

## History of Jail Reimbursement

### 1980

The entire criminal code was repealed and reenacted. As part of this revision the courts were given the authority as a condition of probation to have an offender serve time in a county jail not to exceed one year.

### March 1980

A Jail Issue Committee was formed. No documentation on who served but the State Budget Director James Kee had representation from his office. The general conclusion of the committee was that the state had no overall policy as it related to jails or the jail population. Mental Health, Alcoholism Drugs, Youth Corrections, and Adult Corrections all experience problems relating to the jail, but there is no coordinated effort among these agencies to solve the problem. One of the key concerns was the need for jail standards. At this time there were voluntary standards which had been adopted by the Sheriffs' Association and the Utah Association of Counties. The standards which were developed were funded by a federal grant.

The main problems with the Utah jail system stem from inadequate facilities and overcrowding. Six options were proposed by the study committee.

#### Option 1

**The state provides grants to counties for improving facilities.** This was part of the reason for passing the "Community Corrections Act". The state could give grants to counties to improve facilities if they were meeting or working toward improving facilities.

#### Option 2

**The state pays counties for keeping state prisoners.** The state pays counties a per diem for "state prisoners" held in jails. Conditioned on jail meeting standards or determined by what percent of standards the jail meets, then paid that portion of a maximum per diem.

#### Option 3

**The state pays counties for keeping prison inmates.** The prison was paying jails to hold inmates. The prison did not require those jails to meet state standards.

#### Option 4

**The State assumes complete responsibility for all jails.**

#### Option 5

**The State should develop a funding formula for jails.**

#### Option 6

**The State should develop programs to alleviate overcrowding problems.**

All of the options were discussed but no decisions were made concerning them.

## **1982 Legislative Session**

HB 32, *County Jail Incarceration as a Condition of Probation*, sponsored by then Representative Olene Walker provided that the State of Utah “ shall reimburse any county for the actual costs of incarceration of a convicted felon sentenced to serve in a county jail as a condition of probation.” A fiscal note of \$777,800 was attached to this bill which was to take effect July 1, 1983. Governor Matheson signed this bill into law but with the understanding that a task force would be formed to review the bill and propose any refinements that might be needed in order to implement the new law.

Before the next session a task force was formed which included representation from state and local government including the Division of Corrections, the Utah Association of Counties, and the Legislature. Representative Olene Walker was part of the task force. The results of the task force are detailed below.

### **Clearly define those clients for which the state would be responsible for reimbursement.**

- A. Convicted felons sentenced to serve in county jails as a condition of probation.
- B. Same as (A) plus probationers and parolees under supervision of Adult Probation and Parole.
- C. Same as (A), plus class A misdemeanants
- D. Same as (A), plus convicted felons detained or serving time in jail prior to sentencing.
- E. Convicted felons and all misdemeanants serving in county jails.

### **Recommended**

Option (B). Need to amend bill.

### **Determine how the program will be administered and by whom.**

The options considered were the Division of Finance and the Division of Corrections.

### **Recommended**

The Division of Corrections.

### **Specifically define how cost reimbursement amounts will be determined and to amend the bill to limit state reimbursement to the amount appropriated by the legislature.**

- A. Actual cost as determined by sheriff with no guidelines.
- B. Actual cost as determined by federal marshal reimbursement formula.
- C. Direct cost as determined by federal marshal reimbursement formula.
- D. Allow the Division of Corrections to develop their own reimbursement formula and

to contract with individual jails.

**Recommended**

Option (D) selected plus recommended that statutory language be included to limit claims for state reimbursement to amount appropriated by the legislature.

**Develop an accurate fiscal assessment of costs.**

Various assessments were made.

**Develop a policy of Minimum Jail Standards.**

Issue was not pursued.

**1983 Legislative Session**

HB 50, *Cost of County Jail Reimbursement*, sponsored by Representative Walker, amended the statute to allow the Board of Corrections to define the actual costs of incarceration and provide a formula for reimbursement. The bill also provided that the reimbursement may not exceed the funds appropriated by the legislature for that purpose in any fiscal year.

During the 1983 session the legislation was also enacted which changed the Division of Corrections to the Department of Corrections (DOC) as an autonomous agency.

**1988 Legislative Session**

HB 60, *State Reimbursement of County Jail Expenditures*, sponsored by then Representative G. Lamont Richards, abolished jail reimbursement effective July 1, 1990. In addition, the legislation authorized the Commission on Criminal and Juvenile Justice (CCJJ) to conduct a study of management issues involving jails operated by local government. This study was to include an analysis of the demand for bed space resulting from pre-conviction and post-conviction bed needs of local, state, and federal government entities. The study was also to include a review of current jail use for inmates committed as a condition of probation or inmates placed by contract in jails for management purposes.

The Commission organized a task force to examine the issue. The task force had representation from state and local government as well as the judiciary and the legislature. Then Senators Kay Cornaby and Eldon Money served. The chair of CCJJ at the time, Olene Walker, also served on the task force. As a part of the study, jail data was collected for each county for the years 1984-1988. The task force issues and their recommendations follow.

**Responsibility for the Establishment and Management of Local Jails**

The governing body of each county has the authority to establish county jails. The responsibility for managing county jails rests with the county sheriff. The governing body with the consent of the sheriff may contract with private contractors for the operation of the jail. In addition, the governing body of a city or town may establish and manage jails for the confinement of persons convicted of violating any city ordinance and may use county jails with the consent of the county governing body for the confinement of prisoners. The governing body of the city or town may also contract with private contractors for the establishment/management of city jails.

**CCJJ Recommended**

1. The county governing body should be responsible for the establishment of local jails.
2. The county sheriff should be responsible for the management of local jails.
3. The county jail should be used for the incarceration of any person held on a misdemeanor charge.
4. Cities or towns should be allowed to only establish and manage temporary holding facilities (up to 72 hours).

**Housing for Felons Incarcerated as a Condition of Probation**

In 1988, there were 263 felons housed as a condition of probation. The cost to the jails was \$38 a day.

**CCJJ Recommended**

5. Authority of the courts to place condition of probation felons in county jails be removed.
6. Courts be given authority to place condition of probation felons under the custody of the Department of Corrections.
7. The Department of Corrections should have the housing and financial responsibility for felons incarcerated as a condition of probation. The Department of Corrections should be allowed to contract with the counties, subject to the counties consent, for the incarceration of condition of probation felons (as they do with other inmates).
9. That when the Department of Corrections contracts with a county for the housing of DOC inmates, that such contracts be based on available bed space and insure that DOC inmates do not displace local inmates.
10. That when the Department of Corrections contracts with a county for housing of condition of probation felons, that DOC preferably incarcerate such inmates in a correctional facility of the county in which they were sentenced.

**Reimbursement Rates for Inmates Placed By Contract**

A survey of the costs for housing prisoners in jails was conducted by CCJJ. The average daily cost of housing a county jail inmate was \$38.49. The average daily rate was \$34.31 in urban jails and \$51.22 in rural counties.

**CCJJ Recommended**

11. The Department of Corrections should reimburse counties for the cost of incarcerating DOC inmates.

12. The reimbursement rates be calculated on a per inmate day basis. Incarceration costs may be negotiated, but such negotiations shall take into account the actual costs of incarceration as determined by a uniform state average.

13. The Department of Corrections should annually compute and publish a uniform state average cost of incarceration based on the total annual direct costs (including personnel, contract services and miscellaneous costs) and indirect costs (including non-sheriff's office expenditures as accounting, data processing, legal representation, purchasing, county personnel, finance, and fire insurance).

### **City Misdemeanant Inmates**

14. Counties should be responsible for all costs of incarcerating all misdemeanant inmates, including inmates confined for violating a city ordinance.

### **Funding for Jails**

Expenses incurred in housing inmates in county jails come from the county treasury. The main source of revenue for counties comes from the property tax. The limit established in statute for taxing is .0032 per dollar of taxable value in all counties with a total taxable value of more than \$100,000, and .0036 per dollar of taxable value in all counties with a total taxable value of less than \$100,000.

### **CCJJ Recommended**

That all counties have a maximum taxable limit of .0036 of taxable value.

### **Fiscal Impact of Recommendations**

If the recommendations were implemented by housing all condition of probation inmates at the prison, then the estimated cost to the state was calculated at \$3,839,800. On the other hand, if the state would contract with county jails for condition of probation inmates, the estimated cost was calculated at \$3, 699,062.

### **1993 Legislative Session**

HB 162, *Jail Reimbursement to Counties*, sponsored by Representative Christine R. Fox, implemented jail reimbursement effective July 1, 1993. The legislation provided an initial appropriation of \$250,000. The legislation defined the jail reimbursement rate to be 80 percent of the daily state inmate cost. HB 162 directed the Department of Corrections to request an appropriation each year beginning with 40 percent of the cost in Fiscal Year 1994-95 and reaching 100 percent in fiscal year 1997-98. The governor was directed to include an amount in the budget for jail reimbursement. Language in HB 162 also limits appropriations to the extent that the legislature appropriates monies for this purpose. The Fiscal Year 1998-99 budget for jail reimbursement is \$7,428,200 or approximately \$2.3 million short of the estimated total cost of jail reimbursement.