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SB 102/SJCS requires that the CD negotiate and award a contract to an entity that meets the correctional facility's or jails's technical and functional requirements for services, and provides the lowest cost of service to inmates or any person who pays for inmate telecommunication services.

Also, the Bill specifies that the contract shall not include a commission or other payment to the operator of the correctional facility or jail based upon amounts billed by the telecommunication provider for telephone calls made by inmates in the correctional facility or jail.

Finally, SB102/SJCS defines "correctional facility" as a state correctional facility or privately operated correctional facility; and "jail" as a county jail, a municipal jail or a privately operated jail.

PRC reports:

1. Telephone services are provided to inmates by operator service providers through payphones located on the premises. Because of claims of inmate fraud and problems that have occurred regarding harassment of live operators by the inmates, the calls are automatically routed and charged as "collect" calls, which make them more expensive than direct dialed calls. Inmates also do not have the opportunity to "dial around" to another operator services provider. The New Mexico Public Regulation Commission regulates operator service providers, particularly the rates charged to end users; these rates are traditionally set at the time that the OSP receives a certificate of convenience and necessity. However, the "premises owner" (in this case the correction facility) gets a commission on all of the calls placed from the facility. Generally, these commissions become a cost of doing service and are rolled into the tariffed rates, or they may be the subject of a special "premises surcharge". Because there is no incentive by either the correctional facility or the operator service provider to keep the commission down, the costs passed on to the person who pays for the phone call can be relatively high. Currently, in Utility Case No. 3317, the PRC is conducting an investigation into the rates and charges of institutional operator service providers operating in the state to determine whether the rates and charges are reasonable, or excessive when compared to similar services offered to other citizens of this state. This bill would complement the Commission's investigation in that it would set standards for the awarding of the contracts by correctional facilities, and would help assure that prices charged to the families and friends of inmates would be more reasonable.
2. The commissions paid to correctional facilities are in effect an indirect tax on the families of inmates to the extent that these revenues are utilized for general operations. This bill would limit the use of contract revenues to covering the reasonable expenses relating to negotiating and administering the contract and to supervising and monitoring inmate's telephone conversations.
3. Not all inmates in New Mexico are located in "state correctional facilities"; local governments who house inmates often administer and award their own contracts for telephone services. Therefore, the Legislature should consider expanding the scope of the bill to all correctional facilities within the state of New Mexico.

In FY00, the committee requested CD renegotiate or seek new contracts with more fair and reasonable fees. CD has not renegotiated or recontracted for more fair and reasonable rates.

Since FY93, CD has collected \$5,891.9 from inmate telephone revenue and has expended \$4,966.4 on probation and parole salaries, detention costs for parole violators, and treatment services and drug tests for inmates on probation and parole. It is expected CD will expend an additional \$269.8 from

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such fees in the current fiscal year. CD currently collects 48 percent of the gross billable revenue from the provider of telephone services at the state-run institutions and deposits the revenue in the probation and parole cash account.

CD reported any increase in budget generated from the inmate telephone system revenue has been included in the CD budget request and has been appropriated by the Legislature or approved through the budget adjustment request process. However, CD has no statutory authority to expend telephone revenues; they should be deposited in the general fund. CD must comply with statutes.

The agency has requested the use of telephone revenues; the LFC budget recommendation replaces the telephone revenue with general fund.

FISCAL IMPLICATIONS

CD estimates that the current commissions from the inmate telephones contract is \$800.0. The bill would therefore result in a loss of \$800.0. The legislation is scored against current law which indicates all revenues received shall be deposited into the general fund unless specified by statute. Current practice does not deposit this revenue into the general fund.

CD also noted that in the General Appropriation Act for FY02 \$269.8 is appropriated from the revenues generated from commissions on inmate telephone services.

ADMINISTRATIVE IMPLICATIONS

CD is already administrating an inmate telephones services contract.

TECHNICAL ISSUES

PRC suggests if the intent of the bill is to limit the cost of telephone services to inmates and their families located in New Mexico, then the term "state correctional facilities" should be changed to "correctional facilities located in New Mexico".

POSSIBLE QUESTIONS

Does CD release the Request For Proposals to acquire inmate telephone services through the State Purchasing Division?

How does SB102/SJCS address monitoring of inmate telephones and the associated cost?

LAT/ar/njw