

Representative Michael E. Noel proposes the following substitute bill:

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

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael E. Noel

Senate Sponsor: Jon J. Greiner

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;
- ▶ requires the Division of Finance to pay counties, for housing state probationary inmates or state parole inmates, at a rate of 50% of the final state daily incarceration rate;

- ▶ provides that, on at least a monthly basis, a county must submit a report to the Utah Commission on Criminal and Juvenile Justice regarding the housing of state probationary inmates or state parole inmates;

- ▶ grants rulemaking authority to the Utah Commission on Criminal and Juvenile Justice;

§→ ▶ provides that the Utah Commission on Criminal and Juvenile Justice shall adjust the amount to be paid to the counties for housing state probationary inmates or state parole inmates to ensure that the total amount of the payments made does not exceed the amount appropriated by the Legislature for the payments. ←§

- ▶ provides that the Division of Finance shall, on or before December 15 of each year, pay each county for housing state probationary inmates and state parole inmates, based on the number housed by each county during the state fiscal year that ended



26 on June 30 of the preceding calendar year;

27 ▶ provides for the distribution of information to, and the discussion of information by,
28 the counties regarding the "actual state daily incarceration rate" and the number of
29 state probationary inmates and state parole inmates housed by each county; and

30 ▶ makes technical changes.

31 **Monies Appropriated in this Bill:**

32 None

33 **Other Special Clauses:**

34 None

35 **Utah Code Sections Affected:**

36 AMENDS:

37 **64-13e-102**, as last amended by Laws of Utah 2008, Chapter 188

38 **64-13e-104**, as last amended by Laws of Utah 2008, Chapter 188

39 **64-13e-105**, as last amended by Laws of Utah 2008, Chapter 188



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

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

43 **64-13e-102. Definitions.**

44 As used in this chapter:

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

47 (a) executive overhead;

48 (b) administrative overhead;

49 (c) transportation overhead;

50 (d) division overhead;

51 (e) motor pool expenses;

52 (f) medical expenses;

53 (g) mental health expenses;

54 (h) dental expenses; and

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

57 (2) "CCJJ" means the Utah Commission on Criminal and Juvenile Justice, created in
58 Section 67M-7-201.

59 ~~(2)~~ (3) "Department" means the Department of Corrections.

60 (4) "Division of Finance" means the Division of Finance, created in Section
61 63A-3-101.

62 ~~(3)~~ (5) "Final state daily incarceration rate" means the average actual state daily
63 incarceration rate, calculated, reviewed, and discussed under [Subsection] Section
64 64-13e-105~~(2)~~, and approved by the Legislature under Subsection 64-13e-105(3).

65 ~~(4)~~ (6) "State inmate" means a person, other than a state probationary inmate or state
66 parole inmate, who is committed to the custody of the department.

67 ~~(5)~~ (7) "State parole inmate" means a person who is:

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

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

70 ~~(6)~~ (8) "State probationary inmate" means a felony [probationers] probationer
71 sentenced to time in a county jail under Subsection 77-18-1(8).

72 Section 2. Section **64-13e-104** is amended to read:

73 **64-13e-104. Housing of state probationary inmates or state parole inmates --**
74 **Payment.**

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

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

79 (2) Within funds appropriated by the Legislature for this purpose, the ~~[department]~~
80 Division of Finance shall ~~[reimburse]~~ pay a county that houses a state probationary inmate or a
81 state parole inmate at a rate of ~~[42.1%]~~ 50% of the final state daily incarceration rate.

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

83 (a) are nonlapsing;

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

85 (c) may not be used for:

86 (i) the costs of administering the ~~[reimbursement]~~ payment described in this section; or

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

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

90 (5) (a) The [~~director of the department~~] Division of Finance shall administer the
91 [reimbursement] payment described in [~~this section~~] Subsection (2).

92 (b) [~~The department~~] In accordance with Subsection (9), CCJJ shall, by rule made
93 pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish procedures
94 for the [distribution of reimbursement] calculation of the payment described in [~~this section~~]
95 Subsection (2).

95a **§→ (c) Notwithstanding any other provision of this section, CCJJ shall adjust the amount of**
95b **the payments described in Subsection (7)(b), on a pro rata basis, to ensure that the total**
95c **amount of the payments made does not exceed the amount appropriated by the Legislature for**
95d **the payments. ←§**

96 (6) Counties that receive the [reimbursement] payment described in [~~this section~~]
97 Subsection (2) shall, on [~~or before July 31 of each year~~] at least a monthly basis, submit a
98 report to [~~the department, for the preceding fiscal year,~~] CCJJ that includes:

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

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

103 (7) (a) On or before September 1 of each year, CCJJ shall compile the information
104 from the reports described in Subsection (6) that relate to the preceding state fiscal year and
105 provide a copy of the compilation to each county that submitted a report.

106 (b) On or before September 30 of each year, CCJJ shall inform the Division of Finance
107 and each county of the exact amount of the payment described in this section that shall be made
108 to each county.

109 (8) On or before December 15 of each year, the Division of Finance shall distribute the
110 payment described in Subsection (7)(b) in a single payment to each county.

111 (9) The amount paid to each county under Subsection (8) shall be calculated on a pro
112 rata basis, based on the number of state probationary inmate days of incarceration and state
113 parole inmate days of incarceration that were provided by each county for the preceding state
114 fiscal year.

115 Section 3. Section **64-13e-105** is amended to read:

116 **64-13e-105. Procedures for setting the final state daily incarceration rate.**

117 (1) (a) Before September 1 of each year, the department shall calculate, and inform the
118 counties and CCJJ of[;] the average actual state daily incarceration rate for the most recent

119 three years for which the data is available.

120 (b) The actual state daily incarceration rates used to calculate the average rate
121 described in Subsection (1)(a) may not be less than the rates presented to the Executive
122 Appropriations Committee of the Legislature for purposes of setting the appropriation for the
123 department's budget.

124 (2) Before [~~October 1~~] September 15 of each year, the following parties shall meet to
125 review and discuss the average actual state daily incarceration rate, described in Subsection (1)
126 and the compilation described in Subsection 64-13e-104(7):

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

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

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

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

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

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

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

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

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

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

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

148 (i) the average actual state incarceration rate; or

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

**Revised
Fiscal Note**

**H.B. 220 2nd Sub. (Gray) - State Payment and Reimbursement to County
Correctional Facilities**

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations. This bill maintains the provision that the State may spend "within funds appropriated by the Legislature" and therefore, it is not required to expend more than what is appropriated. Should the Legislature choose to fund the increase between the rate required by the bill and the current base budget, the increase will require General Fund appropriations of \$8,030,400 in FY 2010 and \$8,581,700 in FY 2011 to the Division of Finance for Jail Reimbursement payments to counties. Beyond FY 2011, additional required ongoing General Fund appropriations will likely increase by \$575,000 per year.

Individual, Business and/or Local Impact

Enactment of this bill, should the Legislature choose to fund the increase between the rate required by the bill and the current base budget, would directly benefit counties that participate in the Jail Reimbursement program with the state by the indicated amounts.
