

**COUNTY CORRECTIONAL FACILITIES  
FUNDING AMENDMENTS**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael E. Noel**

Senate Sponsor: Jon J. Greiner

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**LONG TITLE**

**General Description:**

This bill amends provisions related to payment and reimbursement to county correctional facilities for housing state inmates.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ provides that the compensation rate for housing state inmates pursuant to a contract is 70% of the average state daily incarceration rate;
- ▶ requires the Department of Corrections to reimburse a county that houses a state probationary inmate or a state parole inmate at a rate of 50% of the state daily incarceration rate;
- ▶ removes provisions relating to the review and modification of the daily incarceration rate by the Legislature;
- ▶ removes certain provisions relating to payment or reimbursement funds; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **64-13e-102**, as last amended by Laws of Utah 2008, Chapter 188

31 **64-13e-103**, as last amended by Laws of Utah 2008, Chapter 188

32 **64-13e-104**, as last amended by Laws of Utah 2008, Chapter 188

33 **64-13e-105**, as last amended by Laws of Utah 2008, Chapter 188

34 **64-13e-106**, as last amended by Laws of Utah 2008, Chapter 188



36 *Be it enacted by the Legislature of the state of Utah:*

37 Section 1. Section **64-13e-102** is amended to read:

38 **64-13e-102. Definitions.**

39 As used in this chapter:

40 ~~[(1) "Actual state daily incarceration rate" means the daily incarceration rate that~~  
41 ~~reflects the actual expenses of the department, including:]~~

42 ~~[(a) executive overhead;]~~

43 ~~[(b) administrative overhead;]~~

44 ~~[(c) transportation overhead;]~~

45 ~~[(d) division overhead;]~~

46 ~~[(e) motor pool expenses;]~~

47 ~~[(f) medical expenses;]~~

48 ~~[(g) mental health expenses;]~~

49 ~~[(h) dental expenses; and]~~

50 ~~[(i) straight line capital depreciation, over a 40-year period, for prison facilities of the~~  
51 ~~department.]~~

52 (1) "Average state daily incarceration rate" means the average calculated by the  
53 department under Section 64-13e-105.

54 (2) "Department" means the Department of Corrections.

55 (3) ~~["Final state"]~~ "State daily incarceration rate" means the daily incarceration rate[;  
56 reviewed and discussed under Subsection 64-13e-105(2), and approved by the Legislature  
57 under Subsection 64-13e-105(3);] that reflects the actual daily expenses of the department per  
58 state inmate, including:

- 59           (a) executive overhead;
- 60           (b) administrative overhead;
- 61           (c) transportation overhead;
- 62           (d) division overhead;
- 63           (e) motor pool expenses;
- 64           (f) medical expenses;
- 65           (g) mental health expenses;
- 66           (h) dental expenses; and
- 67           (i) straight line capital depreciation, over a 40-year period, for prison facilities of the
- 68 department.

69           (4) "State inmate" means a person, other than a state probationary inmate or state

70 parole inmate, who is committed to the custody of the department.

71           (5) "State parole inmate" means a person who is:

72           (a) on parole, as defined in Section 77-27-1; and

73           (b) housed in a county jail for a reason related to the person's parole.

74           (6) "State probationary inmate" means felony probationers sentenced to time in a

75 county jail under Subsection 77-18-1(8).

76           Section 2. Section **64-13e-103** is amended to read:

77           **64-13e-103. Contracts for housing state inmates.**

78           (1) Subject to Subsection (6), the department may contract with a county to house state

79 inmates in a county or other correctional facility.

80           (2) The department shall give preference for placement of state inmates, over private

81 entities, to county correctional facility bed spaces for which the department has contracted

82 under Subsection (1).

83           (3) The compensation rate for housing state inmates pursuant to a contract described in

84 Subsection (1) shall be 70% of the ~~final~~ average state daily incarceration rate.

85           (4) Compensation to a county for state inmates incarcerated under this section shall be

86 made by the department.

87           (5) Counties that contract with the department under Subsection (1) shall, on or before

88 June 30 of each year, submit a report to the department that includes:

89           (a) the number of state inmates the county housed under this section; and

90 (b) the total number of state inmate days of incarceration that were provided by the  
91 county.

92 (6) Except as provided under Subsection (7), the department may not enter into a  
93 contract described under Subsection (1), unless the Legislature has previously passed a joint  
94 resolution that includes the following information regarding the proposed contract:

- 95 (a) the approximate number of beds to be contracted;
- 96 (b) the ~~[final]~~ average state daily incarceration rate;
- 97 (c) the approximate amount of the county's long-term debt; and
- 98 (d) the repayment time of the debt for the facility where the inmates are to be housed.

99 (7) The department may enter into a contract with a county government to house  
100 inmates without complying with the approval process described in Subsection (6) only if the  
101 county facility was under construction, or already in existence, on March 16, 2001.

102 (8) Any resolution passed by the Legislature under Subsection (6) does not bind or  
103 obligate the Legislature or the department regarding the proposed contract.

104 Section 3. Section ~~64-13e-104~~ is amended to read:

105 **64-13e-104. Housing of state probationary inmates or state parole inmates --**  
106 **Reimbursement.**

107 (1) (a) A county shall accept and house a state probationary inmate or a state parole  
108 inmate in a county correctional facility, subject to available resources.

109 (b) If a county is unable to accept a person due to lack of resources, the county shall  
110 negotiate with another county to accept and house the person.

111 (2) ~~[Within funds appropriated by the Legislature for this purpose, the]~~ The department  
112 shall reimburse a county that houses a state probationary inmate or a state parole inmate at a  
113 rate of ~~[42.1%]~~ 50% of the ~~[final]~~ average state daily incarceration rate.

- 114 ~~[(3) Funds appropriated by the Legislature under Subsection (2):]~~
- 115 ~~[(a) are nonlapsing;]~~
- 116 ~~[(b) may only be used for the purposes described in Subsection (2); and]~~
- 117 ~~[(c) may not be used for:]~~
- 118 ~~[(i) the costs of administering the reimbursement described in this section; or]~~
- 119 ~~[(ii) payment of contract costs under Section 64-13e-103:]~~
- 120 ~~[(4) The costs described in Subsection (3)(c)(i) shall be covered by legislative~~

121 ~~appropriation.]~~

122 ~~[(5)]~~ (3) (a) The director of the department shall administer the reimbursement  
123 described in this section.

124 (b) The department shall by rule establish procedures for the distribution of  
125 reimbursement described in this section.

126 ~~[(6)]~~ (4) Counties that receive the reimbursement described in this section shall, on or  
127 before July 31 of each year, submit a report to the department, for the preceding fiscal year, that  
128 includes:

129 (a) the number of state probationary inmates and state parole inmates the county  
130 housed under this section; and

131 (b) the total number of state probationary inmate days of incarceration and state parole  
132 inmate days of incarceration that were provided by the county.

133 Section 4. Section **64-13e-105** is amended to read:

134 **64-13e-105. Calculation of the average state daily incarceration rate -- Discussion**  
135 **of rate.**

136 (1) (a) Before September 1 of each year, the department shall calculate, and inform the  
137 counties of, the average [~~actual~~] state daily incarceration rate for the most recent three years for  
138 which the data is available.

139 (b) The [~~actual~~] state daily incarceration rates used to calculate the average rate  
140 described in Subsection (1)(a) may not be less than the rates presented to the Executive  
141 Appropriations Committee of the Legislature for purposes of setting the appropriation for the  
142 department's budget.

143 (2) Before October 1 of each year, the following parties shall meet to review and  
144 discuss the average [~~actual~~] state daily incarceration rate, described in Subsection (1):

145 (a) as designated by the Utah Sheriffs Association:

146 (i) one sheriff of a county that is currently under contract with the department to house  
147 state inmates; and

148 (ii) one sheriff of a county that is currently receiving reimbursement from the  
149 department for housing state probationary inmates or state parole inmates;

150 (b) the executive director of the department or the executive director's designee;

151 (c) as designated by the Utah Association of Counties;

152 (i) one member of the legislative body of one county that is currently under contract  
153 with the department to house state inmates; and

154 (ii) one member of the legislative body of one county that is currently receiving  
155 reimbursement from the department for housing state probationary inmates or state parole  
156 inmates;

157 (d) the executive director of the Commission on Criminal and Juvenile Justice or the  
158 executive director's designee; and

159 (e) the director of the Governor's Office of Planning and Budget or the director's  
160 designee.

161 ~~[(3) (a) The average actual state daily incarceration rate, reviewed and discussed under  
162 Subsection (2), may not be used for purposes of calculating payment or reimbursement under  
163 this chapter, unless approved by the Legislature in the annual appropriations act.]~~

164 ~~[(b) Nothing in this chapter prohibits the Legislature from setting the final state daily  
165 incarceration rate at an amount higher or lower than:]~~

166 ~~[(i) the average actual state incarceration rate; or]~~

167 ~~[(ii) the final state daily incarceration rate that was used during the preceding fiscal  
168 year.]~~

169 Section 5. Section **64-13e-106** is amended to read:

170 **64-13e-106. Report to Legislature.**

171 On or before September 1 of each year, the department shall provide to the Law  
172 Enforcement and Criminal Justice Interim Committee of the Legislature a report regarding  
173 housing of state inmates, state parole inmates, and state probationary inmates under this  
174 chapter, including:

175 (1) the ~~[final]~~ average state daily incarceration rate established under this chapter;

176 (2) the rates described in Subsections 64-13e-103(3) and 64-13e-104(2);

177 (3) participating counties;

178 (4) the number of state inmates housed by each county;

179 (5) the number of state parole inmates housed by each county; and

180 (6) the number of state probationary inmates housed by each county.

**Legislative Review Note**  
as of 12-1-08 1:43 PM

**Office of Legislative Research and General Counsel**

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**H.B. 221 - County Correctional Facilities Funding Amendments**

**Fiscal Note**

2009 General Session

State of Utah

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**State Impact**

Enactment of this bill will require General Fund appropriations of \$14,904,000 in FY 2010 and \$16,656,300 in FY 2011 to the Utah Department of Corrections for increased Jail Reimbursement and Jail Contracting program costs. Beyond FY 2011, additional required ongoing General Fund appropriations will likely increase by approximately \$1,850,000 per year.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
General Fund	\$0	\$16,656,800	\$16,656,800	\$0	\$0	\$0
General Fund, One-Time	\$0	(\$1,752,300)	\$0	\$0	\$0	\$0
<b>Total</b>	<b>\$0</b>	<b>\$14,904,500</b>	<b>\$16,656,800</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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**Individual, Business and/or Local Impact**

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