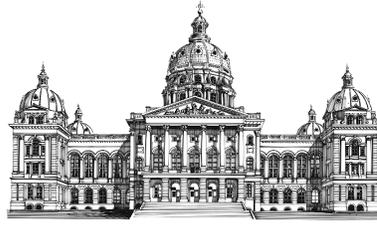


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Des Moines, IA 50319
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Department of Corrections: Telephone Rebate Fund

ISSUE

This *Issue Review* provides background information and reviews certain issues regarding the Telephone Rebate Fund administered by the Iowa Department of Corrections.

AFFECTED AGENCIES

Iowa Department of Corrections (DOC), Adult Correctional Institutions

CODE AUTHORITY

Chapter 904.508A, Code of Iowa
201 Iowa Administrative Code, 20.20(904)

BACKGROUND

Inmates of the DOC Institutions use a pay telephone system for personal calls. The recipient pays the charge of all of these collect calls, and the DOC receives the net receipts (rebates) from the vendor. Receipts are to be used for the benefit of inmates, per statute. The DOC uses the Iowa Communications Network (ICN) as the in-state carrier. The ICN transfers all out-of-state calls to MCI. T-NETIX is a private company that provides equipment and equipment maintenance, call blocking and monitoring, taping equipment, billing details, and directly bills the recipient of the call. The DOC is currently reviewing bids from private sector companies to provide these services. Bids are being sought due to the expiration of the current contract.

T-NETIX recoups payment from the recipients, deducts its cost and profit, and remits payment to the ICN. The ICN deducts its costs and sends net receipts to the DOC.

Much of the background information and many of the issues related to the telephone rebate system can be categorized as follows:

- Revenue and cash flow
- Fund expenditures
- Distribution of receipts
- Telephone call rates and monitoring

Revenue and Cash Flow

Revenues have been steadily decreasing and expenditures have been increasing since FY 1998, as indicated in the table below:

Telephone Rebate Fund Financial History

| Fiscal Year | Beginning Balance | Revenues | Expenditures | Ending Balance |
|-------------|-------------------|--------------|--------------|----------------|
| 1998 | \$826,500 | \$2,416,900 | \$1,322,500 | \$1,920,800 |
| 1999 | \$1,920,800 | \$2,378,900 | \$2,024,100 | \$2,275,600 |
| 2000 | \$2,275,600 | \$1,022,700 | \$2,159,900 | \$1,138,400 |
| 2001 | \$1,138,400 | *\$1,277,200 | *\$1,967,200 | \$448,400 |

*Revenues and Expenditures are projected for FY 2001.

Actual FY 2001 revenue through November 2000 was \$240,200. Based on the current receipts, only \$1.0 million may be generated as revenue during FY 2001, less than DOC's projected revenue of \$1.2 million. This issue is further complicated by cash flow problems. It may be up to 90 days from the end of the month when the telephone call was placed to when net receipts are provided to the DOC.

Revenue is decreasing due to:

- The DOC changed from a private sector vendor to the ICN in FY 2000 which lowered costs.
- The DOC lowered the calling rates. The change was made due to concerns about high telephone rates, which were lowered once ICN assumed responsibility.
- The DOC received a guaranteed 52.0% commission when it used a private vendor's services. Now, the DOC is paid net receipts.
- The federal 1996 Telecommunications Act changed the billing process relating to third party billing procedures. For a period during FY 2000, some recipients may not have been billed for inmates' telephone calls. T-NETIX is in the process of billing these recipients.

The DOC and the ICN are reviewing options for collecting unpaid accounts. Some states limit the amount of telephone numbers an inmate can call. Some states limit the unpaid calling account balance an inmate may accumulate before his/her ability to place collect calls is blocked.

Declining revenue creates a problem with ongoing expenditures. The DOC has committed approximately \$1.0 million annually for certain projects for multiple years. These projects include: victim programs, the InnerChange Program at Newton, inmate legal services, education, and the Braille and Automotive programs. Revenues may be adequate for these dedicated expenditures, but there will be a significant decrease in the FY 2001 ending balance compared to previous fiscal years.

Fund Expenditures

The receipts are to “be used for the benefit of inmates” according to Chapter 904.508A, Code of Iowa. Inmate benefits are defined in 201 Iowa Administrative Code, 20.20(5) “as educational, vocational or recreational services or programs, or work or treatment programs for offenders. Expenditures may also be used to initiate new programs, services, or projects”. There are concerns that the DOC is defining “benefit of inmates” rather broadly, including the physical structures to house programs that benefit inmates, for example, a green house or a chapel. The DOC has control over the funds and it is possible that certain expenditures may have shifted to telephone rebate funds from other funding sources (such as Iowa Prison Industries’ Braille and Auto-body Programs). Certain projects could have been funded through capital appropriations, such as the chapel at Mitchellville. Projects funded by telephone rebate funds during FY 2000 include:

- Library materials and supplies (\$49,000)
- Dental hygienist at Anamosa and dental office remodeling (\$25,000)
- Education (\$393,000)
- Inmate recreation equipment and supplies (\$235,000)
- Victim Programs (\$52,000)
- Food service expansion at Anamosa (\$14,000)
- Green house project at Rockwell City (\$9,600)
- Chapel fund raising at Mitchellville (\$15,000)
- Inmate legal services (\$150,000)
- InnerChange Program at Newton (\$282,000)
- Iowa Prison Industries Braille and Auto-body Programs, Fence, and Building (\$166,000)
- Medical Equipment (\$152,000)
- Offender sentencing project (\$76,000)
- Psychological services (\$62,000)

The amounts listed above are only the expenditures for FY 2000. Certain capital projects incurred expenses in multiple fiscal years, for example, FY 1999 and/or FY 2001.

Distribution of Receipts

Chapter 904.508A, Code of Iowa, requires the DOC to “establish and maintain” a telephone rebate fund at each Institution. Each Institution does have a telephone rebate fund. Currently, one check is received from ICN that is split among the nine Institutions, based on inmate usage rates, per administrative rules (T-NETIX provides an account activity report for each Institution). However, Central Office and the Board of Corrections must approve all requests from Wardens and Superintendents. Institutions have been directed by Central Office to not spend funds during FY 2001 due to declining revenue and the dedicated expenditures cited previously.

Note that certain projects at a given Institution may cost more than that Institution generates in receipts, e.g., construction projects. This has made it difficult for DOC to comply with the administrative rule requirement to distribute receipts to Institutions based on usage rates.

Telephone Call Rates and Monitoring

Members of the Administrative Rules Review Committee expressed concern regarding the rates the recipients pay for inmate telephone calls. The DOC sets the rate and files the information with the Iowa Utilities Board, so the information is available to the public. Concern has also been expressed regarding monitoring of inmate telephone calls, especially in terms of staff time used and if the attorney – client privilege was being violated. States surrounding Iowa were surveyed. The Iowa DOC's rates are comparable to rates in South Dakota, Wisconsin, Missouri, and Illinois. Generally, rates vary by the time of day the call is placed and mileage. All states contacted record or monitor inmate telephone calls due to security concerns. All states contacted, including Iowa, indicated that calls to attorneys are not recorded. The vendor provides equipment and equipment maintenance, training, blocking, timing, recording equipment, billing details, and phone lines. Revenue generated by pay phone systems is dependent upon the number of inmates using the telephone system. Larger populations will generate more receipts since more telephone calls will be placed. Listed below is the information gathered by the survey.

Minnesota has no pay phone system, so the DOC receives no commissions. Inmates use the State telephone system and are assigned a Personal Identification Number (PIN). The PIN is used to track inmate telephone calls, so the inmate's account can be charged for the cost. Inmate calls are recorded and may be screened, especially in maximum security.

Missouri has a pay phone system, but the DOC receives no commissions. A 55.0% commission was eliminated in April 1999. Telephone calls are tracked by a PIN system. Listed below are the current rates:

- Local calls: \$1.30 surcharge.
- Intralata: \$1.00 surcharge with a \$0.14/minute rate.
- Interlata (between area codes within the State): \$1.00 surcharge and \$0.14/minute rate.
- Interstate: \$2.45 surcharge and \$0.45/minute rate.

A monthly payment is made by the vendor and deposited in the General Fund. The payment is based on recovering the cost of 21 correctional officers and the cost to wire new facilities for phones. The Missouri DOC will request cost recovery payments be appropriated to them in their budget request.

Nebraska has a pay phone system but the DOC receives no commissions. The intent is to hold down costs for inmates. All calls are \$1.00, of which \$0.25 is the vendor surcharge and the remainder is the toll fee for the call. The inmate pays long distance rates as well

Information regarding other states is included in the following table.

Comparison With Surrounding States

| State | Local Call Rates | Within One Area Code | Between Area Codes Within State | Out of State | Annual Revenue | Prison Population | Estimated Revenue per Inmate |
|-----------|--|--|--|--|---|-------------------|------------------------------|
| Iowa | \$0.50, 15 minute maximum | \$1.30 surcharge; <ul style="list-style-type: none"> Weekend - \$0.10 for initial minute & \$0.05 for each additional minute Days - \$0.37 for initial minute & \$0.26 each additional minute | \$1.30 surcharge; <ul style="list-style-type: none"> Weekend - \$0.11 for initial minute & \$0.06 for each additional minute Days - \$0.32 for initial minute & \$0.31 each additional minute | \$1.30 surcharge; plus \$0.30 per minute | FY 2000 = \$1.0 million FY 2001 = \$1.0 million | 8,000 | \$125.00 |
| S. Dakota | \$2.45 per call | \$2.10 surcharge plus charge per minute | \$3.70 for first minute plus \$0.40 each additional minute | \$3.70 for first minute plus \$0.40 each additional minute | FY 2000 = \$421,400 FY 2001 = \$421,000 | 2,500 | \$168.40 |
| Wisconsin | \$3.00 per call | \$3.00 surcharge plus \$0.30 per minute | \$3.00 surcharge plus \$0.30 per minute | \$3.50 surcharge plus \$0.55 per minute | FY 2000 = \$3.2 million FY 2001 = \$3.3 million | 20,000 | \$165.00 |
| Illinois | \$2.50 surcharge, rate per minute ranges from \$0.09 to \$0.29 | \$2.50 surcharge, rate per minute ranges from \$0.09 to \$0.29 | \$2.50 surcharge, rate per minute ranges from \$0.09 to \$0.29 | \$3.00, \$3.50, or \$3.95 surcharge, rates range from \$0.19 to \$0.20, \$0.55, or \$0.69 per minute | FY 2000 = \$11.1 million (of this amount, DOC received \$3.7 million) FY 2001 = \$11.7 (of this amount, DOC received \$5.2 million). | 45,000 | \$260.00 |

The Iowa DOC uses receipts for the benefit of inmates. In South Dakota, the DOC uses receipts for the benefit of inmates, but is not required to by law. In Wisconsin, two-thirds of the receipts are deposited into the State General Fund, for general use by the State. One-third of the receipts are appropriated to the Wisconsin DOC for the benefit of inmates. In Illinois, the receipts are divided between the Department of General Services and the DOC. Both departments use the receipts for communications equipment and expenses, not for the benefit of inmates.

ALTERNATIVES

The General Assembly has amended the Code of Iowa to enhance legislative oversight. However, the Governor vetoed the amendments to Chapter 904.508A, Code of Iowa as follows:

- In 1999, the General Assembly authorized a Committee comprised of the Director of the DOC, a Deputy Director of the DOC, and the Citizen's Aide/State Ombudsman to provide written approval of all expenditures from Inmate Telephone Rebate Funds. The Governor vetoed this language, stating it was a conflict of interest with the statutory role of the Citizen's Aide/Ombudsman, plus it created a problem with the separation of powers between the Executive and Legislative Branches.
- In 2000, the General Assembly authorized an appropriation of \$300,000 from the Telephone Rebate Fund for educational and vocational programs. The Governor vetoed this appropriation, stating that the DOC has and would continue spending in excess of \$300,000 in both FY 2000 and FY 2001 from the Telephone Rebate Fund on these programs without a specific legislative mandate.
- In 2000, the General Assembly amended Chapter 904.508A, Code of Iowa, to transfer the Fund to the State Treasurer's Office, effective FY 2002, and to limit expenditures to those authorized by appropriations. The Governor vetoed this change, stating the Board of Corrections would review and approve all expenditures from the Fund in order to improve financial oversight.

There are several other alternatives the General Assembly may choose to consider:

- Implement a system where the inmates use the State phone system and a PIN. The PIN could track which inmate made the call, so the cost could be deducted from the inmate's account. If the inmate has no funds in his/her account, the telephone call could not be made. The inmate is held responsible for the cost of the telephone calls, and may result in lower telephone rates. This is similar to the Minnesota and Nebraska systems.
- Eliminate any net receipts. This option may result in lower telephone rates. This is similar to the Missouri system, where the DOC requests cost recovery from the General Fund.
- Deposit receipts in the General Fund and appropriate funds for projects that benefit inmates. This enhances legislative oversight, and resolves the cash flow issue.
- Deposit receipts in the General Fund to be used for general purposes. This option would increase General Fund receipts by approximately \$1.0 million. It may eliminate currently funded projects that benefit inmates, such as victim programs.

The General Assembly may wish to review the administration of pay telephone systems used by the Department of Transportation and the Board of Regents.

BUDGET IMPACT

If receipts continue to decline for the Telephone Rebate Fund, ongoing projects that benefit inmates may be eliminated. The DOC may need to seek alternative funding sources or re-evaluate and reduce programs.

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Department of Corrections: Telephone Rebate Fund