

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; and
- 16 ▶ makes technical changes.

17 **Monies Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **64-13e-102**, as enacted by Laws of Utah 2007, Chapter 353

24 **64-13e-103**, as enacted by Laws of Utah 2007, Chapter 353

25 **64-13e-104**, as enacted by Laws of Utah 2007, Chapter 353

26 **64-13e-105**, as enacted by Laws of Utah 2007, Chapter 353

27 **64-13e-106**, as enacted by Laws of Utah 2007, Chapter 353



28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58

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

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

64-13e-102. Definitions.

As used in this chapter:

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

- (a) executive overhead;
- (b) administrative overhead;
- (c) transportation overhead;
- (d) division overhead;
- (e) motor pool expenses;
- (f) medical expenses;
- (g) mental health expenses;
- (h) dental expenses; and
- (i) straight line capital depreciation, over a 40-year period, for prison facilities of the

department.

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

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

- ~~[(a) executive overhead;]~~
- ~~[(b) administrative overhead;]~~
- ~~[(c) transportation overhead;]~~
- ~~[(d) division overhead;]~~
- ~~[(e) motor pool expenses;]~~
- ~~[(f) medical expenses;]~~
- ~~[(g) mental health expenses;]~~
- ~~[(h) dental expenses; and]~~
- ~~[(i) straight line capital depreciation, over a 40-year period, for prison facilities of the~~

59 department.]

60 [~~(3)~~] (4) "State inmate" means a person, other than a probationary inmate or state
61 parole inmate, who is committed to the custody of the department.

62 [~~(4)~~] (5) "State parole inmate" means a person who is:

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

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

65 [~~(5)~~] (6) "State probationary inmate" means felony probationers sentenced to time in a
66 county jail under Subsection 77-18-1(8).

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

68 **64-13e-103. Contracts for housing state inmates.**

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

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

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

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

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

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

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

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

86 (a) the approximate number of beds to be contracted;

87 (b) the final state daily incarceration rate;

88 (c) the approximate amount of the county's long-term debt; and

89 (d) the repayment time of the debt for the facility where the inmates are to be housed.

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

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

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

96 **64-13e-104. Housing of state probationary inmates or state parole inmates --**
97 **Reimbursement.**

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

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

102 (2) Within funds appropriated by the Legislature for this purpose, the department shall
103 reimburse a county that houses a state probationary inmate or a state parole inmate at a rate of
104 50% of the final state daily incarceration rate.

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

106 (a) are nonlapsing;

107 (b) may only be used for the purposes described in Subsection (2); and

108 (c) may not be used for:

109 (i) the costs of administering the reimbursement described in this section; or

110 (ii) payment of contract costs under Section 64-13e-103.

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

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

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

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

120 (a) the number of state probationary inmates and state parole inmates the county

121 housed under this section; and

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

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

125 **64-13e-105. Procedures for setting the final state daily incarceration rate.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

164 **64-13e-106. Report to Legislature.**

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

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

Legislative Review Note
as of 1-13-08 8:21 AM

Office of Legislative Research and General Counsel

Fiscal Note**H.B. 282 - State Payment and Reimbursement to County Correctional
Facilities**

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations. Should the Legislature choose to fund the increase between the rate calculation required by this bill, and the current core rate, the increase would be \$1,993,600 for Jail Reimbursement and \$3,360,600 for Jail Contracting. Should the Legislature choose to fund the increase between the rate calculation required by this bill, and the FY 2009 base budget, the increase would be \$5,224,700 for Jail Reimbursement and \$6,871,200 for Jail Contracting.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments. Should the Legislature choose to fund
