

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

3 2009 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 ▶ requires the Division of Finance to pay counties, for housing state probationary
16 inmates or state parole inmates, at a rate of 50% of the final state daily
17 incarceration rate;
- 18 ▶ provides that, on at least a monthly basis, a county must submit a report to the Utah
19 Commission on Criminal and Juvenile Justice regarding the housing of state
20 probationary inmates or state parole inmates;
- 21 ▶ grants rulemaking authority to the Utah Commission on Criminal and Juvenile
22 Justice;
- 23 ▶ provides that the Utah Commission on Criminal and Juvenile Justice shall adjust
24 the amount to be paid to the counties for housing state probationary inmates or
25 state parole inmates to ensure that the total amount of the payments made does not
26 exceed the amount appropriated by the Legislature for the payments;
- 27 ▶ provides that the Division of Finance shall, on or before December 15 of each year,
28 pay each county for housing state probationary inmates and state parole inmates,
29 based on the number housed by each county during the state fiscal year that ended

30 on June 30 of the preceding calendar year;

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

34 ▶ makes technical changes.

35 **Monies Appropriated in this Bill:**

36 None

37 **Other Special Clauses:**

38 None

39 **Utah Code Sections Affected:**

40 AMENDS:

41 **64-13e-102**, as last amended by Laws of Utah 2008, Chapter 188

42 **64-13e-104**, as last amended by Laws of Utah 2008, Chapter 188

43 **64-13e-105**, as last amended by Laws of Utah 2008, Chapter 188



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

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

47 **64-13e-102. Definitions.**

48 As used in this chapter:

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

51 (a) executive overhead;

52 (b) administrative overhead;

53 (c) transportation overhead;

54 (d) division overhead;

55 (e) motor pool expenses;

56 (f) medical expenses;

57 (g) mental health expenses;

58 (h) dental expenses; and
59 (i) straight line capital depreciation, over a 40-year period, for prison facilities of the
60 department.

61 (2) "CCJJ" means the Utah Commission on Criminal and Juvenile Justice, created in
62 Section 63M-7-201.

63 [~~2~~] (3) "Department" means the Department of Corrections.

64 (4) "Division of Finance" means the Division of Finance, created in Section
65 63A-3-101.

66 [~~3~~] (5) "Final state daily incarceration rate" means the average actual state daily
67 incarceration rate, calculated, reviewed, and discussed under [~~Subsection~~] Section
68 64-13e-105[~~(2)~~], and approved by the Legislature under Subsection 64-13e-105(3).

69 [~~4~~] (6) "State inmate" means a person, other than a state probationary inmate or state
70 parole inmate, who is committed to the custody of the department.

71 [~~5~~] (7) "State parole inmate" means a person who is:

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

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

74 [~~6~~] (8) "State probationary inmate" means a felony [~~probationers~~] probationer
75 sentenced to time in a county jail under Subsection 77-18-1(8).

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

77 **64-13e-104. Housing of state probationary inmates or state parole inmates --**
78 **Payment.**

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

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

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

86 (3) Funds appropriated by the Legislature under Subsection (2):
87 (a) are nonlapsing;
88 (b) may only be used for the purposes described in Subsection (2); and
89 (c) may not be used for:
90 (i) the costs of administering the [reimbursement] payment described in this section;

91 or

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

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

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

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

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

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

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

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

112 (7) (a) On or before September 1 of each year, CCJJ shall compile the information
113 from the reports described in Subsection (6) that relate to the preceding state fiscal year and

114 provide a copy of the compilation to each county that submitted a report.

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

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

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

124 Section 3. 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 calculate, and inform the
127 counties and CCJJ of[;] the average actual state daily incarceration rate for the most recent
128 three years for which the data is available.

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

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

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

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

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

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

- 142 (c) as designated by the Utah Association of Counties:
- 143 (i) one member of the legislative body of one county that is currently under contract
144 with the department to house state inmates; and
- 145 (ii) one member of the legislative body of one county that is currently receiving
146 reimbursement from the department for housing state probationary inmates or state parole
147 inmates;
- 148 (d) the executive director of the Commission on Criminal and Juvenile Justice or the
149 executive director's designee; and
- 150 (e) the director of the Governor's Office of Planning and Budget or the director's
151 designee.
- 152 (3) (a) The average actual state daily incarceration rate, reviewed and discussed under
153 Subsection (2), may not be used for purposes of calculating payment or reimbursement under
154 this chapter, unless approved by the Legislature in the annual appropriations act.
- 155 (b) Nothing in this chapter prohibits the Legislature from setting the final state daily
156 incarceration rate at an amount higher or lower than:
- 157 (i) the average actual state incarceration rate; or
158 (ii) the final state daily incarceration rate that was used during the preceding fiscal
159 year.