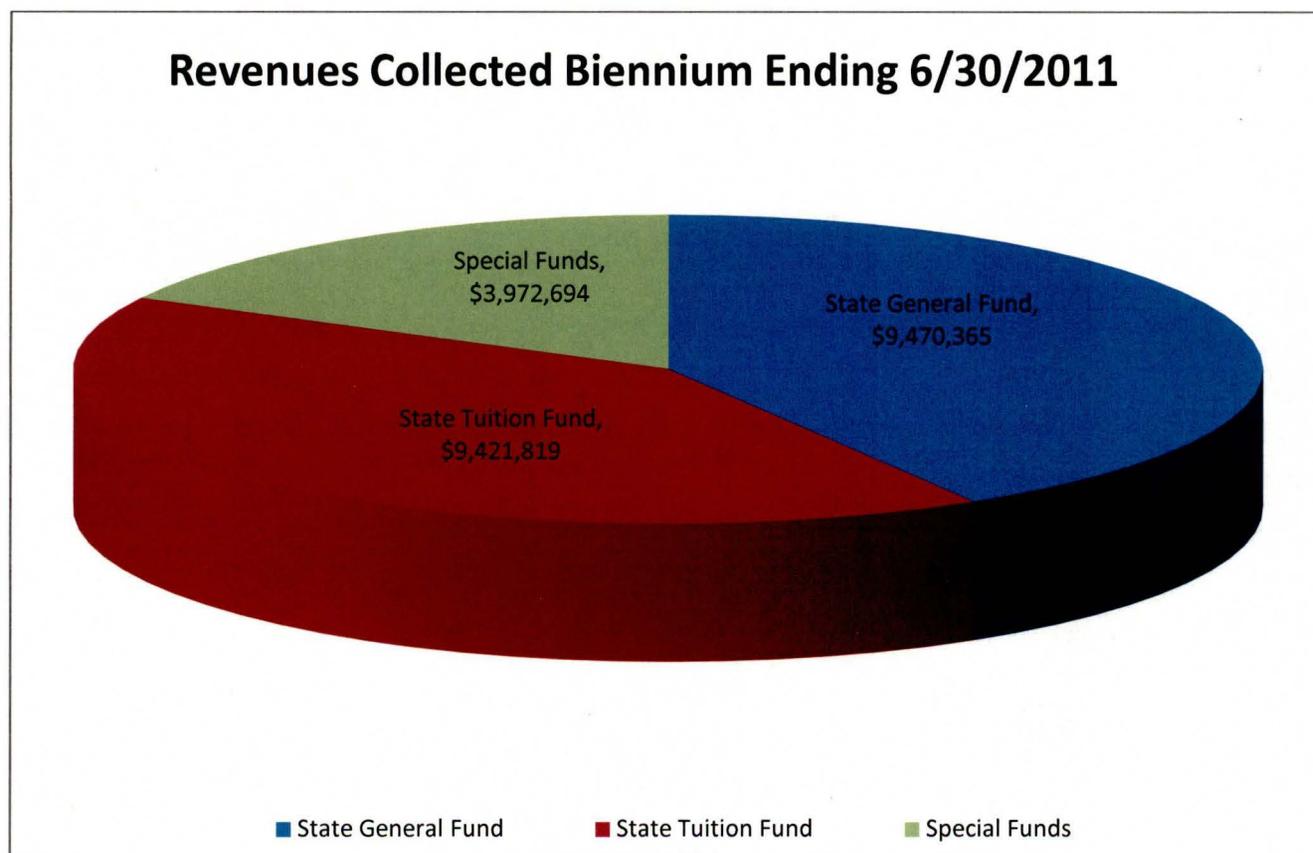


COMMISSION ON ALTERNATIVES TO INCARCERATION

Good afternoon Chairman Lyson and members of the Commission on Alternatives to Incarceration. For the record my name is Don Wolf and I am the Finance Director for the Supreme Court. I will be presenting information regarding court fees, community service programs and alternatives to incarceration. The State Court Administrator, Sally Holewa, is also present to help answer any questions you may have.

JUDICIAL BRANCH COURT FEES



The Judicial Branch collected \$22,864,878 during the 2009-11 biennium from various court fees which are allocated to the State General Fund and various special funds as follows:

STATE GENERAL FUND REVENUES

- **Civil filing fees (\$3,104,160)** – A \$65 civil filing fee is assessed for filing various civil cases that are not small claims actions. For filing a petition for dissolution of marriage, annulment or separation; \$50 of the \$65 fee goes to the displace homemaker fund. The civil filing fee is \$50 for filing an answer to a case that is not a small claims action and \$10 for filing a small claims action in district court.

- **Criminal court administration fees (\$4,777,928)** – In all criminal cases except infractions, upon a plea for finding of guilty, the court is to impose a court administration fee in lieu of the assessment of court costs. The fee is \$125 for Class B Misdemeanor; \$200 for Class A Misdemeanor; \$400 for Class C felony; \$650 for Class B felony; and \$900 for Class A or AA felony. The court may waive this fee upon a finding of indigence.
- **Bail bond forfeitures (\$612,810)** – Includes bail bond or other property or money deposited as bail forfeited to the state.
- **District Court Costs (\$22,619)** – Includes miscellaneous District Court administration fees, exclusive of amounts deposited in the indigent defense administration fund and the court facilities and improvement fund, and forfeitures.
- **Indigent Defense Recoupment (\$288,519)** – A defendant for whom counsel is provided at public expense is to reimburse the state, home rule county, or city the sum expended on the defendant's behalf. Reimbursements to the state are deposited in the State General Fund.
- **Municipal Court Transfers (\$416,938)** – A city may contract with the county, state or an individual for prosecution or defense services. In the contract, the city, county or state may agree to division of all fees, fines, costs, forfeitures, and any monetary consideration collected from the case. Generally, per court policy the contract split is 60 percent state and 40 percent city/county. In the absence of a contract, all fees, fines, costs, forfeitures, and monetary consideration collected from cases transferred to district court is deposited in the State General Fund.
- **Indigent Civil Legal Service Fund (\$40,482)** – Fees collected from a \$15 civil legal service fee in various civil cases that are not small claims actions are deposited in the indigent civil legal services fund (see special funds below). Although the fund is a special fund, fees collected in excess of \$650,000 in a biennium are deposited in the State General Fund.
- **Motion to Modify (\$34,873)** – A \$30 fee is assessed for filing a motion or an answer to a motion to modify an order for alimony, property division, child support, or child custody.
- **Miscellaneous State Revenue (\$171,136)** – Fees collected for copies, court forms, certifying documents, record searches, etc.
- **Interest (\$900)** – Interest earned on bank accounts maintained by courts with state employed clerks.

SPECIAL FUND REVENUES

- **Indigent Defense Application Fee (\$180,517)** – A nonrefundable \$25 application fee is assessed when an application for indigent defense services is submitted. Application fees collected are forwarded for deposit in the indigent defense administration fund. All moneys in

the indigent defense administration fund are appropriated on a continuing basis to the Commission on Legal Counsel for Indigents to be used in the administration of the indigent defense system.

- **Indigent Defense/Facility Fees (\$2,842,384)** – In all criminal cases except infractions, a court administration fee of \$100 is assessed. The first \$750,000 collected per biennium is deposited in the indigent defense administration fund. All moneys in the indigent defense administration fund are appropriated to the Commission on Legal Counsel for Indigents on a continuing basis for administration of the indigent defense system. The next \$460,000 collected per biennium is deposited in the court facilities improvement and maintenance fund. The moneys in the court facilities improvement and maintenance fund are appropriated on a continuing basis to the court facilities improvement advisory committee for providing court facility improvement project grants to counties. The advisory committee consists of two members appointed by the North Dakota Association of Counties, one member appointed by the Chief Justice, one member appointed by the State Bar Association of North Dakota, and one member appointed by the Chairman of Legislative Management. After the minimum thresholds have been met one-half of the fees collected are deposited equally in each fund. During the 2009-11 biennium \$1,566,192 was allocated to the indigent defense administration fund and \$1,276,192 for court improvement grants.
- **Indigent Civil Legal Service Fund (\$650,000)** – A \$15 civil legal service fee is assessed in various civil cases that are not small claims actions for deposit in the indigent civil legal service fund. The moneys in the fund are appropriated on a continuing basis to an advisory committee consisting of the Lt. Governor, the director of the Office of Management and Budget or director's designee, and the State Court Administrator. The committee issues grants to state operated legal service programs that provide legal services to persons unable to afford private counsel. Fees collected which exceed \$650,000 in a biennium are deposited in the State General Fund. The 2009-11 biennium fees collected were allocated to Legal Services North Dakota (\$585,000), Dakota Plains Legal Services (\$26,000), and Migrant Legal Services (\$39,000).
- **Restitution Collection Assistance Fund (\$47,923)** – When restitution ordered by the court is the result of a finding that the defendant issued a check or draft without sufficient funds or without an account, the court is to impose as a fee the greater of the sum of \$10 or an amount equal to 25 percent of the amount of restitution ordered. The fee imposed may not exceed \$1,000. Restitution fees go to the county when collected by the State's Attorney or by contract clerks of court. The fees are deposited in the restitution collection assistance fund when collected by state operated county clerks of court. The moneys in the restitution

collection assistance fund are appropriated on a continuing basis to the Judicial Branch for defraying expenses incident to the collection of restitution.

- **Displaced Homemaker (\$200,492)** – A \$50 fee for filing a petition for dissolution of marriage, annulment or separation to be deposited in the displaced homemaker fund. The funds in the displaced homemaker fund are appropriated on a continuing basis to the Department of Public Instruction for providing services to displaced homemakers.
- **Community Service Fee (\$51,378)** – The court is to impose a community service fee of \$25 per defendant participating in community service. The fees collected are deposited in the community service supervision fund for the purpose of providing community service supervision grants subject to legislative appropriation. The funding in the community service supervision fund is maintained by the Department of Corrections and Rehabilitation. The court may waive this fee upon a showing of indigence.

STATE TUITION FUND REVENUES

- **State Tuition Fund (\$9,421,819)** – Except as otherwise provided by law, all statutory fees, fines, forfeitures and monetary penalties prescribed for a violation of state law are deposited in the common schools trust fund.

ACCOUNTS RECEIVABLE

Total outstanding accounts receivable as of June 30, 2011 were \$13,190,299. Of this amount \$10,114,396 or 77 percent of the outstanding balance is more than one year old. Approximately 85 percent of the accounts receivable over one year old are considered uncollectible. The total estimated uncollectible balance is \$9,233,225. The counties with the largest accounts receivable balance include Cass (\$2,479,728), Ward (\$1,841,480), Grand Forks (\$1,840,350) and Burleigh (\$1,421,715) Counties. The accounts receivable balance consists of the following:

- **General Fund (\$6,035,400)** – Indigent Defense recoupment (\$1,145,558), criminal court administration fees (\$4,860,945), civil filing fees (\$27,440), municipal court transfers (\$1,324), and miscellaneous (\$133).
- **Special Funds (\$1,716,071)** – Indigent Defense/facility fees (\$1,591,369), community service fees (\$20,141), and restitution collection fees (\$104,561).
- **State Tuition Fund (\$5,438,828).**

Pursuant to North Dakota Century Code (NDCC) Section 11-16-01, it is the responsibility of the State's Attorney to prosecute all actions for the recovery of debts, fines, penalties, and forfeitures accruing to the state or to the county. The Judicial Branch has however implemented various programs

for the collection of outstanding fines and fees. The Supreme Court Administrative Office provides state tax intercept and monthly delinquent account notice services for all 53 counties. The McHenry County Clerk of Court provides a centralized fine collection service for 13 counties. Collection efforts can be challenging due to the fact that the debtors often lack steady employment or permanent residency.

COMMUNITY SERVICE PROGRAMS

The 2007 Legislative Assembly approved Senate Bill No. 2243, which provided for the imposition of a \$50 community service supervision fee upon each defendant who receives a sentence of community service. The 2009 Legislative Assembly approved Senate Bill No. 2028, which reduced the community service supervision fee to \$25. As indicated previously, the community service supervision fees collected must be deposited in the community service supervision fund. The fund is maintained by the Department of Corrections and Rehabilitation and is to be used to provide community service supervision grants subject to legislative appropriations. The 2011 Legislative Assembly did not appropriate any funds from the community service supervision fund. Attached as **Appendix A** is a list of primary community work service providers utilized by District Courts and community service fees collected during the 2007-09 and 2009-11 bienniums.

ALTERNATIVES TO INCARCERATIONS

Pursuant to NDCC Section 12.1-32-02, every person convicted of a criminal offense who is sentenced by the court is to be sentenced to one or a combination of the following:

- Payment of the reasonable costs of the person's prosecution;
- Probation;
- A term of imprisonment in a state correctional facility, county jail, regional corrections center, or in a facility or program deemed appropriate for the treatment of the individual offender, including available community-based programs;
- A fine;
- Restitution for damages resulting from the commission of the offense;
- Restoration of damaged property or other appropriate work detail;
- Commitment to an appropriate licensed public or private institution for treatment of alcoholism, drug addiction, or mental disease or defect; or
- Commitment to sexual offender treatment program.

As a condition of probation, the court is required to order supervision fees of not less than \$45 per month unless the court makes a specific finding on record that the imposition of fees will cause the offender undue hardship. This fee is collected by the Department of Corrections and Rehabilitation and deposited in a special operating fund. The Department of Corrections and Rehabilitation cannot expend any of these special funds without legislative authority.

Attached as **Appendix B** is a list of programs that have been identified as potential alternatives to incarceration. Various alternatives to incarceration programs are used throughout the state; however, judges seldom specifically identify the program as an "alternative to incarceration" at the time of the sentencing.

Appendix A

Community Service Fees Collected and Providers

County	2007-09 Biennium	2009-11 Biennium*	Increase (Decrease)	Primary Provider
Benson	\$10.00	\$65.00	\$55.00	Lake Region Community Service
Bottineau	\$0.00	\$0.00	\$0.00	Heart of America Community Service
Cavalier	\$0.00	\$0.00	\$0.00	Clerk of Court
Grand Forks	\$3,926.00	\$699.00	(\$3,227.00)	Grand Forks Community Service & Restitution
McHenry	\$2,825.00	\$1,673.32	(\$1,151.68)	Heart of America Community Service Program Grand Forks Community Service & Restitution and Lake Region Community Service
Nelson	\$0.00	\$0.00	\$0.00	Clerk of Court
Pembina	\$39.00	\$0.00	(\$39.00)	Clerk of Court
Pierce	\$1,690.00	\$1,845.00	\$155.00	Heart of America Community Service
Ramsey	\$0.00	\$0.00	\$0.00	Lake Region Community Service
Renville	\$0.00	\$0.00	\$0.00	Rehab Services, Inc.
Rolette	\$0.00	\$0.00	\$0.00	Heart of America Community Service
Towner	\$0.00	\$0.00	\$0.00	Lake Region Community Service
Walsh	\$450.00	\$600.00	\$150.00	Grand Forks Community Service & Restitution
Total Unit 1	\$8,940.00	\$4,882.32	(\$4,057.68)	
Barnes	\$150.00	\$375.00	\$225.00	Barnes County Community Service
Cass	\$8,540.00	\$5,495.00	(\$3,045.00)	R.E.S.T.O.R.E., Inc.
Dickey	\$3,895.00	\$3,105.00	(\$790.00)	Jamestown Community Service and Restitution
Eddy	\$1,550.00	\$975.00	(\$575.00)	Jamestown Community Service and Restitution
Foster	\$1,000.00	\$275.00	(\$725.00)	Jamestown Community Service and Restitution
Griggs	\$700.00	\$225.00	(\$475.00)	Jamestown Community Service and Restitution
LaMoure	\$3,650.00	\$2,150.00	(\$1,500.00)	Jamestown Community Service and Restitution
Ransom	\$3,956.00	\$3,502.00	(\$454.00)	Jamestown Community Service and Restitution
Richland	\$8,062.50	\$5,837.50	(\$2,225.00)	Richland County Community Service
Sargent	\$2,440.00	\$1,800.00	(\$640.00)	Sargent County Community Service
Steele	\$0.00	\$0.00	\$0.00	Grand Forks Community Service & Restitution
Stutsman	\$11,200.00	\$3,786.00	(\$7,414.00)	Jamestown Community Service and Restitution
Traill	\$0.00	\$0.00	\$0.00	Grand Forks Community Service & Restitution
Wells	\$1,175.00	\$725.00	(\$450.00)	Wells County Community Service
Total Unit 2	\$46,318.50	\$28,250.50	(\$18,068.00)	
Adams	\$0.00	\$50.00	\$50.00	Southwest Community Service and Restitution
Billings	\$100.00	\$125.00	\$25.00	Southwest Community Service and Restitution
Bowman	\$450.00	\$575.00	\$125.00	Southwest Community Service and Restitution
Burleigh	\$8,005.38	\$10,465.62	\$2,460.24	South Central Dakota Community Service
Dunn	\$200.00	\$50.00	(\$150.00)	Southwest Community Service and Restitution
Emmons	\$650.00	\$700.00	\$50.00	Rural South Central Community Program
Golden Valley	\$0.00	\$0.00	\$0.00	Southwest Community Service and Restitution
Grant	\$0.00	\$0.00	\$0.00	Rural South Central Community Program
Hettinger	\$0.00	\$0.00	\$0.00	Southwest Community Service and Restitution
Kidder	\$150.00	\$100.00	(\$50.00)	Rural South Central Community Program
Logan	\$0.00	\$25.00	\$25.00	Rural South Central Community Program
McIntosh	\$500.00	\$275.00	(\$225.00)	Rural South Central Community Program
McLean	\$0.00	\$0.00	\$0.00	No program
Mercer	\$300.00	\$0.00	(\$300.00)	Clerk of Court
Morton	\$1,880.00	\$2,510.00	\$630.00	South Central Dakota Community Service
Oliver	\$0.00	\$50.00	\$50.00	Rural South Central Community Program
Sheridan	\$40.00	\$0.00	(\$40.00)	Rural South Central Community Program
Sioux	\$0.00	\$0.00	\$0.00	Rural South Central Community Program
Slope	\$0.00	\$25.00	\$25.00	Southwest Community Service and Restitution
Stark	\$1,555.00	\$600.00	(\$955.00)	Southwest Community Service and Restitution
Total Unit 3	\$13,830.38	\$15,550.62	\$1,720.24	
Burke	\$0.00	\$0.00	\$0.00	Rehab Services, Inc.
Divide	\$0.00	\$0.00	\$0.00	Community Service ND - Williston Region
McKenzie	\$0.00	\$0.00	\$0.00	Community Service ND - Williston Region
Mountrail	\$0.00	\$25.00	\$25.00	Community Service ND - Williston Region
Ward	\$2,530.00	\$2,669.50	\$139.50	Rehab Services, Inc.
Williams	\$0.00	\$0.00	\$0.00	Community Service ND - Williston Region
Total Unit 4	\$2,530.00	\$2,694.50	\$164.50	
GRAND TOTALS	\$71,618.88	\$51,377.94	(\$20,240.94)	

* The 2009 Legislative Assembly reduced the community service supervision fee from \$50 to \$25.

Appendix B

Alternatives to Incarceration Organizations

Program	Service Provided	Location
Teen Challenge	Faith-based counseling	Mandan
Lake Region Re-Entry Center	Chemical dependency treatment	Devils Lake
Share House	Chemical dependency treatment	Fargo
Center for Solutions	Chemical dependency treatment	Cando
Center for Success	Chemical dependency treatment	Devils Lake
Crisis Unit	Chemical dependency treatment	Devils Lake
ADAPT, Inc	Electronic home monitoring, anger management/domestic violence classes, evaluations and outpatient services	Bismarck, Williston, Grand Forks, Fargo, Devils Lake
Lutheran Social Services	Anger management and domestic violence classes	Bismarck, Grand Forks, Minot, Williston
Youthworks	Youth programs as an alternative to less serious juvenile offenses	Fargo, Bismarck
Sunrise Youth Bureau	Youth programs as an alternative to less serious juvenile offenses	Dickinson
PRIDE Program - Job Service	Program for child support obligors who might face incarceration for failure to pay	Dickinson, Grand Forks, Grafton
Goodman Addiction Services	Substance abuse evaluations	Minot
Cornerstone Addiction Services	Evaluations and outpatient services	Minot
North Dakota Human Service Centers	Evaluations and outpatient services	Williston, Dickinson, Minot, Bismarck, Devils Lake, Jamestown, Grand Forks, Fargo
Brooklyn Flats	Chemical dependency treatment	Minot
Bismarck Transition Center	Chemical dependency treatment	Bismarck
Center Inc.	Inpatient services and misdemeanor probation services	Mandan, Fargo, Grand Forks
Recovery House	Chemical dependency treatment	Minot
Alternative Corrections, Inc.	Electronic home monitoring	Moorhead
Adult Drug Court	Chemical dependency treatment	Bismarck, Fargo, Minot, Grand Forks
Juvenile Drug Court*	Chemical dependency treatment	Grand Forks, Devils Lake, Fargo, Bismarck, Minot, Williston

*Juvenile Drug Court is a program administered by the Judicial Branch.