

INDIGENT INMATE TRUST FUND

AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kay L. McIff

Senate Sponsor: Ralph Okerlund

LONG TITLE

General Description:

This bill caps the Indigent Inmate Trust Fund at \$1,000,000 and provides that counties contributing to the fund may discontinue contributions until such time as the fund drops below the \$1,000,000 cap.

Highlighted Provisions:

This bill:

- ▶ caps the Indigent Inmate Trust Fund at \$1,000,000;
- ▶ requires the Division of Finance to notify contributing counties when the balance in the fund is approaching \$1,000,000;
- ▶ allows contributing counties to discontinue contributions if the fund reaches \$1,000,000;
- ▶ provides that upon notification by the Division of Finance that the fund balance has dropped below \$1,000,000, the counties will begin contributing again; and
- ▶ allows the counties to use excess funds for indigent defense.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



28 AMENDS:

29 77-32-501, as last amended by Laws of Utah 2000, Chapter 318

30 77-32-502, as last amended by Laws of Utah 2002, Chapter 256

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

33 Section 1. Section 77-32-501 is amended to read:

34 **77-32-501. Contracts for defense of indigent inmates -- Qualifications --**
35 **Prosecutorial duties.**

36 (1) The board shall enter into contracts with qualified legal defense counsel to provide
37 defense counsel services for an indigent inmate who is incarcerated in a state prison located in
38 a county of the third, fourth, fifth, or sixth class as defined in Section 17-50-501, is charged
39 with having committed a crime within that facility, and will require defense counsel.

40 (2) Payment for the representation, costs, and expenses of legal defense counsel shall
41 be made from the Indigent Inmate Trust Fund as provided in Section 77-32-502.

42 (3) The defense counsel shall maintain the minimum qualifications as provided in
43 Section 77-32-301.

44 (4) The county attorney or district attorney of a county of the third, fourth, fifth, or
45 sixth class shall function as the prosecuting entity.

46 (5) (a) The county of the third, fourth, fifth, or sixth class where a state prison is
47 located may impose an additional tax levy by ordinance at .0001 per dollar of taxable value in
48 the county.

49 (b) If the county governing body imposes the additional tax levy by ordinance, the
50 money shall be deposited in the Indigent Inmate Trust Fund as provided in Section 77-32-502
51 to fund the purposes of this section.

52 (c) Upon notification that the fund has reached the amount specified in Subsection
53 77-32-502(6), the county shall deposit monies derived from the levy into a county account used
54 exclusively to provide defense counsel and defense related services for indigent defendants.

55 [~~(c)~~] (d) A county that chooses not to impose the additional levy by ordinance may not
56 receive any benefit from the Indigent Inmate Trust fund.

57 Section 2. Section 77-32-502 is amended to read:

58 **77-32-502. Indigent Inmate Trust Fund -- Creation.**

59 (1) There is created a private-purpose trust fund known as the "Indigent Inmate Trust
60 Fund" to be disbursed by the Division of Finance at the direction of the board and in
61 accordance with contracts made under Section 77-32-402.

62 (2) Monies deposited in this trust fund only shall be used:

63 (a) to pay for the representation, costs, and expenses of legal defense counsel for an
64 indigent inmate in a state prison located in a county of the third, fourth, fifth, or sixth class as
65 defined in Section 17-50-501 who is charged with having committed a crime within the
66 facility, and who will require defense counsel; and

67 (b) for administrative costs pursuant to Section 77-32-401.

68 (3) The trust fund consists of:

69 (a) proceeds received from counties that impose the additional tax levy by ordinance
70 under Subsection 77-32-501(5) which shall be the total county obligation for payment of costs
71 listed in Subsection (2) for defense of indigent inmates;

72 (b) appropriations made to the fund by the Legislature; and

73 (c) interest and earnings from the investment of fund monies.

74 (4) Fund monies shall be invested by the state treasurer with the earnings and interest
75 accruing to the fund.

76 (5) In any calendar year in which the fund runs a deficit, or is projected to run a deficit,
77 the board shall request a supplemental appropriation from the Legislature in the following
78 general session to pay for the deficit. The state shall pay any or all of the reasonable and
79 necessary monies for the deficit into the Indigent Inmate Trust Fund.

80 [~~(6) Notwithstanding Subsection (1), any fund balance in excess of \$1,000,000~~
81 ~~remaining in the trust fund as of June 30 of any fiscal year shall be transferred to the General~~
82 ~~Fund.]~~

83 (6) The fund shall be capped at \$1,000,000.

84 (7) The Division of Finance shall notify all contributing counties when the fund
85 approaches \$1,000,000 and provide each county with the amount of the balance in the fund.

86 (8) Upon notification by the Division of Finance that the fund is near the limit imposed
87 in Subsection (6), the counties may contribute enough monies to enable the fund to reach
88 \$1,000,000 and discontinue contributions until notified by the Division of Finance that the
89 balance has fallen below \$1,000,000, at which time counties that meet the requirements of

90 Section 77-32-501 shall resume contributions.

Legislative Review Note
as of **2-11-09 10:31 AM**

Office of Legislative Research and General Counsel