

1 **STATE PAYMENT AND REIMBURSEMENT TO**
2 **COUNTY CORRECTIONAL FACILITIES**

3 2008 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Michael E. Noel**

6 Senate Sponsor: Jon J. Greiner

8 **LONG TITLE**

9 **General Description:**

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

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ defines terms;
- 15 ▶ modifies the formula for calculating the final state daily incarceration rate;
- 16 ▶ reduces the percentage of the final state daily incarceration rate that is paid to a
17 county as reimbursement for housing a state probationary inmate or a state parole
18 inmate; and
- 19 ▶ makes technical changes.

20 **Monies Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **64-13e-102**, as enacted by Laws of Utah 2007, Chapter 353

27 **64-13e-103**, as enacted by Laws of Utah 2007, Chapter 353

28 **64-13e-104**, as enacted by Laws of Utah 2007, Chapter 353

29 **64-13e-105**, as enacted by Laws of Utah 2007, Chapter 353

30 64-13e-106, as enacted by Laws of Utah 2007, Chapter 353



31
32 *Be it enacted by the Legislature of the state of Utah:*

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

34 **64-13e-102. Definitions.**

35 As used in this chapter:

36 (1) "Actual state daily incarceration rate" means the daily incarceration rate that reflects

37 the actual expenses of the department, including:

38 (a) executive overhead;

39 (b) administrative overhead;

40 (c) transportation overhead;

41 (d) division overhead;

42 (e) motor pool expenses;

43 (f) medical expenses;

44 (g) mental health expenses;

45 (h) dental expenses; and

46 (i) straight line capital depreciation, over a 40-year period, for prison facilities of the
47 department.

48 [(1)] (2) "Department" means the Department of Corrections.

49 [(2)] (3) "[State] Final state daily incarceration rate" means the [final state] daily
50 incarceration rate, [rounded down to the nearest half-dollar,] reviewed and discussed under
51 Subsection 64-13e-105(2), and approved by the Legislature under Subsection 64-13e-105(3);
52 ~~that reflects the expenses of the department, including:].~~

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

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

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

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

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

58 ~~[(f) medical expenses;]~~
59 ~~[(g) mental health expenses;]~~
60 ~~[(h) dental expenses; and]~~
61 ~~[(i) straight line capital depreciation, over a 40-year period, for prison facilities of the~~
62 ~~department.]~~

63 ~~[(3)]~~ (4) "State inmate" means a person, other than a probationary inmate or state
64 parole inmate, who is committed to the custody of the department.

65 ~~[(4)]~~ (5) "State parole inmate" means a person who is:

- 66 (a) on parole, as defined in Section 77-27-1; and
- 67 (b) housed in a county jail for a reason related to the person's parole.

68 ~~[(5)]~~ (6) "State probationary inmate" means felony probationers sentenced to time in a
69 county jail under Subsection 77-18-1(8).

70 Section 2. Section ~~64-13e-103~~ is amended to read:

71 **~~64-13e-103. Contracts for housing state inmates.~~**

72 (1) Subject to Subsection (6), the department may contract with a county to house state
73 inmates in a county or other correctional facility.

74 (2) The department shall give preference for placement of state inmates, over private
75 entities, to county correctional facility bed spaces for which the department has contracted
76 under Subsection (1).

77 (3) The compensation rate for housing state inmates pursuant to a contract described in
78 Subsection (1) shall be 70% of the final state daily incarceration rate.

79 (4) Compensation to a county for state inmates incarcerated under this section shall be
80 made by the department.

81 (5) Counties that contract with the department under Subsection (1) shall, on or before
82 June 30 of each year, submit a report to the department that includes:

- 83 (a) the number of state inmates the county housed under this section; and
- 84 (b) the total number of state inmate days of incarceration that were provided by the
85 county.

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

- 89 (a) the approximate number of beds to be contracted;
- 90 (b) the final state daily incarceration rate;
- 91 (c) the approximate amount of the county's long-term debt; and
- 92 (d) the repayment time of the debt for the facility where the inmates are to be housed.

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

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

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

99 **64-13e-104. Housing of state probationary inmates or state parole inmates --**

100 **Reimbursement.**

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

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

105 (2) Within funds appropriated by the Legislature for this purpose, the department shall
106 reimburse a county that houses a state probationary inmate or a state parole inmate at a rate of
107 [~~50%~~ 42.1% of the final state daily incarceration rate.

108 (3) Funds appropriated by the Legislature under Subsection (2):

- 109 (a) are nonlapsing;
- 110 (b) may only be used for the purposes described in Subsection (2); and
- 111 (c) may not be used for:
 - 112 (i) the costs of administering the reimbursement described in this section; or
 - 113 (ii) payment of contract costs under Section 64-13e-103.

114 (4) The costs described in Subsection (3)(c)(i) shall be covered by legislative
115 appropriation.

116 (5) (a) The director of the department shall administer the reimbursement described in
117 this section.

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

120 (6) Counties that receive the reimbursement described in this section shall, on or before
121 July 31 of each year, submit a report to the department, for the preceding fiscal year, that
122 includes:

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

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

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

128 **64-13e-105. Procedures for setting the final state daily incarceration rate.**

129 [~~(1)(a) Before September 1 of each year, the department shall inform the counties of~~
130 ~~the department's proposed state daily incarceration rate for the fiscal year beginning on July 1 of~~
131 ~~the following year.]~~

132 (1) (a) Before September 1 of each year, the department shall calculate, and inform the
133 counties of, the average actual state daily incarceration rate for the most recent three years for
134 which the data is available.

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

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

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

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

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

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

147 (c) as designated by the Utah Association of Counties:

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

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

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

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

157 (3) (a) The average actual state daily incarceration rate, reviewed and discussed under
158 Subsection (2), may not be ~~implemented until~~ used for purposes of calculating payment or
159 reimbursement under this chapter, unless approved by the Legislature in the annual
160 appropriations act.

161 (b) Nothing in this chapter prohibits the Legislature from setting the final state daily
162 incarceration rate at an amount higher or lower than:

163 (i) the ~~[rate that is review and discussed under Subsection (2)]~~ average actual state
164 incarceration rate; or

165 (ii) the final state daily incarceration rate that was used during the preceding fiscal year.

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

167 **64-13e-106. Report to Legislature.**

168 On or before September 1 of each year, the department shall provide to the Law
169 Enforcement and Criminal Justice Interim Committee of the Legislature a report regarding

170 housing of state inmates, state parole inmates, and state probationary inmates under this
171 chapter, including:

- 172 (1) the final state daily incarceration rate established under this chapter;
- 173 (2) the rates described in Subsections 64-13e-103(3) and 64-13e-104(2);
- 174 (3) participating counties;
- 175 (4) the number of state inmates housed by each county;
- 176 (5) the number of state parole inmates housed by each county; and
- 177 (6) the number of state probationary inmates housed by each county.