

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: _____

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 ▶ modifies the definition of a "state parole inmate";
- 15 ▶ requires the Department of Corrections to pay counties, for housing state
16 probationary inmates or state parole inmates, at a rate of 50% of the final state daily
17 incarceration rate;
- 18 ▶ provides that, by August 1 of each year, a county must submit a report to the
19 Department of Corrections regarding the housing of state probationary inmates or
20 state parole inmates during the preceding state fiscal year;
- 21 ▶ provides that the director of the Department of Corrections shall, on or before
22 September 30 of each year, pay each county for housing state probationary inmates
23 and state parole inmates, based on the number housed by each county during the
24 state fiscal year that ended on June 30 of the preceding calendar year;
- 25 ▶ provides for the distribution of information to, and the discussion of information by,
26 the counties regarding the "actual state daily incarceration rate" and the number of
27 state probationary inmates and state parole inmates housed by each county; and



28 ▶ makes technical changes.

29 **Monies Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 None

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **64-13e-102**, as last amended by Laws of Utah 2008, Chapter 188

36 **64-13e-104**, as last amended by Laws of Utah 2008, Chapter 188

37 **64-13e-105**, as last amended by Laws of Utah 2008, Chapter 188



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

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

41 **64-13e-102. Definitions.**

42 As used in this chapter:

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

- 45 (a) executive overhead;
- 46 (b) administrative overhead;
- 47 (c) transportation overhead;
- 48 (d) division overhead;
- 49 (e) motor pool expenses;
- 50 (f) medical expenses;
- 51 (g) mental health expenses;
- 52 (h) dental expenses; and
- 53 (i) straight line capital depreciation, over a 40-year period, for prison facilities of the
54 department.

55 (2) "Department" means the Department of Corrections.

56 (3) "Final state daily incarceration rate" means the average actual state daily
57 incarceration rate, reviewed and discussed under Subsection 64-13e-105(2), and approved by
58 the Legislature under Subsection 64-13e-105(3).

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

61 (5) "State parole inmate" means a person who is:

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

63 (b) housed in a county jail for a reason related to the person's parole[-], including a
64 person who is:

65 (i) detained for an alleged parole violation;

66 (ii) detained for the purpose of revoking parole;

67 (iii) detained because the person's parole is revoked;

68 (iv) detained as a penalty for a parole violation; or

69 (v) initially detained upon placement on parole.

70 (6) "State probationary inmate" means felony probationers sentenced to time in a
71 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 shall
80 [~~reimburse~~] pay a county that houses a state probationary inmate or a state parole inmate at a
81 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 shall administer the [reimbursement] payment
91 described in [this section] Subsection (2).

92 (b) ~~[The]~~ In accordance with Subsections (8) and (9), the department shall by rule
93 establish procedures for the distribution of [reimbursement] the payment described in [this
94 section] Subsection (2).

95 (6) Counties that receive the [reimbursement] payment described in [this section]
96 Subsection (2) shall, on or before [July 31] August 1 of each year, submit a report to the
97 department, for the [preceding] state fiscal year that ended on June 30 of that same year, that
98 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) On or before September 1 of each year, the department shall compile the
104 information from the reports described in Subsection (6) and provide a copy of the compilation
105 to each county that submitted a report.

106 (8) On or before September 30 of each year, the director of the department shall
107 distribute the payment described in Subsection (2) in a single payment to each county.

108 (9) The amount paid to each county under Subsection (8) shall be calculated on a pro
109 rata basis, based on the number of state probationary inmate days of incarceration and state
110 parole inmate days of incarceration that were provided by each county for the state fiscal year
111 described in Subsection (6).

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

113 **64-13e-105. Procedures for setting the final state daily incarceration rate.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Fiscal Note**H.B. 220 - State Payment and Reimbursement to County Correctional Facilities**

2009 General Session

State of Utah

State Impact

Enactment of this bill will require General Fund appropriations of \$8,030,400 in FY 2010 and \$8,581,700 in FY 2011 to the Utah Department of Corrections for increased Jail Reimbursement program costs. Beyond FY 2011, additional required ongoing General Fund appropriations will likely increase by approximately \$575,000 per year.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
General Fund	\$0	\$8,581,700	\$8,581,700	\$0	\$0	\$0
General Fund, One-Time	\$0	(\$551,300)	\$0	\$0	\$0	\$0
Total	\$0	\$8,030,400	\$8,581,700	\$0	\$0	\$0

Individual, Business and/or Local Impact

Enactment of this bill will directly benefit counties that participate in the Jail Reimbursement program with the State by the indicated amounts.