core Rate	Jail Reimburse Cnty Core Rate	Jail Reimburse State Core Rate	State Increase/Decrease	Jail Contracting Cnty Core Rate	Jail Contracting State Core Rate	State Increase/Decrease
Beaver	33.20	66,178	84,369	(18,192)	1,882,523	2,400,010	(517,487)
Box Elder	49.98	337,500	285,753	51,747	712,417	603,187	109,230
Cache	49.43	402,120	344,261	57,860	1,154,748	988,595	166,153
Carbon	47.89	121,982	107,802	14,180	104,585	92,427	12,158
Daggett	35.12	2,606	3,140	(535)	931,777	1,122,919	(191,142)
Davis	46.06	1,469,660	1,350,410	119,249	139,185	127,891	11,294
Duchesne	30.28	54,817	76,608	(21,791)	1,553,715	2,171,355	(617,639)
Emery	90.39	184,631	86,443	98,188	0	0	0
Garfield	33.77	17,136	21,477	(4,341)	1,120,057	1,403,797	(283,740)
Grand	57.57	144,384	106,143	38,241	85,660	62,972	22,688
Iron	32.76	115,716	149,483	(33,767)	126,651	163,609	(36,958)
Juab	41.21	100,240	102,943	(2,703)	0	0	0
Kane	66.51	12,711	8,087	4,624	261,402	166,318	95,085
Millard	57.43	119,477	88,043	31,435	1,145,039	843,776	301,263
Morgan	67.32	21,065	13,242	7,823	0	0	0
Piute	28.00	0	0	0	0	0	0
Rich	90.67	27,227	12,709	14,518	0	0	0
Salt Lake	49.33	2,874,688	2,465,961	408,727	0	0	0
San Juan	41.15	53,777	55,308	(1,531)	983,250	1,011,236	(27,986)
Sanpete	50.24	70,128	59,070	11,058	27,131	22,853	4,278
Sevier	37.33	168,217	190,690	(22,473)	849,353	962,822	(113,469)
Summit	40.61	50,663	52,790	(2,127)	231,016	240,716	(9,700)
Tooele	46.10	208,771	191,638	17,133	0	0	0
Uintah	65.21	184,142	119,503	64,639	629,479	408,515	220,964
Utah	45.58	1,646,691	1,528,806	117,885	0	0	0
Wasatch	20.50	59,622	123,058	(63,436)	389,170	803,234	(414,063)
Washington	38.77	32,810	35,815	(3,005)	2,549,022	2,782,498	(233,476)
Wayne	28.00	196	296	(100)	0	0	0
Weber	34.49	1,614,031	1,980,335	(366,304)	1,568,215	1,924,121	(355,906)
Total Expense		10,161,184	9,644,182	517,002	16,444,396	18,302,850	(1,858,454)

This comparison can be misleading, since actual Jail Reimbursement bed days have been increasing over the last several years and has had a sharp increase just in the last few months.

There are several possible reasons including a shift to more local court control of offenders and better recording and reporting of qualifying bed days and expenses.

If the Legislature would use each county's core rate, Table 11 would seem to reveal potential statewide savings in Jail Contracting. The savings from Jail Contracting would be offset by a relatively small increase of costs for Jail Reimbursement. There are some mitigating factors that must be considered which may preclude using the multiple rates.

- Most of the counties that benefit most from the use of the "state core rate" do so through jail contracting. Most of those counties do not benefit as much through the jail reimbursement since only 70 percent of the core rate is the maximum that can be paid. They also tend to get less qualifying Jail Reimbursement bed days.
- Those counties that benefit the most also provide the most contracted beds to the State. These contracted beds make up over 20 percent of the entire State bed space for offenders. This economic benefit may be a motivating factor to encourage these counties to build and provide bed space to the State.
- Many of the counties that provide the most contracted beds have a significant debt service requirement that must be met. Changing the parameters of the program could create financial difficulties for some counties.
- Jail Reimbursement days are growing fastest in counties with county core rates already higher than the current State approved core rate. This means that over time any financial savings could be reduced and potentially reversed through the Jail Reimbursement budget.

Core Rate Findings and Recommendations

Findings

- The core rate is developed with data over a year old and submitted more than six months before the year in which it will be implemented.
- The Inmate Placement Program verifies data submitted by counties.
- When a single rate is used to pay all counties, there are some counties that benefit more than others.

Recommendation

- The Legislature should consider statutory changes to funding the core rate and jail reimbursement based on the results of the audit by the Legislative Auditor General.

Executive Offices and Criminal Justice (EOCJ) Appropriations Subcommittee

The EOCJ Subcommittee held two public hearings related to jail contracting, jail reimbursement and the core rate. Testimony was taken from representatives of the Utah Department of Corrections, the Board of Pardons, the Utah Sheriff's Association, the Utah Association of Counties, County Commissioners, the courts and the general public.

Topics of discussion included the definition of State prisoners, why the State is paying to house people in county jails, the history of the jail reimbursement program and an in-depth look at the core rate.

The recommendations of the EOCJ Appropriation Subcommittee are:

- The Legislature should be aware that it is appropriate for the State to pay Jail Reimbursement, based on the definition of a State prisoner and current statute;
- The Legislature should add indirect costs, including building depreciation into the qualified categories for core rate calculations;
- The UDC should formally notify the Legislature when estimates of jail reimbursement days change;
- The Legislature should verify through the Department of Corrections that the bills submitted by the counties are legitimate expenses for reimbursement; (This is being investigated by the Legislative Auditor General.)
- The Department of Corrections should request 110 percent of the estimate for jail reimbursement days resulting in sufficient funding to meet the 70 percent statutory funding level.
- Since the Legislature has not funded medical and transportation expenses for Jail Reimbursement inmates, the Legislature should remove the section of the Jail Reimbursement code that allows extra money to be used for transportation and medical expenses for jail reimbursement inmates.

An Audit by the Legislative Auditor General

The Office of the Legislative Auditor General has been asked by Legislative leadership to audit the Jail Reimbursement program. The legislative auditors are currently in the process of reviewing a sample of several counties' jail reimbursement billings and evaluating the accuracy of these billings which are submitted to the Utah Department of Corrections for payment by the state.

The auditors are also reviewing the jail reimbursement cost methodology and policies regarding both the calculation of jail days and the reimbursement core rate in order to determine if they are fair and reasonable. The auditors are comparing Utah's program to jail reimbursement rates paid in other states and rates paid by the federal government. It is anticipated that the audit will be released in January 2006.

Appendix A

Appendix A is for informational purposes showing the agency jurisdiction and the funding flow through those organizations involved with a felony offense.

Appendix A: Felony Offense Process and Jurisdiction Flowchart

<u>Commission of a Felony</u>			
<u>Activity</u>	<u>jurisdiction</u>	<u>agency</u>	<u>funding</u>
Apprehension	city/county, unincorporated county, state, federal	Local, State Law Enforcement and UDC	city, county, state or federal
Pre-sentence confinement	County/State	County Sheriff State Diagnostic Unit	County/State
Prosecution	County/State	Local DA/State AG	county or state
Defense	County	County Contract Provider	County
Court and Adjudication	State	State District Court	State
Assessment & PSI	State	State AP&P	State
Sentencing	State	State District Court	State
* Fine Revenue	State	State District Court	To: 50/50 county and state or entirely state
* Community Service	County/State	Local or state AP&P	County/State
* Probation	County/State	County and State AP&P	County/State
* Jail as condition of Probation	County/State	County	County=>30% State 70%
Prison	State	UDC	State
Parole Hearing	State	BOPP	State
Parole	State	BOPP & State AP&P	State
Reporting after sentence/Sex Offender	State	AP&P	State