MEMORANDUM

TO: Dennis Prouty, Director, Legislative Services Agency
Michael E. Marshall, Secretary of the Senate
Margaret A. Thomson, Clerk of the House of Representatives

FROM: Stuart Vos, Collection Program Manager, Iowa Department of Revenue
Eric Tabor, Chief of Staff, Iowa Department of Justice

RE: Collection of Delinquent Fines, Fees, Surcharges, and Court Costs

DATE: December 8, 2003

Senate File 439, section 1(8), requires the Iowa Department of Revenue (IDR) and the Iowa Department of Justice to issue a request for information (RFI) concerning the use of outside private collection agencies (OCAs) for the collection of fines, fees, surcharges and court costs delinquent more than one year.

Collection of delinquent fines, penalties, fees, court costs, surcharges, and restitution is generally governed by Iowa Code section 602.8107. County attorneys are authorized to collect most of these outstanding accounts pursuant to a process described in that section. Additionally, county attorneys are authorized to procure professional collection services to assist with collection efforts. Iowa Code section 331.756(5).

If a county attorney does not pursue collection of these outstanding accounts, then the Judicial Branch is authorized to assign cases to the centralized collection unit of the IDR. Iowa Code section 602.8107(5). The IDR has created the Collection Partnership which is a joint effort of the IDR and a private collection agency. The Collection Partnership provides some of the services contemplated by the proposed RFI. The Judicial Branch currently refers unpaid liabilities to the Collection Partnership after they become 45 days delinquent. The Collection Partnership attempts collection using private sector collection practices such as automated skiptracing, call campaigns and dunning by letter. In addition, the Judicial Branch and the Collection Partnership cooperate to suspend the obligor's ability to renew a motor vehicle registration, suspend driver's licenses, and administratively levy assets in financial institutions.

The IDR typically keeps court accounts for a minimum of one year and will retain them longer if collection efforts look promising or the obligor is in an approved pay plan. In Fiscal Year 2003 the Judicial Branch placed $50.1 million of liabilities with the IDR, which collected $12.1 million, and ended the year with outstanding accounts totaling $53.9 million.

Tax accounts collected by the IDR also go through the same process with the Collection Partnership. However, those accounts that are unable to be collected by the Collection Partnership are subsequently sent to OCAs. While private collection agencies are often very successful, their effectiveness in almost all instances is predicated upon the amount of effort spent on collections prior to placement with the OCA. In the case of tax accounts, the effectiveness of OCAs is substantially reduced because of the efforts expended on accounts while they are placed with the Collection Partnership. By way of comparison, the Collection Partnership collected $19.5 million in tax receivables last year on placements of $71.8 million. The private agencies collected $0.5 million on placements of $14.9 million.

When the Collection Partnership is unable to collect, the Judicial Branch continues its own collection efforts that include judicial action and other sanctions available to the Courts. Given the combined efforts of the Collection Partnership, the Courts, and county attorneys it is unlikely that significant additional revenues would be generated by outside collection agencies.

That is not to say, however, that outside collection agencies would be entirely unsuccessful. The IDR is charged in Iowa Code section 421.17(34) with a leadership role in establishing debt collection policy for state agencies. As part of that charge, the IDR has master contracts with two OCAs. These contracts are designed for use by any other agency in state government, including the Judicial Branch. Both contracts are based on contingency fees that range from 8 percent to 17.5 percent. The fee varies based on the size of the debt. Based on the existing portfolio of fees and fines, the Judicial Branch could expect to pay approximately 16 percent on most collections if they utilize the existing contracts.

For purposes of comparison, two of the largest OCAs that specialize in court collections were contacted by the IDR. One of them quoted prices ranging from 25 to 35 percent and the other quoted a price range from 18 to 25 percent, with an average of 23 percent. Most OCAs prefer to stay away from felony and restitution cases and specialize in the more collectible traffic, parking, misdemeanor and civil ordinance violations. In most cases, costs are recouped by adding the cost of collection to the liability.

Having had extensive experience with collection agencies and with the Court's debt, the IDR believes it is important to note that any solution involving an outside collection agency will involve considerable front-end programming to the Iowa Court Information System (ICIS) and ongoing support by the Courts. While the IDR is not in a position to ultimately judge the degree of difficulty or costs associated with overcoming these issues, IDR is aware that ICIS is not currently configured to handle the multiple costing scenarios, accounting issues or data transactions needed to effectively interface with OCAs. Additionally, a limited number of

support personnel would be needed to handle placement, recall, accounting and customer service issues.

We hope this provides the information you need in your decisionmaking process. Please feel free to contact Stuart Vos at (515) 725-0229 about this or any collection related issue or Eric Tabor at (515)281-5191.