

# State statutes governing jail and prison “Inmate Welfare Funds”

Appendix C from the report, *Shadow Budgets: How How mass incarceration steals from the poor to give to the prison*

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The ten pages that follow provide a summary of state statutes governing “Inmate Welfare Funds” in jails and prisons, as well as revenue information for select states. It was originally submitted as Exhibit H to a long comment by Lee Petro, pro bono counsel to the Wright Petitioners to the Federal Communications Commission in 2013 seeking to lower the cost of calling home from prisons and jails.

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WC Docket No. 12-375

Reply comments of:

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The D.C. Prisoners’ Legal Services Project, Inc.,  
Citizens United For Rehabilitation Of Errants,  
Prison Policy Initiative, And  
The Campaign For Prison Phone Justice

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Exhibit H: State statutes

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**EXHIBIT H**

**STATE STATUTES**

<b>State</b>	<b>Statute</b>	<b>Notes*</b>
<b>Alabama</b>	<p>For County Jails, statutes have language reflecting the principle that: "All profits realized in the operation of the jail canteen and inmate telephone system shall be expended at the discretion of the sheriff for salaries, equipment, and supplies for the county jail and other law enforcement purposes in [named] County that are in the interest of the public."</p> <p>Ala. Code §§ 45-1-232; 45-3-231.20; 45-5-231; 45-11-234; 45-13-231; 45-18-230; 45-25-231 (2011).</p>	Applies to Counties.
<b>Alaska</b>	<p>Commission is excluded from the state's general revenue fund:</p> <p>"(b) The program receipts listed in this subsection are accounted for separately, and appropriations from these program receipts are not made from the unrestricted general fund: . . . .</p> <p>(43) receipts of the Department of Corrections from the inmate telephone system . . . ."</p> <p>Alaska Stat. § 37-05-146 (2012).</p>	State received \$85,438.58 from revenue-sharing with Securus in 2012.
<b>Arizona</b>	<p>"A. A special services fund is established in the state department of corrections. The department shall administer the fund.</p> <p>B. The director shall transfer five hundred thousand dollars from the special services fund annually to the department of corrections building renewal fund established by section 41-797. Any remaining monies in the special services fund, including the inmate recreation fund, may be used for the following purposes:</p> <ol style="list-style-type: none"> <li>1. The benefit, education and welfare of committed offenders, including the establishment, maintenance, purchase of items for resale and other necessary expenses of operation of canteens and hobby shops.</li> <li>2. To pay the costs of a telephonic victim notification system. Revenues that are generated by the inmate telephone system and the automated public access program shall be deposited in the special services fund." <p>Ariz. Rev. Stat. Ann. § 41-1604.03 (2012).</p> </li></ol>	State received \$4.3 million from revenue-sharing with Securus in 2012.
<b>Arkansas</b>	<p>"(a) There is created . . . a cash fund entitled the Department of Correction Nontax Revenue Receipts Fund to consist of receipts for telephone calls from coinless telephones located on Department of Correction grounds, and from other nontax receipts not previously identified to a fund of deposit.</p> <p>(b) Funds held in this special fund are to be</p>	State received \$2.0 million from revenue-sharing with GTL in 2012.

State	Statute	Notes*
	<p>administered and expended by the Director of the Department of Correction within guidelines established by the Board of Corrections for periodic transfers to other department funds or for disbursements in support of department operations or debt service.” Ark. Code Ann. § 12-27-128 (2012).</p>	
<b>California</b>	<p>“(d) There shall be deposited in the inmate welfare fund any money, refund, rebate, or commission received from a telephone company or pay telephone provider when the money, refund, rebate, or commission is attributable to the use of pay telephones which are primarily used by inmates while incarcerated. (e) The money and property deposited in the inmate welfare fund shall be expended by the sheriff primarily for the benefit, education, and welfare of the inmates confined within the jail. Any funds that are not needed for the welfare of the inmates may be expended for the maintenance of county jail facilities. Maintenance of county jail facilities may include, but is not limited to, the salary and benefits of personnel used in the programs to benefit the inmates, including, but not limited to, education, drug and alcohol treatment, welfare, library, accounting, and other programs deemed appropriate by the sheriff. Inmate welfare funds shall not be used to pay required county expenses of confining inmates in a local detention system, such as meals, clothing, housing, or medical services or expenses, except that inmate welfare funds may be used to augment those required county expenses as determined by the sheriff to be in the best interests of inmates. An itemized report of these expenditures shall be submitted annually to the board of supervisors.” Cal. Penal Code § 4025 (2012).</p>	<p>Applies to Counties.  Los Angeles County – 15 million guaranteed payment – 49% used for jail maintenance.  Orange County – 74% of \$5 million inmate fund used for staff salaries.</p>
<b>Colorado</b>	<p>‘Any profits arising from the operation of the canteen and vending machines shall be expended for the educational, recreational, and social benefit of the inmates and to supplement direct inmate needs.’ Colo. Rev. Stat. Ann. § 17-24-126(3) (West 2013).</p>	<p>Jefferson County – 86% of inmate welfare fund used for staff salaries and benefits. (see attached).</p>
<b>Connecticut</b>	<p>“For the fiscal year ending June 30, 2007, and each fiscal year thereafter, the sum of \$350,000 from revenue derived by the Department of Information Technology from the contract for the provision of pay telephone service to inmates of correctional facilities shall be transferred to the Department of</p>	<p>State received \$4.2 million from revenue-sharing with Securus in 2012.</p>

State	Statute	Notes*
	Correction, for Other Current Expenses, for expanding inmate educational services and reentry program initiatives.” Conn. Gen. Stat. § 18-81x (2011).	
<b>Florida</b>	“All proceeds from contracted telephone commissions must be deposited in the General Revenue Fund.” Fla. Stat. § 945.215(b) (2012).	State received \$5.2 million from revenue-sharing with Securus in 2012.
<b>Hawaii</b>	“(c) All proceeds or revenues that are derived from any commission that is realized pursuant to a telephone service agreement executed by the department for the provision of telephone services for inmates shall be deposited into the automated victim information and notification system special fund.” Haw. Rev. Stat. § 353-136 (West 2012).	State received \$74,284 from revenue-sharing with Hawaii Telecom in 2008 (most recent available).
<b>Illinois</b>	“The moneys deposited into the Department of Corrections Reimbursement and Education Fund shall be appropriated to the Department of Corrections for the expenses of the Department. The following shall be deposited into the Department of Corrections Reimbursement and Education Fund: . . . (iii) Moneys received by the Department as commissions from inmate collect call telephone systems.” 730 Ill. Comp. Stat. 5 / 3-4-1(b) (2012).	State received \$11.7 million from revenue-sharing with CCPS in 2012.
<b>Indiana</b>	“The correctional facilities calling system fund is established for the purposes of improving, repairing, rehabilitating, and equipping department of correction facilities. The fund consists of the following: (1) Money deposited in the fund under section 5(d) of this chapter. (2) Money appropriated by the general assembly. (3) Money received from any other source.” Ind. Code § 5-22-23-7(a) (2012). Ind. Code § 5-22-23-5 requires that commissions received from the inmate telephone system be deposited in the “correctional facilities calling system fund.”	State received \$1.7 million from revenue-sharing with GTL in 2012.
<b>Iowa</b>	“The department is authorized to establish and maintain an inmate telephone fund for the deposit of moneys received for inmate telephone calls. All funds deposited in this fund shall be used for the benefit of inmates. The director shall adopt rules providing for the disbursement of moneys from the fund.” Iowa Code § 904.508A (2013).	State received \$650,972 from revenue-sharing with GTL in 2012.
<b>Maryland</b>	“Each inmate welfare] fund consists of: 1. profits derived from the sale of goods through the	State received \$5.1 million from revenue-

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	<p>commissary operation and telephone and vending machine commissions; and  2. subject to subparagraph (ii) of this paragraph, money received from other sources.”  Md. Code Ann., Corr. Servs. § 10-503(2)(i).</p>	<p>sharing with Securus in 2010.</p> <p>Only 10 of the 23 Maryland counties use funds for inmate welfare fund.  (see attached).</p>
<b>Massachusetts</b>	<p>Section 2. There shall be a General Fund of the commonwealth, into which all revenue payable to the commonwealth shall be paid, except revenue required by law to be paid into a fund other than the General Fund and revenue for or on account of sinking funds, trust funds or trust deposits, which funds shall be maintained and the revenue applied in accordance with law or the purposes of the fund.  G.L. c. 29 § 2 (April 1, 2013).</p>	<p>State received \$1.7 million from revenue-sharing with GTL in 2012.</p>
<b>Mississippi</b>	<p>“(1) The department is authorized to maintain a bank account which shall be designated as the Inmate Welfare Fund. All monies now held in a similar fund for the benefit and welfare of inmates shall be deposited into the Inmate Welfare Fund. This fund shall be used for the benefit and welfare of inmates in the custody of the department. . . .  (3) All inmate telephone call commissions shall be paid to the department. Monies in the fund may be expended by the department, upon requisition by the commissioner or his designee, only for the purposes established in this subsection.  (a) Twenty-five percent (25%) of the inmate telephone call commissions shall be used to purchase and maintain telecommunication equipment to be used by the department.  (b) . . . Beginning on July 1, 2008, thirty-five percent (35%) of the inmate telephone call commissions shall be deposited into the Prison Agricultural Enterprise Fund. . . .  (c) Forty percent (40%) of the inmate telephone call commissions shall be deposited into the Inmate Welfare Fund.”  Miss. Code Ann. § 47-5-158 (2013).</p>	<p>State received \$1.7 million from revenue-sharing with GTL in 2012.</p>
<b>Montana</b>	<p>“(1) There is an account in the state special revenue fund. The net proceeds from state prison inmate canteen purchases and inmate telephone use, cash proceeds from the disposition of confiscated contraband, and any public money held for the needs of inmates and their families and not otherwise allocated must be deposited in the account. Money in an account established under 53-1-107 may not be deposited in the account</p>	<p>State received \$220,617 from revenue-sharing with Telmate in 2012.</p>

State	Statute	Notes*
	<p>established in this subsection.</p> <p>(2) The money in the account is statutorily appropriated, as provided in 17-7-502, to the department of corrections, which may allocate the money referred to in subsection (1) to the state prisons in proportion to the amount that each state prison contributed to the fund. The administrator of each state prison shall consult with the inmates about the use of the money allocated to the state prison and may use the money for the needs of the inmates and their families.”</p> <p>Mont. Code Ann. § 53-1-109 (2011).</p>	
<b>Ohio</b>	<p>“(A) There is hereby created in the state treasury the prisoner programs fund. The director of rehabilitation and correction shall deposit in the fund all moneys received by the department from commissions on telephone systems and services provided to prisoners in relation to electronic mail, prisoner trust fund deposits, and the purchase of music, digital music players, and other electronic devices. The money in the fund shall be used only to pay for the costs of the following:</p> <p>(1) The purchase of material, supplies, and equipment used in any library program, educational program, religious program, recreational program, or pre-release program . . . (2) The construction, alteration, repair, or reconstruction of buildings and structures owned by the department for use in any . . . program . . . (3) The payment of salary, wages, and other compensation to employees of the department who are employed in any . . . program . . . (4) The compensation to vendors that contract with the department for the provision of services for the benefit of prisoners in any . . . program . . . (5) The payment of prisoner release payments in an appropriate amount as determined pursuant to rule;</p> <p>(6) The purchase of other goods and the payment of other services that are determined, in the discretion of the director, to be goods and services that may provide additional benefit to prisoners.”</p> <p>Ohio Rev. Code Ann. § 5120.132 (2012).</p>	<p>State receives \$15 million annual flat-rate payment from GTL.</p>
<b>Oklahoma</b>	<p>“A. There shall be established a Canteen System Board of Directors for all canteen system services . . . . The overall canteen operation composed of all correctional facility canteen operations, inmate telephone systems and inmate electronic mail systems shall be collectively called the Canteen System and such system shall be required to be self-supporting from sales receipts.</p>	<p>State received \$1 million from revenue-sharing with GTL in 2012.</p>

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	<p>E. . . . All revenues from canteen operations, inmate telephone system services and inmate electronic mail system operations shall be used exclusively for the benefit of the inmates of the various institutions and personnel of the Department of Corrections as determined by the Canteen System Board of Directors.” Okla. Stat. tit. 57, § 537 (2012).</p>	
<b>Oregon</b>	<p>“(1) Revenues, less operating expenses, from the following sources shall be deposited into an account established by the Department of Corrections to provide money to enhance inmate activities and programs including education programs: . . . (c) Operation of inmate telephones in correctional institutions; (2) The Department of Corrections shall limit use of the fund to uses benefiting the general inmate population and enhancing inmate activities and programs including education programs.” Or. Rev. Stat. § 421.068 (2011).</p>	<p>State received \$3 million from revenue-sharing with Telmate in 2012.</p>
<b>Tennessee</b>	<p>No statute on point for state prisons. “A fee of ten cents (10cent(s)) shall be collected for each completed telephone call made by an inmate housed in a local jail or workhouse. Such fees shall be remitted by the telephone service provider to the state treasurer each quarter and credited to a special account in the state general fund designated as the local correctional officer training fund to be used exclusively to fund certification training provided through the institute for local correctional personnel within the state. . . .” Tenn. Code Ann. § 41-7-104(c) (2012).</p>	<p>Applies to Counties:  State received \$2.5 million from revenue-sharing with GTL in 2012.</p>
<b>Texas</b>	<p>“(b) The board shall award a contract to a single private vendor to install, operate, and maintain the inmate pay telephone service. The initial term of the contract may not be less than seven years. The contract must provide the board with the option of renewing the contract for additional two-year terms. (c) The department shall transfer 50 percent of all commissions paid to the department by a vendor under this section to the compensation to victims of crime fund established by Subchapter B, Chapter 56, Code of Criminal Procedure, and the other 50 percent to the credit of the undedicated portion of the general revenue fund, except that the department shall transfer the first \$10 million of the commissions collected in any given year under a contract awarded under this section to the compensation to victims of crime fund established</p>	<p>State received \$5.9 million from revenue-sharing with CenturyLink in 2012.</p>



State	Statute	Notes*
	by Subchapter B, Chapter 56, Code of Criminal Procedure. This section does not reduce any appropriation to the department.” Tex. Gov’t Code Ann. § 495.027 (2012).	
<b>Utah</b>	“(1) (a) There is created within the General Fund a restricted account known as the Prison Telephone Surcharge Account. . . . (2) Upon appropriation by the Legislature, money from the Prison Telephone Surcharge Account shall be used by the department for education and training programs for offenders and inmates as defined in Section 64-13-1. . . .” Utah Code Ann. § 64-13-42 (2012).	State received \$765,858.16 from revenue-sharing with GTL in 2012.
<b>Vermont</b>	“The department shall accept monies generated by commissions on telephone services, commissary sales, and sales of approved items not available on commissary by the department to inmates at its correctional facilities and shall establish with such monies an inmate recreation special fund. The fund shall be used to provide postage to inmates in a manner consistent with department policy. The fund may be used for costs associated with the oversight and accounting of inmate cash accounts. The fund may be used, at the discretion of the commissioner, to hire persons or purchase services, equipment, and goods to establish or enhance recreation activities for inmates confined in any of the department's facilities, and for voluntary inmate contributions that promote the restoration of crime victims or communities. The inmates . . . may also choose to create a loan fund . . . from which offenders may borrow in order to help them obtain housing upon release from incarceration.” Vt. Stat. Ann. tit. 28, § 816 (2013).	State received \$44,781.29 from revenue-sharing with GTL in 2012.
<b>Virginia</b>	For local correctional facilities: “Each sheriff who operates a correctional facility is authorized to provide for the establishment and operation of a store or commissary to deal in such articles as he deems proper. The net profits from the operation of such store shall be used within the facility for educational, recreational or other purposes for the benefit of the inmates as may be prescribed by the sheriff. The sheriff shall be the purchasing agent in all matters involving the commissary and nonappropriated funds received from inmates. The funds from such operation of a store or commissary and from the inmate telephone services account shall be considered public funds.” Va. Code Ann. § 53.1-127.1 (2012).	Applies to Counties:  State received \$3.2 million from revenue-sharing with GTL in 2012.
<b>West Virginia</b>	“(a) The Commissioner of Corrections shall	State received

<b>State</b>	<b>Statute</b>	<b>Notes*</b>
	<p>establish an inmate benefit fund for each of the institutions under his or her jurisdiction. The inmate benefit fund is a fund held by the institutions for the benefit and welfare of inmates incarcerated in state correctional facilities and for the benefit of victims.</p> <p>(b) . . . Moneys to be deposited into an inmate benefit fund consist of: . . . (3) All proceeds from contracted inmate telephone commissions; . . .</p> <p>(c) The inmate benefit fund may only be used for the following purposes at correctional facilities: (1) Open-house visitation functions or other nonroutine inmate functions; (2) Holiday functions which may include decorations and gifts for children of inmates; (3) Cable television service; (4) Rental of video cassettes; (5) Payment of video license;</p> <p>(6) Recreational supplies, equipment or area surfacing; (7) Reimbursement of employee wages for overtime incurred during open-house visitations and holiday functions; (8) Postsecondary education classes; (9) Reimbursement of a pro rata share of inmate work compensation; (10) Household equipment and supplies in day rooms or units as approved by chief executive officers of institutions, excluding supplies used in the daily maintenance and sanitation of the unit; (11) Christmas or other holidays gift certificates for each inmate to be used at the exchange or commissary; (12) Any expense associated with the operation of the fund; (13) Expenditures necessary to properly operate an automated inmate family and victim information notification system; (14) Any expense for improvement of the facility which will benefit the inmate population that is not otherwise funded; (15) Any expense related to the installation, operation and maintenance of the inmate telephone system; and (16) For restitution of any negative balance on any inmate's trustee account for inmate medical copay, legal and ancillary related postage, and photocopy fees that are due the State of West Virginia, if the balance is uncollectible from an inmate after one calendar year from an inmate's release on parole or discharge date.'</p> <p>W. Va. Code § 25-1-3b (2012).</p>	<p>\$696,374 from revenue-sharing with GTL in 2012.</p>
<b>Wisconsin</b>	<p>"The department shall collect moneys for commissions from telephone companies for contracts to provide telephone services to inmates. . . . The secretary of administration shall do all of the following:</p>	<p>State received \$2.3 million from revenue-sharing with CenturyLink in 2012.</p>

<b>State</b>	<b>Statute</b>	<b>Notes*</b>
	(1) Deposit two-thirds of all moneys collected under this section in the general fund as general purpose revenue-earned. (2) Credit one-third of all moneys collected under this section to the appropriation account [for Adult Correctional Services].” Wis. Stat. § 310.105 (2013).	

\* - Revenue information from *Petitioners Comments*, Exhibit E.