

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: _____

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 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~~[-]~~, including a
 70 person who is:

71 (i) detained for an alleged parole violation;

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

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

74 (iv) initially detained upon placement on parole.

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

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

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

79 **Payment.**

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

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

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

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

- 88 (a) are nonlapsing;
- 89 (b) may only be used for the purposes described in Subsection (2); and
- 90 (c) may not be used for:
 - 91 (i) the costs of administering the [reimbursement] payment described in this section; 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 Subsections (8) and (9), CCJJ shall, by rule

98 made pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish

99 procedures for the ~~[distribution of reimbursement]~~ calculation of the payment described in ~~[this~~

100 section] Subsection (2).

101 (6) Counties that receive the [reimbursement] payment described in ~~[this section]~~

102 Subsection (2) shall, on ~~[or before July 31 of each year]~~ at least a monthly basis, submit a

103 report to ~~[the department, for the preceding fiscal year,]~~ CCJJ that includes:

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

105 housed under this section; and

106 (b) the total number of state probationary inmate days of incarceration and state parole

107 inmate days of incarceration that were provided by the county.

108 (7) (a) On or before September 1 of each year, CCJJ shall compile the information

109 from the reports described in Subsection (6) and provide a copy of the compilation to each

110 county that submitted a report.

111 (b) On or before September 30 of each year, CCJJ shall inform the Division of Finance

112 and each county of the exact amount of the payment described in this section that shall be made

113 to each county.

114 (8) On or before December 15 of each year, the Division of Finance shall distribute the

115 payment described in Subsection (7)(b) in a single payment to each county.

116 (9) The amount paid to each county under Subsection (8) shall be calculated on a pro

117 rata basis, based on the number of state probationary inmate days of incarceration and state

118 parole inmate days of incarceration that were provided by each county for the state fiscal year

119 described in Subsection (6).

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

121 **64-13e-105. Procedures for setting the final state daily incarceration rate.**

122 (1) (a) Before September 1 of each year, the department shall calculate, and inform the
123 counties and CCJJ of[;] the average actual state daily incarceration rate for the most recent
124 three years for which the data is available.

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

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

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

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

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

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

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

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

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

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

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

148 (3) (a) The average actual state daily incarceration rate, reviewed and discussed under
149 Subsection (2), may not be used for purposes of calculating payment or reimbursement under

150 this chapter, unless approved by the Legislature in the annual appropriations act.

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

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

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