

**ANALYSIS OF COURT SURCHARGES IN SOUTH DAKOTA  
AND RECOMMENDATION FOR USE IN THE FUTURE**

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## **ABSTRACT**

During almost every legislative session, surcharges to criminal and/or civil case court costs are proposed and considered by legislators in order to raise funds for specific projects. Currently eight surcharges are collected in the state of South Dakota on civil and criminal case filings. As each new surcharge is proposed, the same questions arise: Is this fee appropriately charged to the plaintiffs/defendants? Should the cost be paid out of the general fund? Are we charging too many court costs? Are we not charging enough? Everyone understands that it is the legislature's responsibility to determine taxation issues but it is also the judiciary's responsibility to monitor and make recommendations regarding the amounts which are collected through the court system.

The goals of this research project were to examine the relevant issues surrounding the assessment of surcharges on civil and criminal cases and to recommend a course for future usage of surcharges in South Dakota. This researcher looked at the relevant literature in this field and performed an "environmental scan" of each surcharge collected in South Dakota. This researcher also analyzed the attitudes of key judicial personnel in South Dakota regarding the usage of surcharges.

One survey was distributed to all judges, magistrate judges and circuit administrative personnel as they were determined to be the key judicial personnel. The survey asked questions designed to determine their attitudes towards surcharges in general, towards new surcharges and to provide a self-assessment of the judges' attitudes when assessing the surcharges in the courtroom. A second survey was sent to twelve midwestern states to gain information regarding their usage of surcharges and to determine their general attitude toward surcharges. A web search was also conducted to determine surcharge usage in the states not responding to the survey.

Based on the research conducted as described, a general recommendation was made to continue with the current surcharge structure in South Dakota, but in conjunction with a caveat to maintain both legislative scrutiny and to recognize the judiciary's responsibility to monitor the number and amount of the surcharges. A specific recommendation was offered regarding the one surcharge that is returned to the South Dakota Unified Judicial System for funding of court automation; this researcher recommended that incremental increases be applied to this surcharge each year rather than a large increase every few years. Finally, a recommendation was proposed regarding the monitoring of outstanding surcharge amounts.

## **INTRODUCTION**

Numerous surcharges are collected as “court costs” and are used for funding specific programs such as Court Automation and Law Enforcement Training. Almost every year, more surcharges are proposed through legislation to be added to the Clerk of Court’s collection process. During legislative hearings, proposed court costs are likened to decorative bulbs being added to a Christmas tree. The question always asked is “Are we getting too many bulbs on the tree?” The addition of new surcharges and increases to existing surcharges are scrutinized to determine if they are necessary or if an alternative funding source should be located.

Today, the South Dakota Unified Judicial System has eight surcharges collected by the Clerk of Courts with the generated revenue earmarked for specific purposes. These include: Law Enforcement Officers Training Fund, Court Appointed Attorney and Public Defenders Fund, Court Appointed Special Advocates Fund, 911 Telecommunicator Training Fund, Abused and Neglected Child Defense Fund, Court Automation Fund, Victim Compensation Fund and Law Library. Only the Court Automation Fund is managed by the South Dakota Unified Judicial System for the development and maintenance of all state court computer operations.

This research project examines surcharges in the state of South Dakota. An environmental scan is performed to determine: the pros and cons for the usage of surcharges, current South Dakota surcharge structure, legislative intent behind the surcharges, revenue generated/budgetary impact and outstanding surcharges. A comparison is performed with other midwestern states that belong to the Conference of State Court Administrator’s Midwest Region group or are in close proximity geographically to South Dakota to determine if South Dakota’s environment is similar or diverse. In addition, a survey is conducted to determine the attitudes of

key judicial personnel concerning the surcharges in general, current South Dakota surcharges and new surcharges that may be proposed.

From the information learned from the relevant literature research, the current South Dakota surcharge structure and history, the surveys regarding attitudes towards the usage of surcharges, and comparative information with other midwestern states, this researcher makes a general recommendation regarding the usage of surcharges in South Dakota, a specific recommendation regarding the Court Automation Surcharge, and a recommendation concerning collection monitoring.

## REVIEW OF RELEVANT LITERATURE

### I. Surcharges

In 1986, the Conference of State Court Administrators (COSCA) conducted a survey to determine national practices in the collection of fees, miscellaneous charges and surcharges. Their findings were released in a document entitled Standards Relating to Court Costs: Fee, Miscellaneous Charges and Surcharges and A National Survey of Practice. For this document, a survey was conducted to determine national practices in the collection of fees, miscellaneous charges and surcharges. When the information from the returned surveys was analyzed, it was clear that a definition of “fees”, “costs” and “surcharges” was necessary.<sup>1</sup> For the purposes of this research paper, the standard definitions adopted by the Conference of State Court Administrators will be utilized.

Surcharges are defined by COSCA as “Amounts added to fines, fees or court costs that are used for designated purposes”.<sup>2</sup> Examples of surcharges are law enforcement training fund, indigent defense funds, sheriff’s surcharges, court automation and domestic violence funds. The COSCA paper went a step further and outlined what some scholars say is an idealistic position on the use of surcharges. The main tenets of the COSCA position included:

1. Surcharges should be set by the legislature with input from the appropriate judicial body. One of the roles of the legislature is to appropriate and to assess taxes. However, it is considered the judiciary’s responsibility to guard against that which could preclude the public’s access to the courts including surcharges. The judiciary should be

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<sup>1</sup> Conference of State Court Administrators, Standards Relating to Court Costs: Fees, Miscellaneous Charges and Surcharges and A National Survey of Practice. Williamsburg, VA: National Center for State Courts, 1986, p. iii.

<sup>2</sup> Conference of State Court Administrators. Standards Relating to Court Costs: Fees, Miscellaneous Charges and Surcharges and A National Survey of Practice. Williamsburg, VA: National Center for State Courts, 1986, p. 2.

allowed to provide input in the legislative process when new surcharges are to be added or existing surcharges are to be increased to maintain access to justice. Also, to ensure equal access to the courts, the judiciary must have discretion to waive surcharges for indigent defendants.

2. Surcharges should not be an alternate form of taxation. Often, imposing a surcharge to fund a program is the legislature's technique of providing revenue for a special program rather than using general funds.

3. Surcharges should be reviewed periodically. COSCA recommends a review every three to five years to evaluate a surcharge for appropriateness and amount, not necessarily to end the surcharges but to ensure their continued necessity in the revenue structure.

4. Standard 3.0 actually went so far as to prohibit surcharges, stating "If the purpose funded by a surcharge is for the greater public good it should be worthy of consideration of funding from a broader general revenue source through the normal appropriation process".<sup>3</sup> One noteworthy comment stated that there is the appearance of impropriety when only the users of the court system are burdened with supporting a program which is considered to be for the greater good of the public.

Rick Rager, in his 2002 Phase III Project for the Court Executive Development Program, supported the fourth standard especially in regard to surcharges where the funds stay with the court system and provide revenue for their own operations. One point brought out in his paper was that: "A court can be seriously compromised if the public perceives that judicial decisions

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<sup>3</sup> Conference of State Court Administrators. Standards Relating to Court Costs: Fees, Miscellaneous Charges and Surcharges and A National Survey of Practice. Williamsburg, VA: National Center for State Courts, 1986, p. 7.

are based on a need for revenue”.<sup>4</sup> It doesn’t matter if there is a real need for the surcharge or not; the operative issue is the public’s perception of the need. A court is to be an institution that is fair and impartial, and if it is perceived by the public to have a politically-motivated agenda of its own, then its independence is brought into question.

Although the standards proposed by COSCA represent an idealistic judicial system, the chairperson of the COSCA committee recognized the challenges in actually adopting the standards as shown by the following comments presented in the introduction:

Practically, any state undertaking the adoption of these standards is not likely to change current practice overnight. However, judiciaries should discourage the addition of more surcharges than already exist. They should support legislative review of those surcharges in existence and encourage their legislatures to enact sunset clauses or repeal them outright. Working with legislators to enable them to understand the insidious nature of surcharges and the deprivation of the legislator’s own power of review is probably a more effective approach than challenging the statutes and holding them unconstitutional.<sup>5</sup>

COSCA is not the only voice raised against the use of surcharges. In an article published in *The Court Manager*, Robert Tobin a noted expert in the area of court financing, outlined reasons that surcharges or earmarked funds cause problems, including: (1) reduction of accountability under the budget process, (2) possible stockpiling of funds in a time when there may be severe shortages in other areas of public expenditures, (3) problems of internal control which include the temptation to misuse funds possibly due to vagueness of statutes outlining the purpose of the surcharge.<sup>6</sup>

In spite of the idealist standards outlined by the Conference of State Court Administrators and the problems noted by Tobin, legislatures and courts and other entities do favor the use of

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<sup>4</sup> Rager, Rick S. Courts and the Public Interest: A Call for Sustainable Resources. ICM Court Executive Development Program, Phase III Paper, 2002, p. 27..

<sup>5</sup> Conference of State Court Administrators. Standards Relating to Court Costs: Fees, Miscellaneous Charges and Surcharges and A National Survey of Practice. Williamsburg, VA: National Center for State Courts, 1986, Introduction.

<sup>6</sup> Tobin, Robert. “Managing Budget Cutbacks.” Court Manager (Winter 1995): 15-26, p. 13.

surcharges in many instances. In fact, Robert Tobin himself recognized that earmarked funds can be utilized as a way of “providing insulation against downturns in the budget”.<sup>7</sup> Courts and other entities which receive revenue from surcharges are able to forecast the amount of funds available from a surcharge as compared to being at the mercy of the legislature when budget cuts become necessary.

According to information supplied in “The Fiscal Survey of the States” published in June 2003, states are struggling to balance their budgets. “Revenue collections fell far short of the projections states made when they passed their fiscal 2003 budgets. Faced with large gaps between planned spending and the revenue that supports it... states have cut spending, drawn on reserve funds and increased taxes.”<sup>8</sup> As a response to the continuing budget problems, experts in the field are publishing documents to assist courts in managing budget cutbacks. In the article published in *The Court Manager*, Robert Tobin outlined some of the more common alternatives to traditional revenue sources. The list includes alternatives such as: special fees and court costs earmarked for court automation, law libraries, general improvement of court operations and court security services.<sup>9</sup> Tobin also supported the creation or increase of earmarked fees by saying “Enhancement and creation of revenue streams has become crucial to long-term financial planning in courts”.<sup>10</sup> He went so far as to say that courts with accumulated reserves from earmarked fees are best able to withstand a budget crisis and that long-term planning should be

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<sup>7</sup> Tobin, Robert. “Managing Budget Cutbacks.” *Court Manager* (Winter 1995): 15-26, p. 13.

<sup>8</sup> “The Fiscal Survey of the States: June 2003.” National Governors Association. National Center for State Courts web page. March 28, 2005 [http://www.ncsconline.org/D\\_Comm/BudgetPage.htm](http://www.ncsconline.org/D_Comm/BudgetPage.htm), p. 9.

<sup>9</sup>Tobin, Robert. “Managing Budget Cutbacks.” *Court Manager* (Winter 1995): 15-26, p. 13.

<sup>10</sup> ---. “Learning from the Recession Experience.” Williamsburg, VA: National Center for State Courts, September 23, 2005, [http://www.ncsconline.org/WC/Publications/CS\\_BudPro\\_Recession\\_Lessons.pdf](http://www.ncsconline.org/WC/Publications/CS_BudPro_Recession_Lessons.pdf), p. 12.

documented and maintained in order to “institutionalize alternative funding sources within a framework of accountability”.<sup>11</sup>

Overall, national publications in the last few years have recognized the political danger both in establishing too many surcharges and also in allowing the amount to grow collectively to a large amount against the individual. But, by a large margin, the overall consensus of the documents and results of the surveys, one could conclude that surcharges are essential as an alternative funding source and will be accepted both by the public and by the court officials if used in moderation.

## **II. South Dakota Surcharges**

Currently, the South Dakota Unified Judicial System has eight surcharges collected by the Clerk of Courts on criminal and civil cases. Five of the eight surcharges are included in the statutes in the Chapter entitled “Liquidated Costs”. These include: Law Enforcement Officers Training, Court Appointed Attorney and Public Defenders, Court Appointed Special Advocates, 911 Telecommunicator Training, and Abused and Neglected Child Defense. The other surcharges are Court Automation, Victim Compensation and Law Library. The Unified Judicial System has an established payment hierarchy to determine the order in which a payment on a criminal accounts receivable is distributed. Priority is given in the following order: Restitution, Liquidated Costs, Court Automation Surcharge, Victim Compensation Surcharge, Court Appointed Attorney Fees, Court Costs, and finally Court Fines.

Each surcharge is analyzed in this research document as to its history, legislative intent, revenue collected and budgetary impact. Table 1 shows the schedule for all court surcharges.

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<sup>11</sup> Tobin, Robert. “Learning from the Recession Experience.” Williamsburg, VA: National Center for State Courts, September 23, 1005, [http://www.ncsconline.org/WC/Publications/CS\\_BudPro\\_Recession\\_Lessons.pdf](http://www.ncsconline.org/WC/Publications/CS_BudPro_Recession_Lessons.pdf), p. 4.

<b>Schedule of Court Costs Effective July 1, 2004</b>			
<b>Criminal Court Costs</b>	<b>Liquidated Costs</b>	<b>Court Automation</b>	<b>Victim's Compensation</b>
Felonies	\$30.00	\$30.50	\$2.50
Class 1 Misdemeanors	\$30.00	\$20.50	\$2.50
Class 2 Misdemeanors (state law violations)	\$30.00	\$11.50	\$2.50
Class 2 Misdemeanors (county/municipal violations)	\$30.00	\$8.50	\$2.50
Administrative Rules	\$30.00	\$8.50	\$2.50
Petty Offenses	\$0.00	\$0.00	\$0.00
<b>Civil Court Costs</b>		<b>Court Automation</b>	<b>Law Library</b>
SDCL 16-2-29, Section 1-3		\$20.00	\$5.00
Small Claims \$0 to \$3999.99		\$6.00	\$2.00
Small Claims \$4000 to \$8000		\$8.00	\$2.00

**Table 1. Schedule of Court Costs**

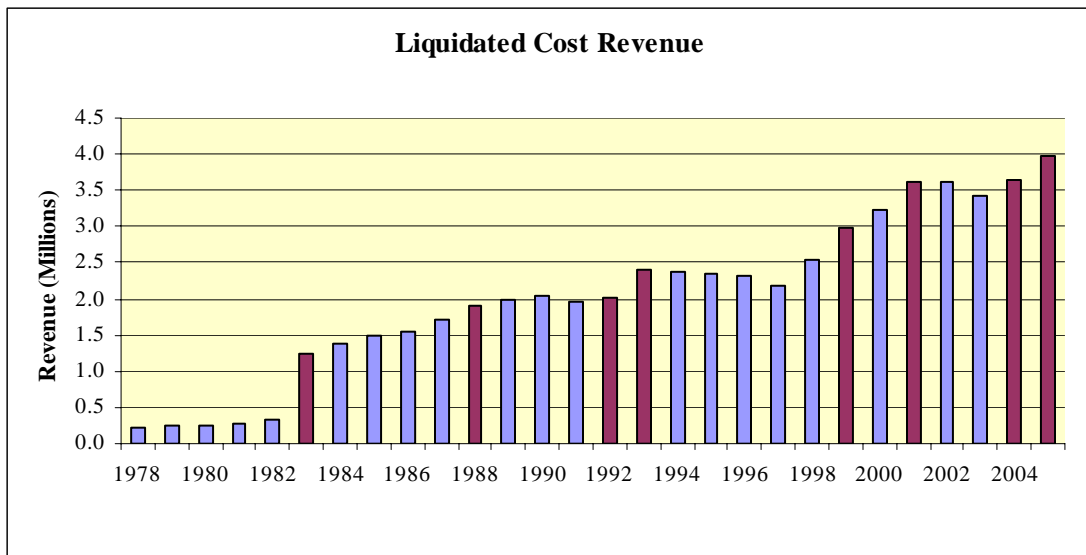
**A. Liquidated Costs**

The Liquidated Cost surcharge was created by the Legislature in 1977 and was originally called a penalty assessment. This penalty assessment was to be the greater of two dollars or five percent of every fine and penalty imposed and collected by the courts for criminal and petty offenses and other local ordinances. Initially, all money collected under the provisions of this act was remitted to the state treasurer to be deposited in the Law Enforcement Officers Training Fund. The money was to be used to “pay necessary

cost of law enforcement training and to pay expenses for the operation of the law enforcement officers standards commission.<sup>12</sup>

In the ensuing twenty-eight years, the statutes defining the penalty assessment, the amount to be collected and the benefiting programs have been modified numerous times. In 1982, the Legislature changed the scope of the statute by coining the term “Liquidated Costs”. At this time, the amount to be collected was increased and the costs were to be allocated to the law enforcement officers training fund and the court appointed attorney and public defender payment fund. Subsequently, additional surcharges were added to the Liquidated Costs statute. Analyses of each surcharge collected as part of Liquidated Costs are presented later in this research paper. Table 2. Liquidated Costs History of Rates and Distribution of Funds on the following page outlines the history of the surcharge including the amount of the surcharge and the distribution of the funds.

The following chart illustrates Liquidated Cost revenue from 1978 through 2005. The effective year of each surcharge increase has been highlighted.



**Illustration 1. Liquidated Cost Revenue 1978-2005**

<sup>12</sup> SL 1977, Chapter 194, Section 2, p. 391.

<b>Liquidated Costs History of Rates and Distribution of Funds</b>		
<b>Year</b>	<b>Amount</b>	<b>Distribution</b>
1977	\$2 or 5%	\$2 or 5% - Law Enforcement Officers Training
1982	\$12	\$10 – Law Enforcement Officers Training \$2 – Court Appointed Attorney and Public Defender
1987	\$15	\$11 – Law Enforcement Officers Training \$4 – Court Appointed Attorney and Public Defender
1991	\$15	\$11 – Law Enforcement Officers Training \$3 – Court Appointed Attorney and Public Defender \$1 – Abused and Neglected Child Defense
1992	\$19	\$15 – Law Enforcement Officers Training \$3 – Court Appointed Attorney and Public Defender \$1 – Abused and Neglected Child Defense
1998	\$22	\$17 – Law Enforcement Officers Training \$3 – Court Appointed Attorney and Public Defender \$1 – Abused and Neglected Child Defense \$1 – 911 Telecommunicator
2000	\$25	\$17 – Law Enforcement Officers Training \$6 – Court Appointed Attorney and Public Defender \$1 – Abused and Neglected Child Defense \$1 – 911 Telecommunicator
2003	\$27	\$17 – Law Enforcement Officers Training \$6 – Court Appointed Attorney and Public Defender \$1 – Abused and Neglected Child Defense \$1 – 911 Telecommunicator \$2 – Court Appointed Special Advocates
2004	\$30	\$20 – Law Enforcement Officers Training \$6 – Court Appointed Attorney and Public Defender \$1 – Abused and Neglected Child Defense \$1 – 911 Telecommunicator \$2 – Court Appointed Special Advocates

**Table 2. Liquidated Costs History of Rates and Distribution of Funds**

Also noteworthy when discussing the Liquidated Cost surcharge is the fact that according to the statutes, even if a fine is suspended, “the liquidated costs for law enforcement and training may not be reduced, except that the judge may waive all or any

part of the payment of liquidated costs which would work a hardship on the person convicted or on the person's immediate family".<sup>13</sup> Following is a discussion of each surcharge which is incorporated into the Liquidated Cost surcharge.

### **1. Law Enforcement Officers Training**

The Legislature created the Law Enforcement Officers Training Fund in 1977 to "pay necessary cost of law enforcement training and to pay expenses for the operation of the law enforcement officers standards commission".<sup>14</sup> In the twenty-eight years that the fund has existed, its purpose has been modified and today the fund may be used to "pay necessary costs of law enforcement, law enforcement training and judicial training and to pay expenses for the operation of the law enforcement officers standards commission".<sup>15</sup> The statute expands the definition by including items such as the operation of a statewide drug enforcement unit and the state forensic laboratory, purchase of law enforcement equipment, and the training of prosecutors and judicial personnel.

The funds for this program are collected through the Clerk of Court offices as part of the Liquidated Costs collected on criminal convictions. The Liquidated Cost amount is currently thirty dollars and twenty dollars of this surcharge goes to the Law Enforcement Officers Training Fund. The surcharge was originally two dollars and has been increased four times over the last twenty-eight years. As a part of Liquidated Costs, this surcharge is second in the payment hierarchy and disbursed on a percentage basis. The funds are continuously appropriated and the Office of the Attorney General authorizes disbursements from the fund. The following table shows the status of the Law Enforcement Officers Training Fund at the end of the last three fiscal years.

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<sup>13</sup> SDCL 23-3-52.

<sup>14</sup> SL 1977, Chapter 194, Section 2 p. 391.

<b>Law Enforcement Officers Training Fund</b>			
	<b>FY03*</b>	<b>FY04*</b>	<b>Est. FY05</b>
Beginning Balance	\$521,942	\$203,326	(\$347,694)
Revenues	\$2,345,819	\$2,324,015	\$2,949,618
Expenditures	\$2,664,435	\$2,875,035	\$2,738,442
Ending Balance	\$203,326	(\$347,694)	(\$136,518)
*Data obtained from Issue Memorandum 04-01, Legislative Research Council. <sup>16</sup>			

**Table 3. Law Enforcement Officers Training Fund**

## **2. Court Appointed Attorney and Public Defenders**

The Court Appointed Attorney and Public Defender’s Fund was created by the Legislature in 1982 to partially reimburse the counties throughout South Dakota for the costs of legal counsel for indigent persons. SDCL 23A-40-6 states “if it is satisfactorily shown that the defendant or detained person does not have sufficient money, credit or property to employ counsel and pay for the necessary expenses of his representation, the judge of the circuit court or the magistrate shall, upon request of the defendant, assign, at any time following arrest or commencement of detention without formal charges, counsel for his representation...”. The counties are required to provide this representation through a public defenders office, appointing attorneys in the county in a systematic manner, or contracting with an attorney licensed to practice law.<sup>17</sup>

The funds to support this are collected through the Clerk of Court offices as part of the Liquidated Costs collected on criminal convictions. The Liquidated Cost amount is

<sup>15</sup> SDCL 23-3-55.

<sup>16</sup> Holwegner, Issue Memorandum 04-01, Liquidated Costs and Surcharge Collected by the Unified Judicial System. Legislative Research Council, Pierre, SD, November 4, 2004, p. 10.

<sup>17</sup> SDCL 23A-40-7.

currently thirty dollars; six dollars of this surcharge goes to the Court Appointed Attorney and Public Defenders Fund. The original surcharge of two dollars has been changed numerous times. In 1987, the surcharge was increased to four dollars and in 1991 was decreased to three dollars. At this time the Legislature created the Abused and Neglected Child Defense Fund and reallocated one dollar from the Court Appointed Attorney and Public Defenders fee to fund the new program. In 2000, the Legislature increased the surcharge to the current level of six dollars. As a part of Liquidated Costs, this surcharge is second in the payment hierarchy. The funds are remitted to the State Treasurer's Office and are distributed annually to the counties on a pro rata basis. The following table shows the status of the Court Appointed Attorney and Public Defenders Fund at the end of the last three fiscal years. Included on this table is the counties' total cost for this service and the percentage of the counties' costs which is covered through this fund.

<b>Court Appointed Attorney and Public Defenders Fund</b>			
	<b>FY03*</b>	<b>FY04*</b>	<b>Est. FY05</b>
Beginning Balance	\$871,967	\$827,002	\$805,070
Revenues	\$827,002	\$805,070	\$805,000
Expenditures	\$871,967	\$827,002	\$805,070
Ending Balance	\$827,002	\$805,070	\$805,000
Counties' Total Cost	\$6,354,067	\$6,700,251	\$6,700,000
% of Counties Costs Covered	13.7%	12.3%	12.0%
*Data obtained from Issue Memorandum 04-01, Legislative Research Council. <sup>18</sup>			

**Table 4. Court Appointed Attorney and Public Defenders Fund**

<sup>18</sup> Holwegner, Issue Memorandum 04-01, Liquidated Costs and Surcharge Collected by the Unified Judicial System. Legislative Research Council, Pierre, SD, November 4, 2004, p. 8.

### **3. Court Appointed Special Advocates (CASA)**

Court Appointed Special Advocate (CASA) programs provide volunteers to act as lay advocates for abused and neglected children by making recommendations to the child's attorney and the court concerning the welfare of the child. The Court Appointed Special Advocates (CASA) grant program was created by the Legislature in 2003 to "support the development, growth, quality and continuation of CASA programs in South Dakota".<sup>19</sup> Grants can be awarded to any entities that are recognized by the National CASA Association, including the South Dakota CASA Association.

The funds for the CASA program are typically collected through the Clerk of Court offices as part of the Liquidated Costs collected on criminal convictions but can also enter the fund through contributions, grants, settlement funds, interest or other payments ordered by the court. The Liquidated Cost amount is currently thirty dollars, two dollars of this surcharge goes to the CASA Fund. As a part of Liquidated Costs, this surcharge is second in the payment hierarchy and disbursed on a percentage basis.

According to the statutes, awards shall be determined by an appointed CASA Commission. Five commissioners will be chosen by the Governor and the Chief Justice and appointed to three year terms. The Governor will appoint three members of the commission, one who is a current or former legislator, one with experience of investigations of child abuse and neglect and one with experience of child abuse and neglect in a tribal setting. The Chief Justice will appoint two members of the commission, one with experience and knowledge of abuse and neglect court proceedings

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<sup>19</sup> SDCL 16-2-51.

and one with experience with treatment programs for children who have been abused and neglected.

Funds are disbursed from the CASA fund once each fiscal year. The CASA Commission awards the grants after publicizing the availability of the grants and the procedures for obtaining the grants. As part of the application process, CASA organizations are required to provide their current operating budget which enables the Commission to determine the budgetary impact of the grant on each organization. In the past two fiscal years, eight CASA organizations have received grants from the CASA Commission. The following tables show the amounts awarded in FY04 and FY05 for each organization in comparison to their total budget.

<b>CASA Grant Awards for Fiscal Year 2004</b>			
	<b>Total Budget</b>	<b>Award</b>	<b>% of Budget</b>
SD CASA Association	\$59,750	\$12,500	20.9%
Seventh Circuit CASA	\$323,500	\$45,188	14.0%
Sioux Falls CASA	\$238,732	\$45,187	18.9%
Aberdeen CASA	\$153,600	\$28,000	18.2%
Northern Hills CASA	\$120,380	\$30,000	24.9%
Civic CASA	\$60,200	\$25,000	41.5%
First Circuit CASA	\$45,000	\$4,125	9.2%
East Central CASA	\$120,147	\$40,000	33.3%
<b>Total</b>	<b>\$1,121,309</b>	<b>\$230,000</b>	<b>20.5%</b>
*Data obtained from FY04 CASA grant applications.			

**Table 5. CASA Grant Awards for Fiscal Year 2004**

<b>CASA Grant Awards for Fiscal Year 2005</b>			
	<b>Total Budget</b>	<b>Award</b>	<b>% of Budget</b>
SD CASA Association	\$65,535	\$15,000	22.9%
Seventh Circuit CASA	\$323,530	\$62,000	19.2%
Sioux Falls CASA	\$218,079	\$62,000	28.4%
Aberdeen CASA	\$140,038	\$30,000	21.4%
Northern Hills CASA	\$194,084	\$35,000	18.0%
Civic CASA	\$79,047	\$25,000	31.6%
First Circuit CASA	\$52,189	\$20,000	38.3%
East Central CASA	\$83,173	\$21,000	25.2%
<b>Total</b>	<b>\$1,155,675</b>	<b>\$270,000</b>	<b>23.4%</b>
*Data obtained from FY04 CASA grant applications.			

**Table 6. CASA Grant Awards for Fiscal Year 2005**

As illustrated in the above tables, a significant amount of each organization's budget is obtained from the CASA Fund. The following table shows the status of the CASA fund as of June 30, 2005, which is the end of the Fiscal Year 2005.

<b>Court Appointed Special Advocates (CASA) Fund</b>		
	<b>FY04*</b>	<b>FY05*</b>
Beginning Balance	\$0	\$25,878
Revenues	\$256,522	\$269,474
Expenditures	\$230,644	\$270,183
Ending Balance	\$25,878	\$25,169
*Data obtained from SDUJS annual financial report. <sup>20</sup>		

**Table 7. Court Appointed Special Advocates (CASA) Fund**

<sup>20</sup>State Court Administrator's Office, South Dakota Unified Judicial System Annual Financial Report, Pierre, SD, 1977-2005.

#### 4. 911 Telecommunicator Training

A 911 Telecommunicator is “any employee of the state, or any political subdivision thereof, whose primary full-time or part-time duties are receiving, processing, and transmitting public safety information received through a 911 emergency reporting system”.<sup>21</sup> The 911 Telecommunicator Training Fund was established by the Legislature in 1998 to provide funding for the purposes of training and certifying 911 telecommunicators.

The Law Enforcement Officers Standards Commission which was established in 1939 is charged with setting the qualifications for employment and training standards of the 911 telecommunicators. Three members of the commission are *ex officio* members: the chief agent of the Division of Criminal Investigation, who serves as chairman of the commission, the district special agent in charge of the Federal Bureau of Investigation, and the attorney general. The other seven members of the commission are appointed by the attorney general and include: one person from the Highway Patrol, an acting sheriff, a member of a municipal police department, a member of the state bar, a person recommended by the Board of Regents, a person recommended by the municipal league and a person recommended by the county commissioners association.<sup>22</sup>

The funds for this program are collected through the Clerk of Court offices as part of the Liquidated Costs collected on criminal convictions. The Liquidated Cost amount is currently thirty dollars, one dollar of this surcharge goes to the 911 Telecommunicator Fund. As a part of Liquidated Costs, this surcharge is second in the payment hierarchy and disbursed on a percentage basis. The funds are continuously appropriated and the

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<sup>21</sup> SDCL 34-45-22.

<sup>22</sup> SDCL 23-3-28 and 23-3-30.

Department of Criminal Investigations authorizes disbursements from the fund. The following table shows the status of the CASA fund at the end of the last three fiscal years.

<b>911 Telecommunicator Fund</b>			
	<b>FY03*</b>	<b>FY04*</b>	<b>Est. FY05</b>
Beginning Balance	\$79,336	\$79,970	\$80,060
Revenues	\$138,611	\$134,124	\$132,072
Expenditures	\$137,977	\$134,034	\$186,345
Ending Balance	\$79,970	\$80,060	\$25,787
*Data obtained from Issue Memorandum 04-01, Legislative Research Council. <sup>23</sup>			

**Table 8. 911 Telecommunicator Fund**

**5. Abused and Neglected Child Defense**

South Dakota Codified Law provides that a child who has been “adjudicated an abused or neglected child and is removed from the child’s home with the child’s parents, guardian or custodian, the court shall appoint a guardian *ad litem* or a special advocate to represent the best interests of the child and to assist the child’s attorney”.<sup>24</sup> Each individual county throughout the state of South Dakota is responsible for payment of representation for these abused and neglected children. In 1991 the Legislature created the Abused and Neglected Child Defense Fund to partially reimburse the counties for expenses related to the defense of abused and neglected children.

<sup>23</sup> Holwegner, Issue Memorandum 04-01, Liquidated Costs and Surcharge Collected by the Unified Judicial System. Legislative Research Council, Pierre, SD, November 4, 2004, p. 10.

<sup>24</sup> SDCL 26-8A-20.

The funds for this program are collected through the Clerk of Court offices as part of the Liquidated Costs collected on criminal convictions. The Liquidated Cost amount is currently thirty dollars; one dollar of this surcharge goes to the Abused and Neglected Child Defense Fund. As a part of Liquidated Costs, this surcharge is second in the payment hierarchy. The funds are remitted to the State Treasurer’s Office and are distributed annually to the counties on a pro rata basis. Table 9. Abused and Neglected Child Defense Fund illustrates the status of the Abused and Neglected Child Defense Fund at the end of the last three fiscal years. Included on this table are the counties’ total cost and the percentage of the counties’ costs which is covered through this fund.

<b>Abused and Neglected Child Defense Fund</b>			
	<b>FY03*</b>	<b>FY04*</b>	<b>Est. FY05</b>
Beginning Balance	\$144,078	\$137,305	\$134,135
Revenues	\$137,305	\$134,135	\$134,000
Expenditures	\$144,078	\$137,305	\$134,135
Ending Balance	\$137,305	\$134,135	\$134,000
Counties’ Total Cost	\$612,774	\$541,706	\$542,000
% of Counties Costs Covered	23.5%	25.3%	24.7%
*Data obtained from Issue Memorandum 04-01, Legislative Research Council. <sup>25</sup>			

**Table 9. Abused and Neglected Child Defense Fund**

**B. Court Automation**

The Court Automation surcharge was created by the Legislature in 1990 to be deposited into the Court Automation Fund which is used by the Unified Judicial System

<sup>25</sup> Holwegner, Issue Memorandum 04-01, Liquidated Costs and Surcharge Collected by the Unified Judicial System. Legislative Research Council, Pierre, SD, November 4, 2004, p. 9.

“to pay for necessary costs for court automation projects to improve information or case management systems or the administration of justice”.<sup>26</sup> The Court Automation surcharge is second in the payment hierarchy and is currently collected on criminal and civil actions as displayed in Table 10. Court Automation Surcharge Schedule:

The Court Automation surcharge began in 1990 as a simple two dollar and fifty cent charge which was collected on all civil actions, with the exception of small claims actions, and all criminal convictions for violations of state statutes and administrative rules and violations of county and municipal ordinance which regulated moving traffic

<b>Court Automation Surcharge Schedule Effective July 1, 2004</b>	
<b>Criminal Court Costs</b>	
Felonies	\$30.50
Class 1 Misdemeanors	\$20.50
Class 2 Misdemeanors (state law violations)	\$11.50
Class 2 Misdemeanors (county/municipal violations)	\$8.50
Administrative Rules	\$8.50
Petty Offenses	\$0.00
<b>Civil Court Costs</b>	
SDCL 16-2-29, Section 1-3	\$20.00
Small Claims \$0 to \$3999.99	\$6.00
Small Claims \$4000 to \$8000	\$8.00

**Table 10. Court Automation Surcharge Schedule**

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<sup>26</sup> SDCL 16-2-44.

violations.<sup>27</sup> According to a letter submitted with the SDUJS 1991 Budget Request, the surcharge would generate revenue to fund the operation of the new Criminal Justice Information System and other information and accounting systems. It was estimated that the surcharge would provide approximately \$331,000 revenue in the first year. In actuality, \$305,564 was generated by the surcharge in fiscal year 1991. This past fiscal year 2005, the surcharge generated over two million dollars in revenue. In the fifteen years since the Court Automation Surcharge was created, there have been three changes to the Court Automation statutes.

The first change occurred in 1991, the year following the inception of the surcharge. The Legislature enacted an increase of the surcharge to five dollars at the request of the UJS; however this increase was not effective until July 1, 1992. The UJS requested this increase because of projected increases in expenses in the fiscal year 1993 due to the development of the Clerk of Courts Accounting System, a conversion in the accounting system in the Clerk of Courts office in Minnehaha County, computer training and the addition of personal computers. With the prevalence of personal computers on every desk in this year of 2005, this researcher found justifications for personal computers for a secretary's desk written in 1991 to be quite interesting. Computers were described to have word processing capabilities, spelling verification, and math functions which would allow personnel to operate more efficiently. Applications such as email and the internet were not even imagined as yet.

The next revision occurred eight years later in 1999. At this time, three major changes were made to the statutes regulating the Court Automation surcharge. The first change involved the exemption of small claims actions from the surcharge. At this time, a

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<sup>27</sup> SL 1990, Chapter 151, Section 4, p. 192.

charge was instituted on small claims actions of three dollars for amounts less than four thousand dollars and five dollars on amounts greater than four thousand dollars. The second change was a new section which called for the surcharge to be assessed on “each appeal, intermediate appeal, original proceeding or other action filed in the Supreme Court, the clerk of the court shall collect the sum of twenty dollars”.<sup>28</sup> The third major change was the creation of a schedule by which the surcharge would be collected in criminal actions. This schedule revised the simple, flat amount of five dollars on state, county and municipal convictions to the following schedule:

1. Violation of county or municipal ordinances or administrative rules having criminal penalties, five dollars and fifty cents;
2. Violation of a state statute classified as a Class 2 misdemeanor, eight dollars and fifty cents;
3. Violation of a state statute classified as a Class 1 misdemeanor, fifteen dollars and fifty cents;
4. Violation of a state statute classified as a felony, twenty-five dollars and fifty cents.<sup>29</sup>

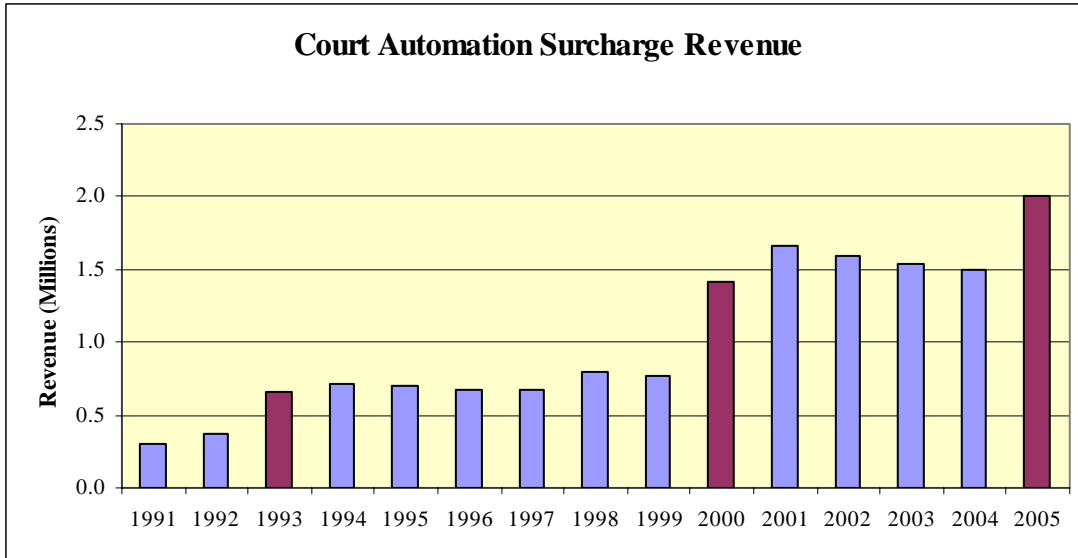
The latest change to the statutes regarding the Court Automation surcharge occurred in 2004. The amount to be collected on civil actions was increased from fifteen dollars to twenty dollars, the amount for Supreme Court filings was increased from twenty dollars to twenty-five dollars and the amount for criminal actions was increased by either three dollars or five dollars to bring the surcharges to the current levels as displayed in the previous table.

The following chart illustrates Court Automation surcharge revenue from 1991 through 2005. The effective year of each surcharge increase has been highlighted.

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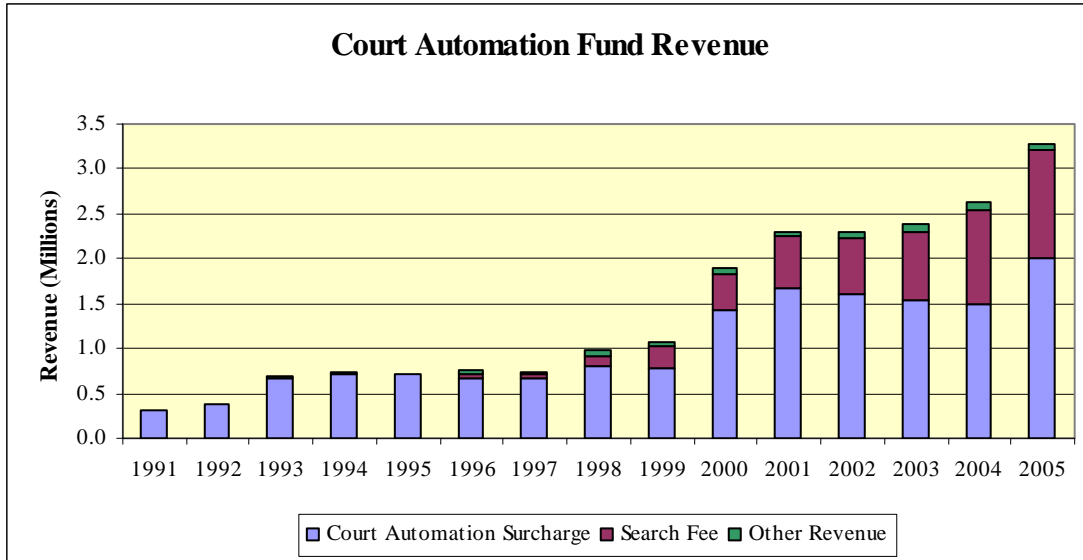
<sup>28</sup> SL 1999, Chapter 104, Section 3, p. 168.

<sup>29</sup> SL 1999, Chapter 104, Section 2, p. 167.



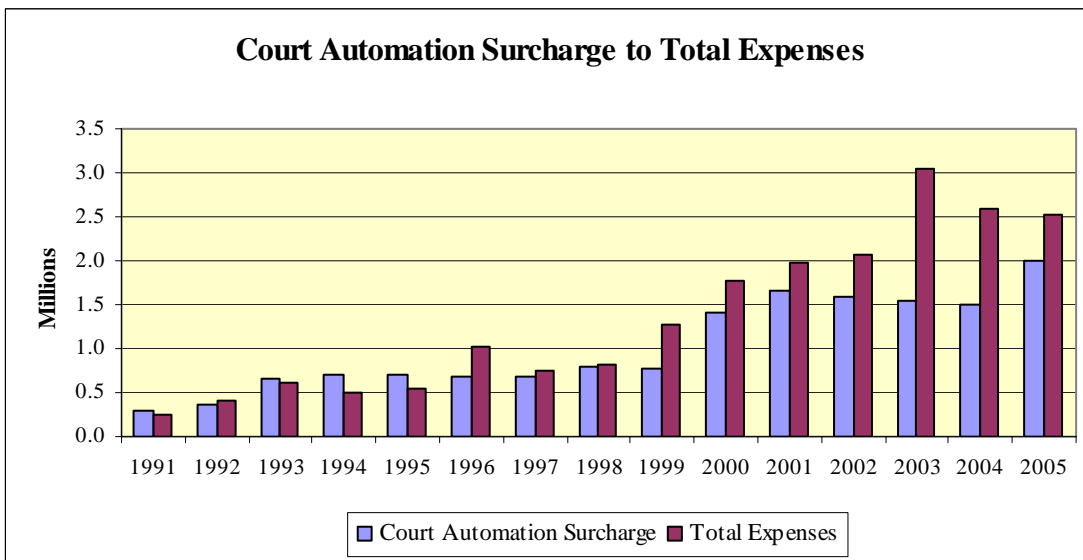
**Illustration 2. Court Automation Surcharge Revenue 1991-2005**

Beginning in fiscal year 1992, other sources of revenue were directed to the Court Automation Fund. These sources of revenue include items such as interest earned, fax filing fees and search fees. Particularly noteworthy is the search fee as the amount of revenue generated by this fee has increased to over one million dollars since the fee was instituted in 1995. The search fee is not being addressed in the scope of this research paper because of its status as a user fee. Illustration 3. Court Automation Fund Revenue 1991-2005 shows the kinds of revenue and amounts flowing into the Court Automation Fund.



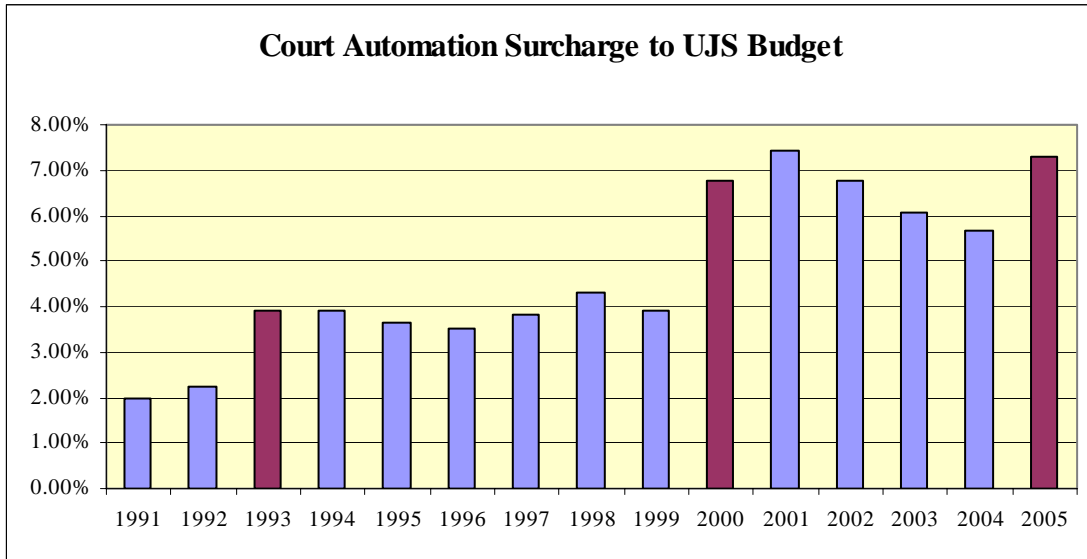
**Illustration 3. Court Automation Fund Revenue 1991-2005**

Averaged over fifteen years of existence, the Court Automation surcharge has provided approximately 76% of the funding for expenses paid from the Court Automation Fund as illustrated below.



**Illustration 4. Court Automation Surcharge to Total Expenses 1991-2005**

The budgetary impact of the Court Automation surcharge to the total SDUJS budget began at approximately 2% and is currently 7%. This percentage has increased with each subsequent increase in the surcharge amount. The following chart illustrates the percentage total of the Court Automation surcharge to the SDUJS budget. The effective year of each surcharge increase has been highlighted.



**Illustration 5. Court Automation Surcharge to UJS Budget 1991-2005**

**C. Victims’ Compensation**

The Legislature created the Victims’ Compensation surcharge in 1991 to support the South Dakota Crime Victims’ Compensation Program. SDCL provides that this fund “shall be used for the purposes of paying compensation awards and administering the crime victims’ compensation program”.<sup>30</sup> The Victims’ Compensation surcharge is collected through the Clerk of Court offices on criminal convictions and the funds are remitted to the State Treasurer’s Office monthly. The amount of two dollars and fifty cents is collected on each Class 2 misdemeanor, Class 1 misdemeanor or felony

<sup>30</sup> SDCL 23A-28B-40.

conviction, not including violations which involve the parking of vehicles. This surcharge is collected fourth in the payment hierarchy.

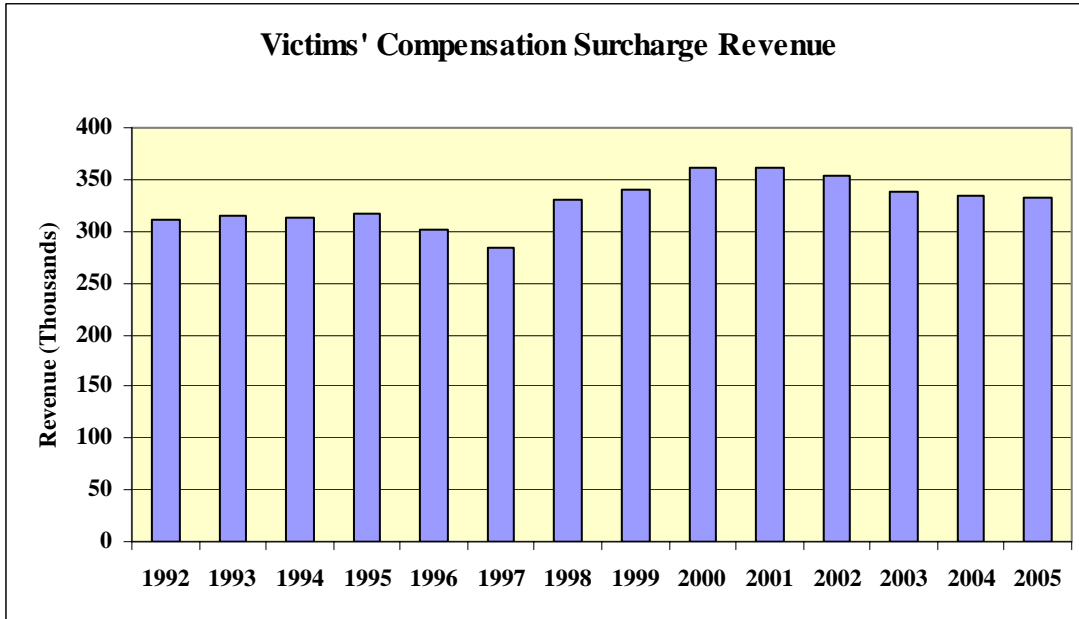
According to information available on the South Dakota Department of Social Services website, this program provides monetary assistance to victims of violent crimes up to a maximum amount of \$15,000 for certain expenses which resulted from personal injury or death.<sup>31</sup> According to the statutes, awards shall be determined by an appointed Crime Victims' Compensation Commission. Five commissioners will be chosen by the Governor, the Chief Justice and the Attorney General with all being confirmed by the state senate and appointment terms of three years. The Governor will appoint three members of the commission, one who is a law enforcement officer, one who is a physician or who has experience in evaluating medical claims, and one with experience in providing victim assistance services. The Chief Justice and the Attorney General will each appoint one member of the commission.<sup>32</sup>

In the fourteen years that these statutes have been in place, there has been no change in the amount of the surcharge collected on each conviction. As a result, the amount of revenue collected by the Clerk of Courts has remained relatively stable over the years as displayed in Illustration 6. Victims' Compensation Surcharge Revenue 1992-2005:

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<sup>31</sup> South Dakota Department of Social Services, Crime Victims' Compensation Program, October 27, 2005, <http://www.state.sd.us/social/CVC/index.htm>.

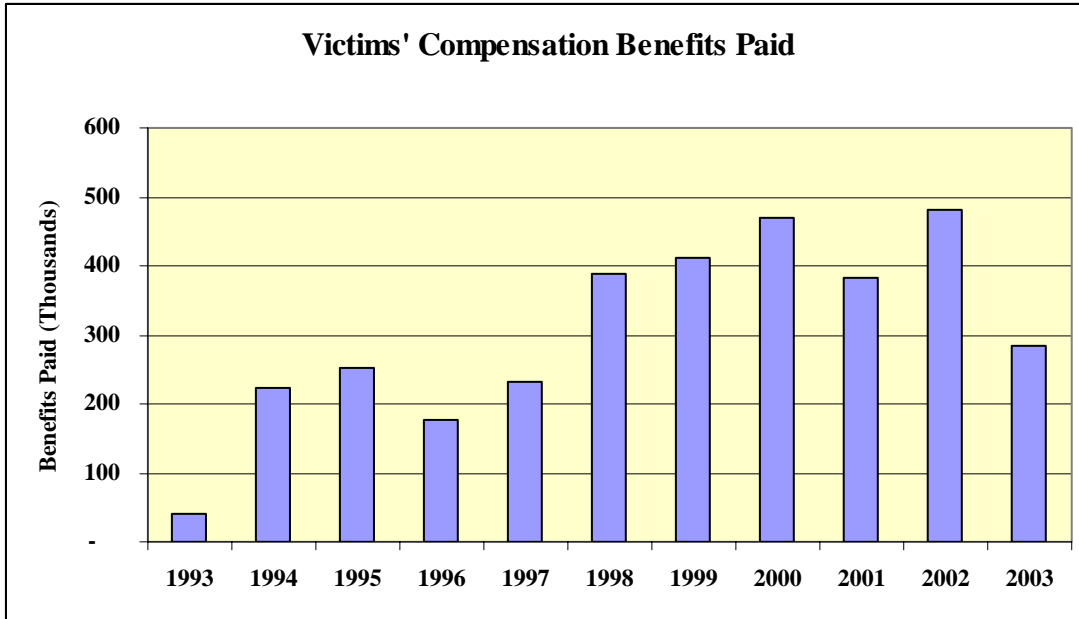
<sup>32</sup> SDCL 23A-28B-3.



**Illustration 6. Victims' Compensation Surcharge Revenue 1992-2005**

According to SDCL 23A-28B-43, the revenue generated through the Clerk of Court's offices is to be deposited in the Crime Victims' Compensation Fund. From this amount, three percent is to be returned to the South Dakota Unified Judicial System for the administration of the surcharge and is deposited into the Court Automation Fund. Twenty-seven percent of the surcharge is to go to the Department of Social Services to provide for costs associated with administering claims and administrative services for the Crime Victims' Compensation Commission. The remainder of the surcharge is to be used for benefits paid to the victims of violent crimes.

According to program statistics presented on the South Dakota Department of Social Services website, 4,436 claims have been received from fiscal year 1993 through fiscal year 2003. During the same time period, \$3,342,897 in benefits has been disbursed. The following chart illustrates these statistics:



**Illustration 7. Victims' Compensation Benefits Paid 1993-2003**

#### **D. Law Library**

The Legislature created the Law Library fee in 1968 as part of a statute which authorized the establishment of county law libraries. The amount collected “to be placed in a revolving county law book and law library fund to be disbursed under direction of the circuit judges for the purchase of law books and the equipping and maintaining of a county law library”.<sup>33</sup> Even though the statutes refer to the funds collected as a “fee”, the funds collected would be defined as surcharges according to the standard definitions put forth by the Conference of State Court Administrators. The uniform definition being: “Surcharges-Amounts added to fines, fees or court costs that are used for designated purposes”.<sup>34</sup> The Clerk of Courts in each county was authorized to collect the Law

<sup>33</sup> SL 1968, Chapter 146, p. 192

<sup>34</sup> Conference of State Court Administrators, *Standards Relating to Court Costs: Fees, Miscellaneous Charges and Surcharges and A National Survey of Practice*. Williamsburg, VA: National Center for State Courts, 1986, p. 2.

Library fee and required to remit the funds monthly to the county treasurer in which the fee was collected. Over the past thirty-seven years, the Law Library fee has been increased three times to its current level which is displayed in the following table:

<b>Law Library Fee Schedule Effective July 1, 2004</b>	
<b>Civil Court Costs</b>	
SDCL 16-2-29, Section 1-3	\$5.00
Small Claims \$0 to \$3999.99	\$2.00
Small Claims \$4000 to \$8000	\$2.00

**Table 11. Law Library Fee Schedule**

When the Law Library fee was instituted in 1968, the amount collected was one dollar and fifty cents on each civil action, proceeding for judicial remedy and probate proceeding. A small increase of fifty cents per filing was approved by the Legislature in 1975 to bring the total collected to two dollars.<sup>35</sup> One year later, the statute was revised to raise the fee by another fifty cents and a fee was instituted on small claims actions in the amount of one dollar.<sup>36</sup> The latest change to the Law Library fee occurred in 1989. The amount to be collected on each civil action was increased to five dollar and the amount to be collected on small claims cases was increased to two dollars.<sup>37</sup>

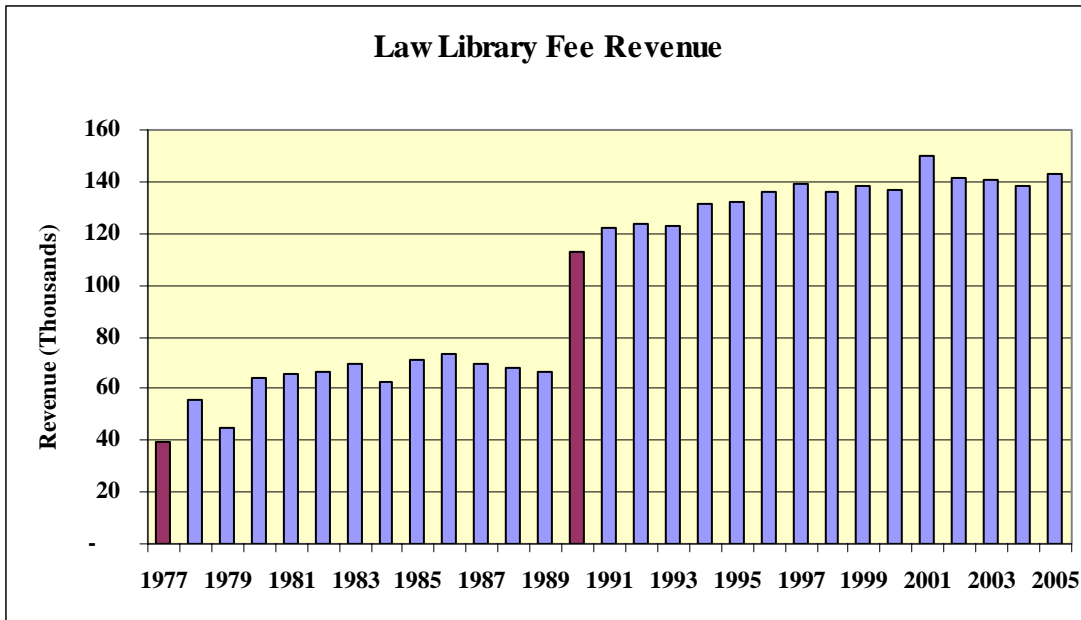
The following chart illustrates Law Library fee revenue from 1977 through 2005. Revenue amounts prior to 1977 were not readily available for comparison because

<sup>35</sup> SL 1975, Chapter 161, Section 6, p. 332.

<sup>36</sup> SL 1976, Chapter 144, p. 209.

<sup>37</sup> SL 1989, Chapter 173, p. 322.

unification of South Dakota's court system had not yet taken place. The effective year of each fee increase has been highlighted.



**Illustration 8. Law Library Fee Revenue 1977-2005**

## **METHODOLOGY**

### **I. Court Surcharges Survey – Key Judicial Personnel**

In order to determine the attitudes of key judicial personnel within the South Dakota Unified Judicial System regarding the surcharges imposed in South Dakota, a standardized attitudinal survey was created by this researcher. The questions asked in this survey were intended to learn how surcharges are viewed by the people who are assessing them in court and other key administrators. The answers in the survey were limited to “Yes”, “No”, “Don’t Know” and “N/A” with space provided for comments for each question. The survey instrument was reviewed by John C. Ellenbecker, Retired Director of Budget and Finance for the South Dakota Unified Judicial System, and DJ Hanson, State Court Administrator for the South Dakota Unified Judicial System, and was revised many times to clarify the questions. As a final pre-test, the survey instrument was sent to Judge Max Gors, Presiding Judge for the Sixth Judicial Circuit of the South Dakota Unified Judicial System, for review. Judge Gors was asked to review the survey for ease of completion, question comprehension and appropriateness of questions. The document was not altered as a result of the pre-test. The survey questions are presented in APPENDIX C Court Surcharges Survey – Key Judicial Personnel

For the purposes of this research project “key judicial people” were determined to be personnel who are in a position to impact the amounts that are imposed on individuals coming to court and the administrators in the circuit offices. These groups include Presiding Judges, Circuit Judges, Magistrate Judges, Circuit Administrators and the Retired Director of Budget and Finance. In South Dakota, there are seven Presiding Judges, thirty-one Circuit Judges, thirteen Magistrate Judges and seven Circuit Administrators. Since the population chosen to be surveyed was only fifty-nine individuals, it was determined to send the survey to the entire population.

The surveys were distributed as an attachment through the state's email system on September 21, 2005. The respondents were asked to return the survey to this researcher by email, fax or postal delivery by October 15, 2005. By allowing the option of fax or postal delivery, the respondents were able to remain anonymous if they so chose. A reminder email was sent prior to the October deadline and two reminders were sent after the deadline. By the end of October, thirty-seven responses had been received for a total response rate of 62.7%. Of the groups outlined above, the response rate of the administrative personnel (Circuit Administrators and Director of Budget and Finance) was 100%. The response rate of the judicial personnel (Presiding Judges, Circuit Judges and Magistrate Judges) was 56.9%. The compiled results and additional comments collected on the survey instrument are presented in APPENDIX D Results of Court Surcharges Survey and discussed in greater detail in the Finding section of this paper.

## **II. Court Surcharges Survey – Midwest States**

In order to compare South Dakota's surcharge usage with that in other states, a survey was fashioned by this researcher from the court surcharges survey for key judicial personnel to elicit information from other states regarding surcharges and attitudes towards surcharges. The questions which were specific to South Dakota surcharges and the judge's attitude were removed from the original survey document. The remaining questions were of a general nature regarding the use of surcharges. The survey document was reviewed by DJ Hanson, State Court Administrator for the South Dakota Unified Judicial System, prior to distribution.

The size of the sample to which this survey was distributed was limited to twelve states: Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Montana, Nebraska, North Dakota, Ohio, Wisconsin, and Wyoming. Ten of the chosen states belong to the Conference of State Court

Administrator's Midwest Regional Group along with South Dakota and the remaining two are in the same geographical region as South Dakota.

The surveys were distributed as an attachment through the state's email system on November 8, 2005. The respondents were asked to return the survey to this researcher by email, fax or postal delivery by November 18, 2005. A reminder email was sent prior to the November deadline to encourage response. Five responses were received for a total response rate of 42%. The compiled results collected on the survey instrument are presented in APPENDIX F Results of Court Surcharges Survey - Midwest States.

### **III. Outstanding South Dakota Surcharges**

In order to determine the amount of South Dakota surcharges outstanding, a review was conducted of the Clerk of Courts Accounting Reports as of October 31, 2004 and October 31, 2005. Every one of South Dakota's sixty-three counties was included in the data collection process. The outstanding amount in each county for all surcharges was tabulated by this researcher to obtain a statewide total. The compiled results by county are presented in APPENDIX J South Dakota Outstanding Surcharges as of 10/31/2004 and APPENDIX K South Dakota Outstanding Surcharges as of 10/31/2005.

## FINDINGS

### I. Findings from the Court Surcharges Survey – Key Judicial Personnel

The questions presented in the Court Surcharge Survey can be separated into four categories: the use of surcharges in general, current South Dakota surcharges, new South Dakota surcharges and questions in which judges were able to self-assess how surcharges affect their attitudes in the courtroom. Each category of questions and results is presented in a table below. In the first three tables, this researcher has split the responses between judicial personnel and administrative personnel for comparative purposes. The fourth table includes only the results from judicial personnel because these questions were ones in which the judges provided a self-assessment of their attitudes in the courtroom and therefore were not applicable to the administrative personnel.

Table 12. Question Results: General Use of Surcharges illustrates the results from the questions pertaining to the general use of surcharges.

<b>Question Results: General Use of Surcharges</b>				
	<b>Yes</b>	<b>No</b>	<b>Don't Know</b>	<b>N/A</b>
<b>1. Do you feel that the judiciary should have input before the legislature enacts or revises a criminal or civil surcharge?</b>				
Judges	26	1	1	1
Administrators	8	0	0	0
Total Responses	34	1	1	1
<b>6. Should surcharges be reviewed periodically to determine if they should be adjusted or continued?</b>				
Judges	27	1	1	0
Administrators	8	0	0	0
Total Responses	35	1	1	0
<b>14. Do you consider the current surcharges to be an alternate form of taxation?</b>				
Judges	19	7	2	1
Administrators	6	1	0	1
Total Responses	25	8	2	2

<b>Question Results: General Use of Surcharges</b>				
	<b>Yes</b>	<b>No</b>	<b>Don't Know</b>	<b>N/A</b>
<b>16. If the purpose funded by a surcharge is for the public good, do you feel the revenue should come from the state's general fund?</b>				
Judges	5	10	13	1
Administrators	2	2	4	0
Total Responses	7	12	17	1

**Table 12. Question Results: General Use of Surcharges**

As displayed in the table, 92% of judicial and administrative personnel felt that the judiciary should have input before the legislature enacts or revises a surcharge. One individual commented that while the legislature is responsible for enacting surcharges, it is the court's responsibility to protect the public's access to the court, a view shared by the Conference of State Court Administrators in their 1986 paper regarding court cost standards.<sup>38</sup>

Both groups also felt strongly, 95%, that a periodic review of the surcharges is necessary due to inflation, technology and changing needs. Interestingly, although a majority of respondents consider surcharges to be an alternate form of taxation, only 19% responded that the revenue should come from the state's general fund. A comment noted in the 1986 paper presented by the Conference of State Court Administrators states "if the purpose funded by a surcharge is for the greater public good it should be worthy for consideration of funding from a broader general revenue source".<sup>39</sup> The responses provided through the survey document do not indicate agreement in this area. Many respondents commented that reasonable "user fees" are appropriate and that persons using the court system should bear a reasonable part of the cost.

<sup>38</sup> Conference of State Court Administrators, Standards Relating to Court Costs: Fees, Miscellaneous Charges and Surcharges and A National Survey of Practice. Williamsburg, VA: National Center for State Courts, 1986, p. 4.

<sup>39</sup> Conference of State Court Administrators, Standards Relating to Court Costs: Fees, Miscellaneous Charges and Surcharges and A National Survey of Practice. Williamsburg, VA: National Center for State Courts, 1986, p. 7.

Table 13. Question Results: Current Surcharges in South Dakota illustrates the results from questions which referred to current surcharges.

<b>Question Results: Current Surcharges in South Dakota</b>				
	<b>Yes</b>	<b>No</b>	<b>Don't Know</b>	<b>N/A</b>
<b>4. Are there any surcharges on the list above you consider unnecessary or impractical and would like to see eliminated or reduced?</b>				
Judges	8	14	5	2
Administrators	4	3	1	0
Total Responses	12	17	6	2
<b>5. Do you think our current level of surcharges is satisfactory?</b>				
Judges	20	6	3	0
Administrators	6	1	1	0
Total Responses	26	7	4	0
<b>7. Do you feel our current level of criminal surcharges prevents people from making full payment on the fine?</b>				
Judges	12	15	2	0
Administrators	3	4	1	0
Total Responses	15	19	3	0
<b>13. The current distribution hierarchy when a payment is received is: 1. Restitution, 2. Surcharges, 3. Court Costs, 4. Fines. Do you feel that this distribution is still appropriate?</b>				
Judges	18	6	3	2
Administrators	7	1	0	0
Total Responses	25	7	3	2
<b>15. Do you ever consider the revenue generated by the surcharges and the programs they support?</b>				
Judges	17	10	2	0
Administrators	6	1	1	0
Total Responses	23	11	3	0

**Table 13. Question Results: Current Surcharges in South Dakota**

As illustrated in this table, 70% of judicial and administrative personnel believe our current level of surcharges is satisfactory with many commenting that the level is high enough or too high. When asked if there are any surcharges which should be eliminated or reduced, the responses were mixed. Many respondents questioned the surcharges which could not be directly

tied to usage in the justice system and felt that those surcharges could be eliminated. One respondent questioned the appropriateness of receiving funds for law enforcement training based on how many criminal convictions were the result of cases initiated by law enforcement officials.

Although the majority of respondents agree that the current hierarchy for distribution of payments is still appropriate, placing surcharges second, several offered alternative distributions. Alternatives included: placing surcharges first because they fund the system, placing fines first in the hierarchy or allowing judges the discretion to determine the order of payment.

62% of the respondents answered that they do consider the amount of revenue that is generated by the surcharges for the programs that they support. From the comments relating to this question, it seems that the amount of the revenue isn't considered as much as the program which is supported by the surcharge. The exceptions to this being the court automation surcharge and the law library fee which directly affect the court system.

The final question concerning the current level of surcharges preventing people from making full payment on the fine had mixed results with only 41% in agreement. One responder responded "I think judges tend to adjust the fine downward so that the total tab for fine, cost, u/a [urine analysis], BAC [blood alcohol content], restitutions and court appointed attorney fees is realistic and do-able." Others felt that most criminal defendants don't really see a distinction between base fines and surcharges, they just think of it as one large obligation for which they are responsible.

Table 14. Question Results: New Surcharges in South Dakota illustrates the answers received on questions related to new surcharges.

<b>Question Results: New Surcharges in South Dakota</b>				
	<b>Yes</b>	<b>No</b>	<b>Don't Know</b>	<b>N/A</b>
<b>2. Would you have a favorable reaction to any new criminal surcharge imposed by the legislature?</b>				
Judges	3	12	13	1
Administrators	3	4	1	0
Total	6	16	14	1
<b>3. Do you think there are any criminal or civil surcharges that should be added to our collection process?</b>				
Judges	5	16	8	0
Administrators	1	5	1	1
Total	6	21	9	1
<b>17. Would you be agreeable to a surcharge if the revenue benefited a UJS program, either new or established?</b>				
Judges	13	4	12	0
Administrators	3	1	4	0
Total	16	5	16	0

**Table 14. Question Results: New Surcharges in South Dakota**

In general, the respondents did not seem favorable to new surcharges. 43% of judges and administrators said they would not have a favorable reaction to any new surcharges. Another 38% fell into the “don’t know” category. The comments made to this question made it clear that support for a new surcharge would depend on the amount, the purpose and the control over spending the collected funds. If a new surcharge was to benefit the South Dakota Unified Judicial System, the response was a little different, with 43% responding in the affirmative and another 43% in the “don’t know” category. As before, the respondents qualified their answers with “it depends upon the program”. One dissenting comment suggested that a surcharge benefiting the Unified Judicial System would give the appearance of impropriety. When asked if

there were any surcharges which should be added to our collection process, the majority of respondents answered negatively. One respondent did comment that monies collected should be aimed specifically at in-patient treatment programs and intensive aftercare for treatment of methamphetamine addiction.

The final group of questions was specifically aimed at the judges completing the survey. The results of the questions are illustrated in Table 15. Question Results: A Self-Assessment of Judges' Attitudes in the Courtroom.

<b>Question Results: A Self-Assessment of Judges' Attitudes in the Courtroom</b>				
	<b>Yes</b>	<b>No</b>	<b>Don't Know</b>	<b>N/A</b>
<b>8. Do you waive surcharges for indigent litigants or those unable to pay?</b>				
Judges	18	11	0	0
<b>9. Does the amount of the current surcharges affect the amount of the fine that you assess?</b>				
Judges	14	14	0	1
<b>10. Do you think about the total cost (fines and surcharges) to the defendant when you determine the fine?</b>				
Judges	19	9	0	1
<b>11. If you suspend the fine, are the surcharges still assessed?</b>				
Judges	25	1	0	3
<b>12. Would you release someone from probation if all fines and costs were not collected?</b>				
Judges	11	12	6	0

**Table 15. Question Results: A Self-Assessment of Judges' Attitudes in the Courtroom**

62% of judges responded that they are willing to waive surcharges for indigent litigants depending upon the circumstances. The total cost to the defendant is considered by the majority of the judges when determining the fine but the amount of the surcharges does not seem to affect the amount of the fine imposed equally. Almost the same percentage of judges responded that the amount of surcharges does affect the amount of the fine as those who said fines are

unaffected. 86% of the judges responded that surcharges are still assessed if fines are suspended although they still commented that it still depends upon the circumstances. Interestingly, 38% of judges responded that they would release a person from probation even if all fines and cost were not collected. The comments indicate the possibility of a unique situation or that the person may reside in another state making collection impossible.

**II. Findings from the Court Surcharge Survey – Midwest States**

The questions and results of the Court Surcharge Survey – Midwest States are presented in Table 16. Question Results: General Use of Surcharges shown below. The questions were general in nature to determine if attitudes aligned with the standards put forth by COSCA in their document on the subject of standards relating to court costs and surcharges in particular.

<b>Question Results: General Use of Surcharges</b>				
	<b>Yes</b>	<b>No</b>	<b>Don't Know</b>	<b>N/A</b>
<b>1. Does your state assess surcharges to criminal and/or civil cases?</b>				
Total Responses	5	0	0	1
<b>2. Do you feel that the judiciary should have input before the legislature enacts or revises a criminal or civil surcharge?</b>				
Total Responses	4	0	0	2
<b>3. Should surcharges be reviewed periodically to determine if they should be adjusted or continued?</b>				
Total Responses	4	0	0	2
<b>4. Do you consider the current surcharges to be an alternate form of taxation?</b>				
Total Responses	2	1	0	3
<b>5. If the purpose funded by a surcharge is for the public good, do you feel the revenue should come from the state's general fund?</b>				
Total Responses	3	0	0	3

**Table 16. Question Results: General Use of Surcharges**

Only 50% of the target survey population responded to this researcher's request, with 50% choosing not to respond. After compiling data gathered from the surveys and then conducting a web search, it was determined that all of the twelve states surveyed do assess surcharges for criminal and/or civil cases. 67% of respondents felt that the judiciary should be able to provide input concerning new or revised surcharges before enacted by the legislature. 67% also felt that surcharges should be reviewed periodically. The results of the first three questions were as expected. However, based on the results from the survey of South Dakota key judicial personnel, this researcher expected a higher percentage in agreement with the fourth question where only 33% of other states agreed that surcharges should be considered an alternate form of taxation as compared to 68% of the South Dakota respondents. Also divergent from the results of the South Dakota survey were the results from the fifth question. Only 19% of South Dakota's key judicial personnel agreed that revenue should come from the general fund if the surcharge funds a program for the "public good". 50% of the respondents from other midwest states believe funding should come from the general fund. With only 50% response on the survey sent to the midwest states, the results from this survey could be skewed due to the small number of respondents.

Listed below are summaries of information provided to this researcher or gathered from the states' websites regarding surcharges collected in each state to which the Midwest States survey was distributed.

**A. Illinois**

A search of the website revealed that revenue is collected through the circuit court office to finance local improvements and other programs. Local improvements are collected and earmarked for improvements in the clerk's offices and to help defray the

cost of operation at the county level. Included in this category are surcharges for: Court Document Storage fee of \$5, Court Automation fee of \$5, County Law Library fee of \$10 and the County Fund to Finance the Court System of \$5. Other programs which receive money collected through the circuit court offices include: Drug Treatment Fund, Violent Crime Victims Assistance, Trauma Center Fund, Traffic and Criminal Conviction Surcharge, and Drivers Education Fund.

**B. Indiana**

According to Indiana's website, there are at least nineteen additional fees collected on criminal cases alone as displayed in APPENDIX H Indiana Additional Fees. A Criminal Cost fee of \$120 is added to certain felony and misdemeanor convictions. Examples of other fees collected are: law enforcement continuing education fee of \$3, marijuana eradication fee of up to \$300, domestic violence prevention fee of \$50, child abuse prevention fee of \$100, document storage fee of \$2, judicial salaries fee of \$15, court administration fee of \$2, and automated record keeping fee of \$7. Many of Indiana's statutes provided for incremental changes to the fee assessed over a number of years.

**C. Iowa**

Six court cost are collected in addition to the fine for any person convicted of a crime in Iowa. The amounts collected are: \$30 on all criminal convictions, \$8 for all parking violations, 32% of the fine amount as a criminal penalty surcharge, \$10 for a DARE surcharge for drug offenses and OWI, \$125 on certain offenses for the law enforcement initiative surcharge, and \$5 for the county enforcement surcharge.

#### **D. Kansas**

The state of Kansas includes nearly all court surcharges within the total amount collected for docket fees by the district courts. Only one surcharge is collected in addition to the statutorily set docket fees, this is the Emergency Surcharge that was imposed by the Kansas Supreme Court beginning on April 1, 2002. The surcharge has been extended three times to generate additional revenue to operate the Judicial Branch. The Emergency Surcharge is collected on all civil and criminal cases, other costs and fees such as marriage licenses and hospital liens, traffic cases, fish and game cases and all appeals. In most cases the amount of the surcharge is \$5, with the exceptions of expungements and marriage licenses where the amounts are \$50 and \$25, respectively.

There are fifteen surcharges collected as part of the docket fee. Three fees receive a pre-determined amount; they include the Prosecuting Attorneys' Training surcharge in the amount of \$1 per docket fee, the Indigent's Defense Services surcharge of \$.50, and the Law Enforcement Training Center surcharge in the amount of \$9. The other twelve surcharges are computed as percentages of the amount that is remitted to the State Treasury. They are: Juvenile Detention Facilities 3.27%, Crime Victims Assistance .67%, Protection from Abuse Fund 3.22% Kansas Juvenile Delinquency Prevention 1.49%, Permanent Families Account .25%, Trauma Fund 1.77%, Judicial Council 1.33%, Access to Justice 5.9%, Judicial Branch Education 2.52%, Judiciary Technology 5.1%, Dispute Resolution .41%, and the Judicial Branch Non-judicial Salary Initiative 21.41%. The last five surcharges return to the judicial branch to benefit programs within the court.

**E. Michigan**

In Michigan, this researcher was able to obtain information regarding two surcharges, the Justice System Assessment and the Crime Victim Rights Fee. The Crime Victim Rights Fee is collected on felony convictions in the amount of \$60 and on specific misdemeanors in the amount of \$50. APPENDIX I Michigan Justice System Fund outlines the distribution of the Justice System Assessment. This assessment is divided among eleven funds for programs such as highway safety, jail reimbursement, justice training, legislative retirement, drug treatment courts, forensic lab, state court fund, court equity fund, state treasurer for monitoring and the state court administrative office for management assistance.

**F. Minnesota**

According to information received from the state of Minnesota, eight surcharges are assessed on various types of cases. A Criminal Surcharge of \$72 applies to every person convicted of any felony, gross misdemeanor, misdemeanor, or petty misdemeanor offense with the proceeds going primarily to the general fund and smaller percentages for peace officer training. A Parking Surcharge of \$4 is collected on each parking violation and is remitted to the general fund. A Special Surcharge of \$1 is collected only in Minnesota's Second Judicial District in addition to each of the aforementioned surcharges to be used for petty misdemeanor diversion programs in that judicial district.

The next five surcharges are more specifically assessed on certain case types. The Public Defender Co-Pay of \$28 is received from defendants who are assigned a public defender and the money is sent to the general fund. The Public Defender Reimbursement is collected from defendants who were assigned a public defender but were later found

able to pay. The amount paid is variable and goes to a special revenue account to pay expenses for contract public defenders. The Law Library Fee is assessed on all civil, probate, family, conciliation and criminal cases. The amount varies between \$3 and \$15 depending on the county; the money collected remains in the county to fund the law library. An Adoption Surcharge of \$75 is assessed in all adoption cases and supports the state putative father registry. The Displaced Homemaker's Surcharge of \$30 is assessed on all dissolution cases and funds displaced homemaker programs.

#### **G. Montana**

In the state of Montana, only two surcharges are assessed, one for court automation and one to support law enforcement training at the Montana Law Enforcement Academy. The court automation surcharge of \$10 is collected upon criminal convictions, bond or bail forfeitures, and initiating and responding parties in civil cases. The amounts collected for this surcharge are remitted to the state general fund to be used for state funding of court information technology. The court surcharge to fund the Law Enforcement Academy of \$10 is assessed on each defendant with a criminal conviction or bond forfeiture.

#### **H. Nebraska**

From the schedule of Filing Fees and Court Costs which was received from the state of Nebraska, it was determined by this researcher that there are ten surcharges which are collected on criminal and civil cases which are called "fees" but, according to the definition of surcharges set forth by the Conference of State Court Administrators, each fee more correctly should be categorized as a "surcharge".

Two of the surcharges are entitled Judges Retirement Fee in the amount of \$50 and \$5 and both are remitted to the Nebraska Retirement Fund for Judges. The \$50 surcharge is collected as part of the docket fee collected on appeals and petitions for further review to the Supreme Court and the Court of Appeals. The \$5 retirement surcharge is collected on appeals and all criminal convictions. Also collected on all appeals and criminal cases are: \$5.25 for the Legal Aid and Services, \$6 for Supreme Court Automation, \$1 for Supreme Court Education, \$.75 for Dispute Resolution, \$3 for Indigent Defense, and \$1 for Uniform Data Analysis. In addition, \$2 is collected on all criminal convictions and remitted to the Law enforcement Improvement Fund to be used for training purposes. One other surcharge is collected specifically on cases for dissolution of a marriage. This surcharge of \$25 is collected and remitted to the Nebraska Child Abuse Prevention Fund.

#### **I. North Dakota**

According to North Dakota's website two surcharges are collected as part of the civil filing fee, a civil legal services fee of \$15 and a displaced homemaker's fee of \$50 on dissolution of marriage, annulment and separation cases. For all criminal cases except for infractions, a court administration fee of \$100 is collected in addition to the following amounts: \$125 for a class B misdemeanor, \$200 for a class A misdemeanor, \$400 for a class C felony, \$650 for a class B felony and \$900 for a class A or AA felony. The revenues collected through this fee are earmarked for the indigent defense administration fund and the court facilities improvement and maintenance fund.

**J. Ohio**

The state of Ohio assesses five surcharges on civil and criminal cases. A Legal Aid Societies surcharge of \$7 is assessed on small claims cases and \$15 is assessed on civil cases. A \$32 surcharge for Domestic Violence Shelters is assessed on civil cases such as annulments, dissolutions, and divorces. Court Computerization and Clerk of Court Computerization surcharges of up to \$3 and up to \$10 respectively are collected on all civil and criminal cases. Finally, a Public Defense surcharge of \$15 is collected on all criminal cases with the exception of traffic violations.

**K. Wisconsin**

According to information received from the state of Wisconsin, twenty-eight surcharges are collected for a multitude of reasons. APPENDIX G Wisconsin Court Surcharges outlines each of these surcharges, the amount, a description and the distribution of each surcharge. Of note from the survey is the Court Support Services Surcharge of \$51 to \$169 is collected on civil actions, state and county forfeitures, municipal ordinance violations, and appeals to municipal courts. This is the largest surcharge and is remitted to the state general fund. Examples of other surcharges include: \$75 Domestic Abuse Surcharge, \$355 Driver Improvement Program Surcharge, a variable Fishing Shelter Removal Surcharge, \$12 Justice Information Surcharge, variable Sheriff's Surcharge, variable Wild Animal Protection Surcharge and many others. The majority of the surcharges seem to be specialty surcharges where the funds collected are remitted to specific agencies, not directly going into the general fund.

**L. Wyoming**

In searching the state of Wyoming’s judicial website, this researcher could only verify the collection of one surcharge in the amount of \$10 for each civil case filing for court automation funding.

**III. Outstanding South Dakota Surcharges**

The total results of the review of the Clerk of Courts Accounting Reports are displayed in Table 17. Outstanding South Dakota Surcharges. The information in this table provides us with a snapshot of the totals outstanding as of 10/31/2004 and 10/31/2005. The totals include only active cases; amounts which may have been written off to an “inactive” status are not included.

<b>Outstanding South Dakota Surcharges</b>		
	<b>As of 10/31/2004</b>	<b>As of 10/31/2005</b>
Liquidated Costs	\$430,680.79	\$498,916.31
Court Automation	\$264,292.34	\$318,897.99
Victims Compensation	\$44,466.56	\$48,101.40
Law Library	\$3,231.00	\$2,680.00
<b>Total</b>	<b>\$742,670.69</b>	<b>\$868,595.70</b>

**Table 17. Outstanding South Dakota Surcharges**

With the exception of the Law Library fee, the amount outstanding for each surcharge increased between 2004 and 2005. The outstanding amount for Liquidated Costs increased by 15.8%, Court Automation increased by 20.7%, and Victims Compensation increased by 8.2%. The Law Library fee outstanding amount decreased between 2004 and 2005 by 17.1%. In total, the amount outstanding for all surcharges increased by 17.0%.

## CONCLUSIONS

The research project was commenced with the intent of providing an environmental scan on the usage of surcharges collected in the state of South Dakota. This project specifically analyzed the pros and cons of surcharge usage, the current South Dakota surcharge structure, the attitudes of key judicial personnel in South Dakota and outstanding surcharges. The usage of surcharges in ten states that belong to the Conference of State Court Administrator's Midwest Regional Group and two other states that are in the same geographical region of South Dakota were analyzed to determine if South Dakota is divergent from the norm in number of surcharges that are collected. From the research performed for the environmental scan, recommendations can be made regarding the future use of surcharges in the state of South Dakota.

As determined from the literature review, the pros and cons regarding the usage of surcharges has been greatly debated. The Conference of State Court Administrators set extremely idealistic standards that call for the end of the usage of surcharges, stating that if a program to be funded through a surcharge is for the greater good, it should be funded with general funds. Also, COSCA stated that surcharges should not be imposed to fund a special program. On the other hand, state governments have been struggling to balance their budgets and have resorted to cutting spending, using reserve funds and increasing taxes to pay expenses. The other option available to the legislature to aid in balancing their budget is to increase revenues, which can be accomplished through the application of surcharges on civil and criminal cases. The overall consensus of the literature review on the general usage of surcharges is that surcharges are essential as an alternative funding source and will be accepted both by the public and court officials if thoughtfully applied and used in moderation.

The current structure of surcharges assessed in South Dakota was analyzed. Each of the eight surcharges which are assessed in South Dakota on civil cases and criminal convictions were analyzed to outline the history of each surcharge, the legislative intent, and the revenue generated or budgetary impact that it may have on specific programs. Six of the surcharges have been in existence for more than fourteen years. The Law Library surcharge has been in place for thirty-seven years. Only two surcharges have been created in the recent past, the 911 Telecommunicator surcharge in 1991 and the CASA surcharge in 2003. The longevity of the surcharges and the relatively few numbers of new surcharges added indicates thoughtfulness on the part of the Legislature to limit the amount of surcharges that are assessed on criminal convictions and civil cases. In fact, in analyzing the intent of the surcharges, most could actually fall into the category of user fees or “fee for service” costs. Each surcharge collected in South Dakota funds a program that directly or indirectly has a contribution to the court system or law enforcement. Surcharges fund law enforcement and 911 Telecommunicator training, court appointed attorneys, court appointed advocates, a defense fund for abused children, victim compensation and court automation.

In comparison to surcharges collected in the twelve states analyzed as part of this research project, this researcher considers South Dakota to fall in the lower end of the scale in regard to the number of surcharges collected. Montana with only two surcharges collects the smallest number of surcharges, with Wisconsin at the other end of the spectrum collecting twenty-eight surcharges. Including Wisconsin, six states assess more surcharges than South Dakota, three collect less and one other state, Minnesota, also collects eight surcharges. For the most part, the dollar amounts assessed for each surcharge are comparable to the amounts assessed in South Dakota. However there are a few notable instances where the surcharge is

substantial. In Minnesota, a Criminal Surcharge of \$72 is applied to every person convicted of any felony, gross misdemeanor, misdemeanor, or petty misdemeanor offense and an Adoption Surcharge of \$75 is assessed in all adoption cases. North Dakota collects a court administration fee for all criminal convictions that ranges from \$100 to \$900. Wisconsin also collects a rather large surcharge for Court Support Services of \$51 to \$169 on each civil action, forfeitures, municipal ordinance violations and appeals to municipal courts.

The survey that was distributed to South Dakota key judicial personnel supports the findings of this research project. In general, the ideals of the Conference of State Court Administrators were supported. The key personnel felt:

1. The judiciary should have input into the creation of new surcharges because it is considered the judiciary's responsibility to protect the public's access to the courts.
2. While they felt that surcharges are an alternate form of taxation, there was not widespread agreement that funds for special purposes should come from the general fund.
3. Without knowing South Dakota's standing in the number of surcharges collected, key personnel felt that our level of surcharges was satisfactory and would not generally be in favor of new surcharges.

Overall, from the survey responses and the additional comments received, it can be determined that key personnel are willing to support surcharges when the use of the funding can be related to court operations or law enforcement.

**Recommendation:**

**In general, this researcher recommends the continued legislative scrutiny of surcharge usage in South Dakota. The judiciary should continue to monitor the number of and amount of surcharges collected through the court system and provide**

**recommendations to the legislative branch when new or increased surcharges are contemplated. The revenues provided by new surcharges or increases to existing surcharges should be weighed against the affect on the public's access to the courts.**

Specifically, this researcher would offer a recommendation for the usage of the Court Automation Surcharge. In performing the analysis of the Court Automation Surcharge as compared to the total South Dakota Unified Judicial System budget, it was noted that each increase in the amount of the surcharge assessed enhanced the percentage of the total UJS budget that was provided by this surcharge until the final increase in FY2005. In analyzing the information provided in Illustration 5. Court Automation Surcharge to UJS Budget 1991-2005 on page 25, in 1991, the Court Automation Surcharge revenue equaled approximately 2% of the total UJS budget. With the increase in 1993, that percentage increased to roughly 4% and remained approximately at that level for the next six years. In 2000, the increase in the Court Automation Surcharge again raised the percentage of revenue generated by the surcharge to 7% of the total UJS budget. After this increase, the revenue generated by the surcharge did not provide a stable percentage of the total UJS budget as did the previous increases. In each of the next four years, the percentage of revenue to the total budget decreased, dropping in FY2004 to almost 5.6%. An increase was requested and approved by the legislature for the FY2005. In looking at the table, the new amounts collected brought the percentage of revenue back to the 7% level of the FY2000 increase.

**Recommendation:**

**This researcher recommends that the percentage of revenue collected by the Court Automation Surcharge be monitored over the next two to three years to determine if the downward pattern continues as she believes it will. If that is the case, this researcher**

**recommends that when an increase to the Court Automation Surcharge is contemplated, consideration be given to changing the statutes to provide for small, incremental increases for a set number of years, perhaps by implementing an automatic Cost of Living Adjustment (COLA) based on the Consumer Price Index (CPI). By planning small increases each year, a more stable revenue source will be provided for the Unified Judicial Systems court automation fund and large increases should not be necessary every few years.**

The final recommendation comes from the examination of South Dakota's outstanding surcharges. This researcher performed a review of the outstanding surcharge amounts due as of 10/31/2004 and 10/31/2005. Only active accounts were included in these totals because an in-depth analysis of the accounts receivable was not within the scope of this research project. Knowing that this is only a snapshot in time, the active, outstanding surcharges increased 17.0% in this one year time period. This large increase could be attributed in part to the increase in the amounts assessed for the liquidated costs and court automation surcharges, an increase in the level of activity in the courts, or it could be a sign of an unmanaged accounts receivable balance. Without continuous monitoring of accounts receivable collections, the cause of the increase cannot be accurately determined.

**Recommendation:**

**This researcher recommends monitoring the accounts receivable balance more closely and, if warranted, an in-depth analysis of active and inactive accounts should be performed. Management reports should be created to provide an effective system for monitoring the outstanding balances and could include information such as: age and status of individual cases, number of open accounts, and average time to collect in full. If**

**necessary, standardized collection procedures should be established and instituted statewide to enhance collection results.**

In conclusion, this researcher concurs that the use of surcharges, if used in a thoughtful and responsible manner, giving full consideration to access to justice issues, is a viable and acceptable revenue alternative for state government. This researcher has found that the use of surcharges in South Dakota is not excessive in comparison to other midwestern states. The research shows that surcharges are thoughtfully considered by our legislative branch and applied in a responsible manner. The research has also proven that the surcharges are supported by South Dakota's key judiciary personnel who are charged with the responsibility of protecting the public's access to the courts. Reflecting on the initial question that spurred this research project, "Are we getting too many bulbs on the tree?" this researcher would answer, "No, we are not getting too many bulbs on the tree," but let us also not forget that constant vigilance will be essential to prevent surcharge excess in the future.

## **APPENDIX A South Dakota Codified Laws**

Liquidated Costs	SDCL 23-3-51 through 23-3-55
Law Enforcement Officers Training	SDCL 23-3-51 through 23-3-55
Court Appointed Attorney and Public Defender	SDCL 23A-40-17 and 23A-40-20
Court Appointed Special Advocates	SDCL 16-2-50 through 16-2-54
911 Telecommunicator Fund	SDCL 34-45-22 through 134-45-32
Abused and Neglected Child Defense	SDCL 26-8A-18 through 26-8A-20
Court Automation	SDCL 16-2-38 through 16-2-44
Victim's Compensation Program	SDCL 23A-28B
Law Library	SDCL 14-6-1 through 14-6-6
Fees and Commissions	SDCL 16-2-29

## APPENDIX B SDCL 16-2-29

### Fees and Commissions Charged by the Clerk of Courts

The clerk of courts shall charge and collect the following fees and commissions:

- (1) For the probate of an estate seventy-five dollars;
- (2) For all service connected with the preparation and transmission of a settled record to the Supreme Court, including the remittitur from the Supreme Court, fifty dollars;
- (3) For any of the following:
  - (a) Civil cases filed for jury or court trial;
  - (b) Guardianship or conservatorship actions, adoption cases, termination of life estates;
  - (c) Cases to determine amount of inheritance tax in estates in which real and personal property is transferred in contemplation of death;
  - (d) Default actions to quiet title to real property;
  - (e) Default cases involving garnishment proceedings;
  - (f) Dissolutions of corporations;
  - (g) Foreclosure actions;
  - (h) Special administration proceedings;
  - (i) Summary administration proceedings;
  - (j) Appeals to the circuit court from an action of a political subdivision of the state or from an action of the state or its officers, boards, agencies, and commissions; or
  - (k) All matters not otherwise provided for in this section; twenty-five dollars;
- (4) For any of the following:
  - (a) Issuing a transcript of a judgment;
  - (b) Filing and docketing a transcript of a judgment;
  - (c) Issuing and docketing an execution, commission, or writ;
  - (d) Filing a special execution; or
  - (e) Renewing a judgment according to § 15-16-33; five dollars;
- (5) For any of the following:
  - (a) Reproducing an authenticated, exemplified, or double certificate of a record on file in the clerk's office;
  - (b) Certifying a document not excepted by subdivision (6) of this section;
  - (c) Issuing a subpoena in a civil case; or
  - (d) Safekeeping or filing of a will; two dollars;
- (6) All true and correct copies of any original record or paper furnished by the attorney of record or the personal representative qualified to act in any of the following cases which are necessary for the completion of the case shall be certified at no extra charge for the certification:
  - (a) Guardianship or conservatorship actions, adoption cases, termination of life estates, trusts, probate actions;
  - (b) Cases to determine amount of inheritance tax in estates in which real and personal property is transferred in contemplation of death; and
  - (c) Divorce actions;
- (7) For a facsimile transmission of any opinion, record, or paper from an active or inactive file in the clerk's custody, one dollar per page, but the minimum charge shall be five dollars. Fees

collected pursuant to this subdivision shall be deposited into the unified judicial system court automation fund.

No fee for filing, docketing, issuing, recording, certifying, searching, or other fee or commission, may be required of the state, any foreign state, or the federal government, or its officers, boards, agencies, and commissions, or its political subdivisions, in any action or proceeding commenced by the state or a political subdivision. In addition, no fee for record searches may be required of any agency of the federal government which is charged with law enforcement or investigatory duties under federal law.

No filing fee may be required in any action under § 25-10-3, 25-10-6, 22-19A-8, or 22-19A-12.

Source: SL 1890, ch 81, §§6, 8, 10; RPolC 1903, §§1822, 1824, 1826; SL 1913, ch 165; 1917, ch 1, §6; RC 1919, §6024; SL 1919, ch 135; 1923, ch 144; 1927, ch 90; 1931, ch 118; SDC 1939, §12.1406; SL 1943, ch 27; 1951, ch 24; 1953, ch 20; 1953, ch 124, §1; 1959, ch 29, §1; 1966, ch 24; SDCL § 16-10-8; SL 1968, ch 15; 1971, ch 155, §§1, 2; 1974, ch 55, §§19, 20, 50; 1975, ch 161, §§3, 4; 1977, ch 176; 1977, ch 193, §23; 1978, ch 178, §571; 1979, ch 149, §8; 1979, ch 152; 1983, ch 160; 1984, ch 148, §2; 1984, ch 149; 1989, ch 180; 1989, ch 181; 1992, ch 152; 1993, ch 192, §3; 1993, ch 213, §93; SL 1995, ch 115, §1; SL 1996, ch 142; SL 1996, ch 143; SL 2002, ch 129, § 3.

## APPENDIX C Court Surcharges Survey – Key Judicial Personnel

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**Name**  
**Title**

**Court Surcharges Definition:** Charges assessed in addition to fees and fines for criminal and civil actions.

<u>Funds supported by the surcharges</u>	<u>Amount</u>	<u>Types of Cases</u>
<u>Assessed</u>		
Liquidated Costs		
Law Enforcement Training	\$20	Criminal
Court Appointed Attorney and Public Defenders	\$6	Criminal
Court Appointed Special Advocates	\$2	Criminal
911 Telecommunicator Training	\$1	Criminal
Abused and Neglected Child Defense	\$1	Criminal
Victim Compensation	\$2	Criminal
Law Library	\$2 or \$5	Civil
Court Automation	\$8.50 to \$30.50	Criminal, Civil, Supreme Court Filings

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1. Do you feel that the judiciary should have input before the legislature enacts or revises a criminal or civil surcharge?

Yes  No  Don't know  N/A

Comments:

2. Would you have a favorable reaction to any new criminal surcharge imposed by the legislature?

Yes  No  Don't know  N/A

Comments:

3. Do you think there are any criminal or civil surcharges that should be added to our collection process?

Yes  No  Don't know  N/A

Comments:

4. Are there any surcharges on the list above you consider unnecessary or impractical and would like to see eliminated or reduced?

Yes  No  Don't know  N/A

Comments:

5. Do you think our current level of surcharges is satisfactory?

Yes  No  Don't know  N/A

Comments:

6. Should surcharges be reviewed periodically to determine if they should be adjusted or continued?

Yes  No  Don't know  N/A

Comments:

7. Do you feel our current level of criminal surcharges prevents people from making full payment on the fine?

Yes  No  Don't know  N/A

Comments:

8. Do you waive surcharges for indigent litigants or those unable to pay?

Yes  No  Don't know  N/A

Comments:

9. Does the amount of the current surcharges affect the amount of the fine that you assess?

Yes  No  Don't know  N/A

Comments:

10. Do you think about the total cost (fines and surcharges) to the defendant when you determine the fine?

Yes  No  Don't know  N/A

Comments:

11. If you suspend the fine, are the surcharges still assessed?

Yes  No  Don't know  N/A

Comments:

12. Would you release someone from probation if all fines and costs were not collected?

Yes  No  Don't know  N/A

Comments:

13. The current distribution hierarchy when a payment is received is: 1. Restitution, 2. Surcharges, 3. Court Costs, 4. Fines. Do you feel that this distribution is still appropriate?

Yes  No  Don't know  N/A

Comments:

14. Do you consider the current surcharges to be an alternate form of taxation?

Yes  No  Don't know  N/A

Comments:

15. Do you ever consider the revenue generated by the surcharges and the programs they support?

Yes  No  Don't know  N/A

Comments:

16. If the purpose funded by a surcharge is for the public good, do you feel the revenue should come from the state's general fund?

Yes  No  Don't know  N/A

Comments:

17. Would you be agreeable to a surcharge if the revenue benefited a UJS program, either new or established?

Yes  No  Don't know  N/A

Comments:

Any other comments?

Comments:

## APPENDIX D Results of Court Surcharges Survey – Key Judicial Personnel

### Respondents:

Total Response Rate	62.7% response rate
Presiding Judges	71.4% response rate
Circuit Judges	48.4% response rate
Magistrate Judges	53.8% response rate
Administrators	100% response rate

### 1. Do you feel that the judiciary should have input before the legislature enacts or revises a criminal or civil surcharge?

Yes	34	91%
No	1	3%
Don't know	1	3%
N/A	1	3%

#### Comments included:

1. If that option exists.
2. Because the judiciary is not in the legislating business, nor do we ask the legislature its opinion before we decide cases, decisions about criminal or civil surcharges is completely up to the Legislature.
3. Since we are responsible for imposing the charges we should have some input.
4. Fees and surcharges impact access to the courts. The higher the fees and surcharges, the more likely they may affect the ability of the public to access the courts...Since it may affect access to the courts, it is my opinion that the judiciary should be given the opportunity to have input with respect to the issue.
5. I think legislators should get relevant input from all interested parties. They can make better, more informed decisions by doing so.

### 2. Would you have a favorable reaction to any new criminal surcharge imposed by the legislature?

Yes	6	13%
No	16	43%
Don't know	14	38%
N/A	1	3%

#### Comments included:

1. It would depend on the intended purpose.
2. Many would prefer specific surcharge for specific crimes.
3. One of the reasons that people are in trouble is that they just don't have any money and they are in no position to pay these surcharges.
4. In general I think surcharges are bad government policy. I think they're kind of an end-run around the taxpayer, a low-profile way to raise what really amounts to dedicated taxes.
5. It would depend on the amount, what it's used for, and who has control over spending whatever is collected.

**3. Do you think there are any criminal or civil surcharges that should be added to our collection process?**

Yes	6	16%
No	21	57%
Don't know	9	24%
N/A	1	3%

Comments included:

1. I cannot think of any specifically, but I am not opposed to the idea if I agree with the cause.
2. Not my business as a judge.
3. It maybe doesn't need to be a new charge; maybe some surcharges should be evaluated to determine if they are still appropriate and in the right amounts. For instance, I think the automation is very high, but the child defense charge is very minimal-especially in relation to the CASA and public defender charges. Another charge that might be acceptable would be one to fund education and training for judicial employees and judges who have to keep up with the new changes in laws as well as new automation.
4. Monies should be specifically aimed at in-patient treatment programs and intensive aftercare such as halfway house and etc for treatment of meth addition.

**4. Are there any surcharges on the list above you consider unnecessary or impractical and would like to see eliminated or reduced?**

Yes	12	32%
No	17	47%
Don't know	6	16%
N/A	2	5%

Comments included:

1. All have merit. I do not believe it is appropriate to fund law enforcement training through a surcharge based on how many criminal cases the police initiate. I do not believe CASA, 911 training, or the abuse and neglect funding should come from criminal file surcharges. Those are general governmental functions and should be funded by legislative appropriation. Court automation, law library, court appointed are appropriate user type fees associated with the file.
2. I question whether the 911 surcharge should be on here but at least it is tied to law enforcement which applies to all criminal cases. However, while I am a big supporter of the CASA program I don't feel that there is any connection between CASA and the criminal charges where that is being imposed. In addition that is going to benefit only the selected areas where there is such a program and not statewide.
3. If a defendant has hired his or her attorney or has proceeded pro se, why should he or she have to pay \$6 for a criminal defense.
4. I'd repeal them all.
5. I'm not sure why CASA surcharges are imposed on criminal cases because I don't see the connection.
6. We should not fund a private outfit like CASA using these charges, even if they claim to be doing some public good.

**5. Do you think our current level of surcharges is satisfactory?**

Yes	26	70%
No	7	19%

Don't know	4	11%
N/A	0	0%

Comments included:

1. Abused and neglected children are a growing problem, particularly with the increasing number of meth parents.
2. Perhaps it should be compared with other states.
3. The surcharges are way too high. In most cases class two misdemeanor cases the court costs exceed the fine imposed.
4. I think victim compensation should probably be raised, but I do not have any idea about the amount of the requests made and the amount that are actually paid.
5. That is a legislative decision.
6. I do not agree even with the charges as exist.
7. I think they are excessive.
8. High enough.
9. I believe they could be higher particularly if used for treatment programs.

**6. Should surcharges be reviewed periodically to determine if they should be adjusted or continued?**

Yes	35	94%
No	1	3%
Don't know	1	3%
N/A	0	0%

Comments included:

1. I assume the Legislature does such a review. That would be the appropriate body to review.
2. Inflation, technology, the economy in general are always changing. State government finances are constantly changing. Periodic review is always necessary.

**7. Do you feel our current level of criminal surcharges prevents people from making full payment on the fine?**

Yes	15	41%
No	19	51%
Don't know	3	8%
N/A	0	0%

Comments included:

1. I'm sure it has an impact although I'm not sure how we stand with other states comparatively.
2. I think judges tend to adjust the fine downward so that the total tab for fine, costs, u/a, BAC, restitution and court appointed attorney fees is realistic and do-able. Or the need to waive the fine or fees based upon inability to pay-if one considers the socio-economic status of the majority of offenders.
3. We collect the fines. They have little choice but to pay. That does not mean that the surcharges are not excessive.
4. Some people just don't have the money and we have tremendous difficulty in collecting fines and restitution as it is.
5. As a practical matter, I don't think most criminal defendants really see a distinction between base fines and surcharges, it's just one big obligation to them.
6. Yes, and it takes money away from the school districts.

**8. Do you waive surcharges for indigent litigants or those unable to pay?**

Yes	18	49%
No	11	30%
Don't know	0	0%
N/A	8	21%

Comments included:

1. On occasion.
2. Judge may waive them depending on circumstances.
3. Sometimes, but am more apt to adjust or suspend the fine as it is the only money variable involved.
4. Yes, when the record is clear. However, we are required to justify the waivers.
5. Sometimes I waive costs but more often I suspend the fine and require payment of costs.
6. I do not waive any cost because I have been told or it has been suggested that judges not do so.
7. If the defendant can prove inability to pay for good reasons.

**9. Does the amount of the current surcharges affect the amount of the fine that you assess?**

Yes	14	39%
No	14	38%
Don't know	0	0%
N/A	9	24%

Comments included:

1. Sometimes.
2. I always try to impose the costs.
3. I impose a given amount of fine and cost. I don't give much thought to how it is divided up.

**10. Do you think about the total cost (fines and surcharges) to the defendant when you determine the fine?**

Yes	19	52%
No	9	24%
Don't know	0	0%
N/A	9	24%

Comments included:

**11. If you suspend the fine, are the surcharges still assessed?**

Yes	25	68%
No	1	3%
Don't know	0	0%
N/A	11	29%

Comments included:

1. On occasion.
2. Sometimes.
3. Depends on the circumstances.

**12. Would you release someone from probation if all fines and costs were not collected?**

Yes	11	30%
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No	12	32%
Don't know	6	16%
N/A	8	22%

Comments included:

1. Depends on many things.
2. Possibly if there was a unique situation.
3. The check restitution in this area can run really high because casinos take checks as large as a \$1000 from patrons, drawn on out of state banks. Many of these people return to their home states on probation and restitution is often uncollectible in full.
4. Generally no.

**13. The current distribution hierarchy when a payment is received is: 1. Restitution, 2. Surcharges, 3. Court Costs, 4. Fines. Do you feel that this distribution is still appropriate?**

Yes	25	68%
No	7	19%
Don't know	3	8%
N/A	2	5%

Comments included:

1. Surcharges should be last.
2. I think judges should have discretion to determine the order of payment. I hate having restitution being made to casinos for large out of state checks they took only to keep the person gambling, while the county's costs for inmate medical care, court appointed counsel and other expenses often go unrecovered.
3. Surcharges might be fourth and not second in order of priority.
4. Restitution should be first. No preference after that.
5. Court costs surcharges should be first because they fund the very system that makes payment of restitution possible.
6. Fines should be behind restitution and ahead of surcharges and costs.
7. Court appointed attorney fees should be first.

**14. Do you consider the current surcharges to be an alternate form of taxation?**

Yes	25	68%
No	8	22%
Don't know	2	5%
N/A	2	5%

Comments included:

1. All user fees are a form of taxation.
2. Or, an alternate public funding source.
3. I would call them user fees but still a form of taxation nevertheless.
4. It is a user fee so it depends on definition of tax.
5. Don't know but I do consider them a way to get around the requirement that fine money go to the school districts.

**15. Do you ever consider the revenue generated by the surcharges and the programs they support?**

Yes	23	62%
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No	11	30%
Don't know	3	8%
N/A	0	0%

Comments included:

1. As far as my memory serves me, there has never been an accounting of how the revenue is dedicated or spent. Some of this money goes to the attorney general.
2. Actually the only ones I watch closely are the court automation revenue because it has an indirect bearing on local equipment and programming, and the law library fee revenue because I manage the law library.
3. I do not consider the total amount of revenue. I obviously think about the programs supported by the surcharges. Each surcharge has a constituency and good reasons as well as negative reasons exist to support or oppose a particular surcharge.

**16. If the purpose funded by a surcharge is for the public good, do you feel the revenue should come from the state's general fund?**

Yes	7	19%
No	12	32%
Don't know	17	46%
N/A	1	3%

Comments included:

1. Not necessarily.
2. It should come from the people who use the system.
3. In reality, surcharges serve as an alternate funding source outside the general fund process and attempt to place the funding of such programs on the specific-who often lacks the ability to pay.
4. I believe that user fees directly associated with the use of the system is appropriate. Each case requires some use of the court's automation system-so a fee assessed against that use make sense. CASA has nothing to do with criminal cases. CASA should be funded from general funds or user fees on cases they are associated with. Similarly, abuse and neglect files are civil and have nothing to do with virtually any of the criminal cases. Law enforcement training is necessary. However it is a general governmental function enjoyed and utilized by all citizens. It should be funded through general funds.
5. That decision is up to the Legislature.
6. I think reasonable user fees are appropriate in many cases. I also think that criminal defendants should be required to bear a reasonable part of the cost of the criminal justice system.
7. I would need to know more about the "purpose" before I could make that determination.
8. It depends on the nature of the program. Most are for the public good in some manner. I feel it is appropriate to have those using courts to pay fees that help support them.

**17. Would you be agreeable to a surcharge if the revenue benefited a UJS program, either new or established?**

Yes	16	43%
No	5	14%
Don't know	16	43%
N/A	0	0%

Comments included:

1. Of course.

2. Depends upon the relevant program and which offenders would be surcharged.
3. Gives the appearance of impropriety.
4. As long as the surcharge is in the nature of a user fee that is directly and reasonably related to the nature of the case on which it is assessed.
5. That decision is up to the Legislature.
6. It would depend on the purpose, the amount, and the control over expenditures.
7. It depends on how important the program is and whether it will continue ad infinitum.

**Any other comments?**

1. It is very inconvenient on a day-to-day basis having the various surcharges being so different. It would be much easier to have nice round, consistent numbers.
2. It seems that Pierre regards hard-shipping costs or surcharges as a loss of revenue. As a practical matter, if we impose the charges on many of our homeless unemployed we might as well have the Clerk put it directly into doubtful accounts.
3. The taxpayers as a whole already fund the bulk of government operation through general taxes. In my opinion surcharges are really the imposition of an additional, selective tax on a segment of the public who has already funded the agency's base budget, and is now charged an additional amount to actually use the agency's services.
4. I think that the flat rate of surcharges needs examination. I sometimes see it as regressive, in that the amount of the surcharge is the same regardless of the impact of the offense or crime, and therefore, the burden is disproportionate among the offenders and their ability to pay. Maybe a percentage would be a better way to balance the fines and the surcharges. That would make things more difficult to predict and maybe even to manage, but the people who get stopped for speeding or other petty misdemeanors seem to pay the larger share for our needs.
5. I am concerned about having fees attached to cases which are not related to court operations.

## APPENDIX E Court Surcharges Survey - Midwest States

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**Name**

**Title**

**Court Surcharges Definition:** Charges assessed in addition to fees and fines for criminal and civil actions.

<u>South Dakota Surcharges</u>	<u>Amount</u>	<u>Types of Cases</u>
Law Enforcement Training	\$20	Criminal
Court Appointed Attorney and Public Defenders	\$6	Criminal
Court Appointed Special Advocates	\$2	Criminal
911 Telecommunicator Training	\$1	Criminal
Abused and Neglected Child Defense	\$1	Criminal
Victim Compensation	\$2	Criminal
Law Library	\$2 or \$5	Civil
Court Automation	\$8.50 to \$30.50	Criminal, Civil, SC Filings

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1. Does your state assess surcharges to criminal and/or civil cases?

Yes  No  Don't know  N/A

If yes, please attach a schedule or list any surcharges which are collected in your state.

2. Do you feel that the judiciary should have input before the legislature enacts or revises a criminal or civil surcharge?

Yes  No  Don't know  N/A  Comments:

3. Should surcharges be reviewed periodically to determine if they should be adjusted or continued?

Yes  No  Don't know  N/A  Comments:

4. Do you consider the current surcharges to be an alternate form of taxation?

Yes  No  Don't know  N/A  Comments:

5. If the purpose funded by a surcharge is for the public good, do you feel the revenue should come from the state's general fund?

Yes  No  Don't know  N/A  Comments:

Any other comments?

## APPENDIX F Results of Court Surcharges Survey - Midwest States

1. Does your state assess surcharges to criminal and/or civil cases?

Yes	4	80%
No	0	0%
Don't know	0	0%
N/A	1	20%

If yes, please attach a schedule or list any surcharges which are collected in your state.

2. Do you feel that the judiciary should have input before the legislature enacts or revises a criminal or civil surcharge?

Yes	4	80%
No	0	0%
Don't know	0	0%
N/A	1	20%

Comments:

3. Should surcharges be reviewed periodically to determine if they should be adjusted or continued?

Yes	4	80%
No	0	0%
Don't know	0	0%
N/A	1	20%

Comments:

4. Do you consider the current surcharges to be an alternate form of taxation?

Yes	2	40%
No	1	20%
Don't know	0	0%
N/A	2	40%

Comments:

5. If the purpose funded by a surcharge is for the public good, do you feel the revenue should come from the state's general fund?

Yes	3	60%
No	0	0%
Don't know	0	0%
N/A	2	40%

Comments:

Any other comments?

## **APPENDIX G Wisconsin Court Surcharges**

### **Clerk Fee, Civil forfeiture 814.63(1)(b) \$25**

-applies to most forfeitures; paid when judgment is entered

-does not apply to smoking, 101.123(2)(a), (am)1, (ar), (bm), (br) or (5); or safety belt use, 347.48(2m)

Distribution of funds: \$5 to Consolidated Court Automation Program (CCAP); \$7.50 to county; \$12.50 to state general fund.

### **Clerk Fee, Criminal 814.60 \$20**

-applies to all criminal actions; paid when judgment is entered

Distribution of funds: Split 50-50 between state general fund and county.

### **Consumer Protection Surcharge 100.261 25% of fine or forfeiture**

-applies to violations of ch. 98 (weights and measures), ch. 100 (marketing and trade practices), and related ordinances and administrative rules

-if the court imposes a fine or forfeiture, the court shall also impose this surcharge

Distribution of funds: 100% to state Dept. of Justice to fund consumer protection information and education up to \$185,000 under 20.115(1)(jb); balance to general fund.

### **Court Support Services Surcharge 814.85(1)(a, b, c) \$51 to \$169**

-\$51 surcharge applies to small claims, garnishments, wage claims, and other actions where amount claimed is \$5,000 or less.

-\$68 surcharge applies to civil actions where no money judgment is sought, such as name change, declaratory judgment, habeas corpus, minor settlements

-\$68 surcharge applies to state and county forfeitures, municipal ordinance violations, appeals from municipal court; paid when judgment is entered, does not apply to safety belt violations, does not apply to first offense prohibited alcohol concentration of at least .08% but less than .10%, 346.63(1)(b), 30.681(1)(b)1., 23.33(4c)(a)2., or 350.101(1)(b).

-\$169 surcharge applies to civil actions where amount claimed exceeds \$5,000, includes personal injury, property damage, foreclosure, even if amount claimed is not specified, 808.02(1)(m), includes garnishments and wage claims over \$5,000

Distribution of funds: 100% to state treasurer.

### **Crime Lab & Drug Law Enforcement Surcharge 165.755 \$8 per offense**

-if the court imposes a sentence, places a person on probation, or imposes a forfeiture, a separate surcharge shall be imposed for each offense or count

-applies to state law and municipal or county ordinances

-does not apply to smoking, non-moving traffic, or safety belt violations

-does not apply to first offense prohib. alcohol conc. of at least .08% but less than .10%

Distribution of funds: 100% to state Dept. of Justice for drug law enforcement and crime labs and related services.

**Crime Prevention Organization Contribution 973.09(1x), 973.06(1)(f), 753.40** varies  
-if the court places a person on probation, the court may require the defendant to make a contribution to a crime prevention organization, if the court determines that defendant has the financial ability to make the contribution and the contribution is reasonable.  
Distribution of funds: Selected crime prevention organization.

**Domestic Abuse Surcharge 973.055** \$75

-when the court imposes a sentence on an adult person or places that person on probation, regardless of whether any fine is imposed, the court shall impose this surcharge for each offense if:  
(1) the court convicts the person of a violation of various crimes listed in 973.055;  
(2) the court finds that the conduct involved an act by the defendant against a spouse or former spouse, against an adult with whom the defendant resides or formerly resided, or against an adult with whom the defendant has created a child; or  
(3) the court convicts a person for violation of a temporary restraining order under 813.12(8)(a) or a conforming municipal ordinance.  
Distribution of funds: 100% to state Dept. of Health and Family Services to fund grants to domestic abuse service organizations.

**DNA Analysis Surcharge 973.046(1g)** \$250

-if the court imposes a sentence or places a person on probation for sexual assault crimes under 940.225, 948.02(1), 948.02(2), or 948.025, the court shall impose this surcharge.  
-the court may assess the DNA surcharge if the court imposes a sentence or places a person on probation for any felony judgment in addition to the above offenses.  
-note that requiring a sample is different from imposing a surcharge: 973.047(1) provides that the court shall order any person convicted of a felony to provide a DNA sample to the State Crime Laboratory  
-so for most offenses, the sample is mandatory, the surcharge is discretionary  
Distribution of funds: 100% to state Dept. of Justice for use in supporting a DNA analysis data bank, training prosecutors in the use of DNA analysis, and related costs.

**Driver Improvement Program Surcharge 346.655** \$355

-if the court imposes a fine or forfeiture for a violation of operating under influence of intoxicant or other drug under 346.63(1) or (5) or a local ordinance in conformity; or injury by intoxicated use of a vehicle under 346.63(2) or (6) or 940.25; or homicide by intoxicated use of a vehicle under 940.09, it shall impose a driver improvement surcharge  
-does not apply to first offense prohib. alcohol conc. of at least .08% but less than .10%  
Distribution of funds: 61.5% to county and 38.5% to state treasurer. County funds used for alcohol surcharge services.

**Drug Abuse Program Improvement Surcharge 961.41(5)(a)** 75% of fine and penalty surcharge

-when a fine is imposed for most drug offenses, listed in 961.41, the court shall also impose this surcharge on the amount of the fine and penalty imposed.  
Distribution of funds: 100% to state Dept. of Health and Family Svcs. to fund programs and grants providing prevention, intervention and treatment for alcohol and drug abuse problems.

**Drug Offender Diversion Surcharge 974.043 \$10**

-if the court imposes a sentence or places a person on probation for property crimes under ch. 943, the court shall impose this surcharge for each conviction.

-applicable to offenses committed on or after 10/1/05.

Distribution of funds: 100% for substance abuse treatment grants to programs serving criminal offenders, administered by Office of Justice Assistance.

**Environmental Surcharge 299.93 10% of fine or forfeiture**

-if the court imposes a fine or forfeiture for a violation of ch. 280 pure drinking water, ch. 281 water & sewage, ch. 283 pollution discharge elimination, ch. 285 air pollution, ch. 289 solid waste facilities, ch. 291 hazardous waste management, ch. 292 remedial action, ch. 293 metallic mining, ch. 295 nonmetallic mines reclamation: oil & gas, or ch. 299 general environmental, the court shall impose this surcharge

Distribution of funds: 100% to the state Environmental Fund.

**Fishing Shelter Removal Surcharge 29.985 varies**

-defendant to pay the cost of seizure, destruction or sale of the fishing shelter

-if defendant does not reimburse these costs within 20 days, court may also impose forfeiture up to \$100 under 29.404(3).

Distribution of funds: 100% to state Dept. of Natural Resources Conservation Fund Fish and Wildlife Account.

**Jail Surcharge 302.46(1) 1% of fine or forfeiture or \$10, whichever is greater**

-if the court imposes a fine or forfeiture for a violation of state law or municipal or county ordinance it shall impose a jail surcharge

-does not apply to smoking, non-moving traffic, or safety belt violations

-does not apply to first offense prohib. alcohol conc. of at least .08% but less than .10%

Distribution of funds: 100% retained by counties to construct, remodel, repair or improve county jails.

**Juvenile Delinquency Victim Witness Surcharge 938.34(8d) \$20**

-for violations for which a juvenile is adjudicated delinquent, the court shall, in addition to Witness Surcharge any disposition imposed under 938.34, impose a delinquency victim & witness assistance surcharge of \$20

Distribution of funds: 100% to state Dept. of Justice to fund victim and witness services.

**Justice Information Surcharge 814.86(1) \$12**

-the clerk of circuit court shall collect \$12 from any person paying a fee for civil actions under 814.61(1)(a) or (3); administrative and municipal appeals under 814.61(8m); garnishment, wage earner, and small claims actions under 814.62; or forfeiture actions under 814.63(1).

-does not apply to first offense prohibited alcohol concentration of at least .08% but less than .10%

-does not apply to a safety belt violation

Distribution of funds: 100% to state. 6/12 of monies to Wisc. Supreme Court for court automation under 20.680(2)(j); 5/12 to state Dept. of Administration for justice information systems; and 1/12 to state general fund under 20.530(1)(ja).

**Municipal Fee 814.63(2) \$5**

-upon disposition of a forfeiture action in circuit court for violation of a county, town, city, village, town sanitary district or public inland lake protection and rehabilitation district ordinance, the above government unit shall pay a non-refundable \$5 fee

-does not apply to a safety belt violation

Distribution of funds: 100% to clerk of circuit courts.

**Natural Resources Surcharge 29.987 75% of fine**

-if the court imposes a fine or forfeiture for violation of ch. 29 (wild animals and plants) or 169.46(1) or forfeiture or ch. 169 (captive wildlife), or related order the court shall impose this surcharge

Distribution of funds: 100% to state Dept. of Natural Resources Conservation Fund.

**Natural Resources Restitution Surcharge 29.989, 169.46(2) varies**

-equal to the amount of the fee of the license or stamp that should have been paid

-if the court imposes a natural resources surcharge for violation of ch. 29, ch. 169, or a related order, the court shall impose this surcharge also

-do not treat this as restitution for purposes of the restitution surcharge under 973.06(1)(g)

Distribution of funds: 100% to state Dept. of Natural Resources Conservation Fund.

**Occupational License Fee 814.61(14), 343.10(4),(6), 351.07(1g) \$40**

-for filing a petition for occupational license under 343.10(4) or 351.07

Distribution of funds: under 343.10(4), 100% to county; for habitual traffic offenders under 351.07, 50% to state general fund and 50% to county.

**Penalty Surcharge 757.05 25% of fine or forfeiture**

-if the court imposes a fine or forfeiture for a violation of state law or municipal or county ordinances, it shall impose a penalty surcharge

-does not apply to smoking, non-moving traffic, or safety belt violations

-does not apply to first offense prohib. alcohol conc. of at least .08% but less than .10%

Distribution of funds: 100% to state Dept. of Justice for law enforcement training and related services.

**Railroad Crossing Improvement Surcharge 346.495, 346.65(4r), 346.177 50% of forfeiture**

-if the court imposes a forfeiture under 346.49(1g), (2m)(a), (am), or (b), for a violation of 346.44, 346.45, or 346.46(3) the court shall impose this surcharge

Distribution of funds: 100% to state Dept. of Transportation to fund railroad crossing protection installation and maintenance.

**Restitution Surcharge 973.06(1)(g)** 10% of any restitution ordered

-if the court orders restitution under 973.20(11)(a), the court shall impose as a surcharge an amount equal to 10% of the restitution ordered

Distribution of funds: 100% to county treasurer.

**Restitution Administrative Surcharge 973.20(11)(a)** 5% of total fines, surcharges, costs, etc

-if defendant is not placed on probation or sentenced to prison, the court may order that restitution be paid to the clerk of circuit court for transfer to the appropriate person

-if defendant is placed on probation, restitution paid to Dept. of Corrections for transfer to the appropriate person

-surcharge equals 5% of the total amount of restitution, costs, attorney fees, fines and surcharges, including the 10% restitution surcharge

Distribution of funds: 100% to Dept. of Corrections or clerk for administrative expenses.

**Sheriff's Surcharge 973.06(1)(a) & 814.70** varies

-the necessary disbursements and surcharges of officers allowed by law and incurred in connection with the arrest, preliminary examination and trial of the defendant

-use amount on the bench warrant or order to produce; if none don't assess

Distribution of funds: 100% to county sheriff's dept.

**Snowmobile Registration Restitution Payments 350.115** varies

-amount equal to the amount of the required fee that should have been paid

-do not treat this as restitution for purposes of the restitution surcharge under 973.06(1)(g)

Distribution of funds: 100% to state Dept. of Natural Resources Conservation Fund.

**Special Prosecution Clerks Surcharge 814.86(1m)** \$3.50

-Milwaukee only

-applies whenever the Justice Information Surcharge is assessed

-does not apply to first offense prohib. alcohol conc. of at least .08% but less than .10%

Distribution of funds: 100% to state treasurer to reimburse Milwaukee County district attorney expenses under 20.475(1)(i)

**Supplemental Food Enforcement Surcharge 253.06(4)(c)** 50% of fine

-if a court imposes a fine, forfeiture or recoupment for a violation of this subsection, the court shall impose this surcharge

Distribution of funds: 100% to state Dept. of Health and Family Services for the administration of the supplemental food program for women, infants and children.

**Truck Driver Education Surcharge 349.04(1)** \$8

-if the court imposes a fine or forfeiture for a violation of ch. 346-348 or a rule issued under ch. 346-48 and the violation involved a commercial motor vehicle, the court shall impose a truck driver education surcharge of \$8.

-does apply to first offense prohibited alcohol concentration of at least .08% but less than .10%

Distribution of funds: 100% to fund truck driver training grants.

**Uninsured Employers Surcharge 102.85(4)(a)** 75% of fine

-if an employer fails to comply with ch. 102.16(3) or 102.28(2) (worker's compensation) or forfeiture and if the court imposes a fine or forfeiture, it shall impose this surcharge

Distribution of funds: 100% to the state Uninsured Employers Fund.

**Victim/Witness Surcharge 973.045(1)** Misd. \$60, Felony \$85 per offense,

-if the court imposes a sentence or places a person on probation, the court shall impose the crime victim and witness assistance surcharge for each offense or count

-surcharge applies even if no fine or forfeiture is imposed

-surcharge also imposed if the complaint charged a crime and, as a result of a deferred or suspended prosecution, the defendant paid a forfeiture. Either the felony or misdemeanor surcharge applies depending on the crime originally charged in the complaint.

-does not apply to first offense prohib. alcohol conc. of at least .08% but less than .10%

Distribution of funds: 100% to state Dept. of Justice to fund payments to victims, victim and witness services, and grants for sexual assault victim services.

**Wild Animal Protection Surcharge 29.983(1)(a)** varies by animal

-if the court imposes a fine or forfeiture under this chapter for unlawful killing, wounding, catching, taking, trapping or possession of a wild animal specified in par(b), the court may impose this surcharge

-surcharge is imposed per animal. See 29.983(b) for detail

Distribution of funds: 100% to state Dept. of Natural Resources Conservation Fund.

**Weapons Surcharge 167.31(5)(a)** 75% of fine

-if the court imposes a fine or forfeiture for a violation of this section, the court shall or forfeiture impose a weapons surcharge

Distribution of funds: 100% to state Dept. of Natural Resources Conservation Fund for law enforcement operations.

## **APPENDIX H Indiana Additional Fees**

### **IC 33-37-4-1 Version b**

#### **Criminal costs fees; additional fees**

*Note: This version of section effective 7-1-2005. See also preceding version of this section, effective until 7-1-2005.*

Sec. 1. (a) For each action that results in a felony conviction under IC 35-50-2 or a misdemeanor conviction under IC 35-50-3, the clerk shall collect from the defendant a criminal costs fee of one hundred twenty dollars (\$120).

(b) In addition to the criminal costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A marijuana eradication program fee (IC 33-37-5-7).
- (3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (5) A drug abuse, prosecution, interdiction, and correction fee (IC 33-37-5-9).
- (6) An alcohol and drug countermeasures fee (IC 33-37-5-10).
- (7) A child abuse prevention fee (IC 33-37-5-12).
- (8) A domestic violence prevention and treatment fee (IC 33-37-5-13).
- (9) A highway work zone fee (IC 33-37-5-14).
- (10) A deferred prosecution fee (IC 33-37-5-17).
- (11) A document storage fee (IC 33-37-5-20).
- (12) An automated record keeping fee (IC 33-37-5-21).
- (13) A late payment fee (IC 33-37-5-22).
- (14) A sexual assault victims assistance fee (IC 33-37-5-23).
- (15) A public defense administration fee (IC 33-37-5-21.2).
- (16) A judicial insurance adjustment fee (IC 33-37-5-25).
- (17) A judicial salaries fee (IC 33-37-5-26).
- (18) A court administration fee (IC 33-37-5-27).
- (19) A DNA sample processing fee (IC 33-37-5-26.2).

## **APPENDIX I Michigan Justice System Fund**

### **600.181 Justice system fund; creation; use; disposition; investment; distributions.**

Sec. 181.

(1) The justice system fund is created in the state treasury. The money in the fund shall be used as provided in this section.

(2) The state treasurer shall credit to the justice system fund deposits of proceeds from the collection of revenue from court assessments and costs designated by law for deposit in the fund and shall credit all income from investment credited to the fund by the state treasurer. The state treasurer may invest money in the fund in any manner authorized by law for the investment of state money. However, an investment shall not interfere with any apportionment, allocation, or payment of money as required by this section. The unencumbered balance remaining in the fund at the end of a fiscal year shall remain in the fund and shall not revert to the general fund.

(3) In the state fiscal year beginning October 1, 2003, the state treasurer shall distribute the proceeds of the fund monthly as follows:

(a) To the secondary road patrol and training fund created in section 629e of the Michigan vehicle code, 1949 PA 300, MCL 257.629e, an amount equal to \$10.00 multiplied by the number of civil infraction actions on which assessments are collected each month under section 629e or 907 of the Michigan vehicle code, 1949 PA 300, MCL 257.629e and 257.907.

(b) The balance of the fund remaining after the allocation in subdivision (a) shall be distributed as follows:

(i) To the highway safety fund created in section 629e of the Michigan vehicle code, 1949 PA 300, MCL 257.629e, 24.7% of the fund balance.

(ii) To the jail reimbursement program fund created in section 629e of the Michigan vehicle code, 1949 PA 300, MCL 257.629e, 13% of the fund balance.

(iii) To the Michigan justice training fund created in section 5 of 1982 PA 302, MCL 18.425, 13% of the fund balance.

(iv) To the secretary of the legislative retirement system for deposit with the state treasurer in the retirement fund created in the Michigan legislative retirement system act, 1957 PA 261, MCL 38.1001 to 38.1080, 1.2% of the fund balance.

(v) To the drug treatment courts fund created in section 185, 2.35% of the fund balance.

(vi) To the state forensic lab fund created in section 3 of the forensic laboratory funding act, 1994 PA 35, MCL 12.203, 3.9% of the fund balance.

(vii) To the state court fund created in section 151a, 14.3% of the fund balance.

(viii) To the court equity fund created in section 151b, 25.55% of the fund balance.

(ix) To the state treasurer for monitoring of collection and distribution of fund receipts, 1% of the fund balance.

(x) To the state court administrative office for management assistance and audit of trial court collections, 1% of the fund balance.

(4) In the state fiscal year beginning October 1, 2004 and each fiscal year following, the state treasurer shall distribute the proceeds of the fund monthly as follows:

(a) To the secondary road patrol and training fund created in section 629e of the Michigan vehicle code, 1949 PA 300, MCL 257.629e, an amount equal to \$10.00 multiplied by the

number of civil infraction actions on which assessments are collected each month under section 629e or 907 of the Michigan vehicle code, 1949 PA 300, MCL 257.629e and 257.907.

(b) The balance of the fund remaining after the allocation in subdivision (a) shall be distributed as follows:

(i) To the highway safety fund created in section 629e of the Michigan vehicle code, 1949 PA 300, MCL 257.629e, 24.8% of the fund balance.

(ii) To the jail reimbursement program fund created in section 629e of the Michigan vehicle code, 1949 PA 300, MCL 257.629e, 12.4% of the fund balance.

(iii) To the Michigan justice training fund created in section 5 of 1982 PA 302, MCL 18.425, 12.4% of the fund balance.

(iv) To the secretary of the legislative retirement system for deposit with the state treasurer in the retirement fund created in the Michigan legislative retirement system act, 1957 PA 261, MCL 38.1001 to 38.1080, 1.15% of the fund balance.

(v) To the drug treatment courts fund created in section 185, 2.85% of the fund balance.

(vi) To the state forensic lab fund created in section 3 of the forensic laboratory funding act, 1994 PA 35, MCL 12.203, 5.6% of the fund balance.

(vii) To the state court fund created in section 151a, 13.3% of the fund balance.

(viii) To the court equity fund created in section 151b, 25.5% of the fund balance.

(ix) To the state treasurer for monitoring of collection and distribution of fund receipts, 1% of the fund balance.

(x) To the state court administrative office for management assistance and audit of trial court collections, 1% of the fund balance.

**History:** Add. 2003, Act 97, Eff. Oct. 1, 2003

## APPENDIX J South Dakota Outstanding Surcharges as of 10/31/2004

County	Liq. Costs	Ct. Auto.	Vict. Comp	Law Lib	Total
Aurora	476.13	325.79	52.50	5.00	859.42
Beadle	2,264.66	1,945.82	240.00	15.00	4,465.48
Bennett	3,927.00	2,001.00	396.20	0.00	6,324.20
Bon Homme	1,452.51	959.50	161.44	20.00	2,593.45
Brookings	9,676.28	7,389.63	995.00	46.00	18,106.91
Brown	18,827.49	13,597.14	2,104.00	165.00	34,693.63
Brule/Buffalo	4,150.89	2,107.00	407.50	45.00	6,710.39
Butte	2,446.00	1,821.00	241.00	15.00	4,523.00
Campbell	328.00	186.00	30.00	5.00	549.00
Charles Mix	5,756.68	3,583.63	626.50	5.00	9,971.81
Clark	1,107.00	766.50	107.50	0.00	1,981.00
Clay	1,451.30	1,527.50	153.50	50.00	3,182.30
Codington	7,526.21	5,656.75	800.68	0.00	13,983.64
Corson	282.00	226.70	35.00	5.00	548.70
Custer	2,901.90	2,228.08	308.50	15.00	5,453.48
Davison	12,692.83	7,737.85	1,197.50	65.00	21,693.18
Day	2,597.08	1,639.00	271.97	10.00	4,518.05
Deuel	839.25	654.50	87.50	0.00	1,581.25
Dewey	150.00	94.50	17.50	0.00	262.00
Douglas	298.00	170.00	32.50	0.00	500.50
Edmunds	830.00	479.37	85.00	0.00	1,394.37
Fall River	7,838.87	4,434.25	773.46	110.00	13,156.58
Faulk	117.00	65.50	17.50	0.00	200.00
Grant	858.62	664.00	90.00	20.00	1,632.62
Gregory	1,047.80	714.79	109.66	10.00	1,882.25
Haakon	358.00	349.00	35.00	15.00	757.00
Hamlin	543.78	347.00	72.50	0.00	963.28
Hand	507.00	346.00	60.00	10.00	923.00
Hanson	1,265.00	686.00	120.00	5.00	2,076.00
Harding	279.00	123.00	25.00	5.00	432.00
Hughes	15,236.75	8,376.37	1,467.00	40.00	25,120.12
Hutchinson	1,419.09	1,021.50	160.00	10.00	2,610.59
Hyde	694.50	360.00	75.00	0.00	1,129.50
Jackson	2,314.00	1,027.00	222.50	5.00	3,568.50
Jerauld	279.00	199.00	25.00	0.00	503.00
Jones	823.13	495.00	80.00	5.00	1,403.13

County	Liq. Costs	Ct. Auto.	Vict. Comp	Law Lib	Total
Kingsbury	703.55	443.50	65.00	15.00	1,227.05
Lake	2,940.13	2,095.96	297.50	55.00	5,388.59
Lawrence	8,646.02	7,731.26	902.50	30.00	17,309.78
Lincoln	8,218.71	5,225.84	792.50	30.00	14,267.05
Lyman	2,645.00	1,377.50	270.00	10.00	4,302.50
Marshall	1,136.78	965.61	160.00	15.00	2,277.39
McCook	1,399.00	724.50	132.50	10.00	2,266.00
Mcperson	91.00	124.37	12.50	0.00	227.87
Meade	4,005.85	3,748.42	446.70	139.00	8,339.97
Mellette	2,314.00	1,270.50	257.50	0.00	3,842.00
Miner	294.00	116.00	25.00	0.00	435.00
Minnehaha	76,090.12	48,980.60	7,756.46	1,340.00	134,167.18
Moody	3,077.74	1,762.00	301.81	10.00	5,151.55
Pennington	160,634.35	84,178.51	16,581.18	490.00	261,884.04
Perkins	1,938.50	1,261.73	207.50	0.00	3,407.73
Potter	843.00	415.00	90.00	0.00	1,348.00
Roberts	11,354.84	7,390.00	1,293.00	61.00	20,098.84
Sanborn	962.00	380.50	87.50	0.00	1,430.00
Spink	1,615.12	1,040.50	172.50	35.00	2,863.12
Stanley	1,781.24	1,133.00	195.00	20.00	3,129.24
Sully	1,398.67	628.50	137.50	0.00	2,164.67
Tripp	4,068.50	2,286.87	400.00	35.00	6,790.37
Turner	2,235.42	1,833.00	230.00	10.00	4,308.42
Union	4,568.75	3,918.09	520.50	55.00	9,062.34
Walworth	6,902.84	4,012.16	682.00	45.00	11,642.00
Yankton	7,084.91	6,859.75	751.00	125.00	14,820.66
Ziebach	168.00	83.00	15.00	0.00	266.00
Total Due	\$430,680.79	\$264,292.34	\$44,466.56	\$3,231.00	\$742,670.69

## APPENDIX K South Dakota Outstanding Surcharges as of 10/31/2005

County	Liq. Costs	Ct. Auto.	Vict. Comp	Law Lib	Total
Aurora	422.00	378.50	42.50	10.00	853.00
Beadle	2,689.80	2,214.16	265.00	10.00	5,178.96
Bennett	5,517.99	3,109.00	535.00	5.00	9,166.99
Bon Homme	1,367.60	906.50	156.00	5.00	2,435.10
Brookings	11,731.36	8,933.07	1,121.50	15.00	21,800.93
Brown	17,564.26	14,060.51	1,851.50	180.00	33,656.27
Brule/Buffalo	4,554.87	2,537.73	445.00	10.00	7,547.60
Butte	2,828.57	2,137.68	235.00	10.00	5,211.25
Campbell	292.00	173.00	25.00	0.00	490.00
Charles Mix	11,731.49	6,815.63	1,149.50	10.00	19,706.62
Clark	1,227.00	1,009.50	117.50	0.00	2,354.00
Clay	1,494.43	1,526.78	156.00	20.00	3,197.21
Codington	8,672.74	6,400.36	839.50	5.00	15,917.60
Corson	438.00	302.50	37.50	0.00	778.00
Custer	2,676.60	2,066.85	285.00	10.00	5,038.45
Davison	11,679.38	7,064.86	1,050.50	90.00	19,884.74
Day	2,924.38	1,984.00	310.47	20.00	5,238.85
Deuel	911.52	475.00	80.00	5.00	1,471.52
Dewey	95.00	93.00	10.00	0.00	198.00
Douglas	1,404.00	753.00	140.00	0.00	2,297.00
Edmunds	747.44	431.50	62.50	0.00	1,241.44
Fall River	6,918.89	4,348.64	662.50	25.00	11,955.03
Faulk	180.00	88.00	17.00	0.00	285.00
Grant	837.49	601.96	92.50	10.00	1,541.95
Gregory	1,216.00	832.93	115.00	10.00	2,173.93
Haakon	432.00	301.50	37.50	0.00	771.00
Hamlin	433.72	411.00	76.98	0.00	921.70
Hand	547.00	420.00	50.00	15.00	1,032.00
Hanson	639.00	375.00	55.00	0.00	1,069.00
Harding	327.00	216.50	27.50	5.00	576.00
Hughes	17,960.73	10,681.41	1,707.50	25.00	30,374.64
Hutchinson	1,347.42	851.00	135.00	0.00	2,333.42
Hyde	303.00	210.00	35.00	0.00	548.00
Jackson	2,515.00	1,227.28	230.00	5.00	3,977.28
Jerauld	213.00	247.00	25.00	20.00	505.00
Jones	1,122.13	623.00	100.00	5.00	1,850.13

County	Liq. Costs	Ct. Auto.	Vict. Comp	Law Lib	Total
Kingsbury	714.00	382.00	60.00	10.00	1,166.00
Lake	2,938.00	2,046.50	272.50	50.00	5,307.00
Lawrence	9,789.73	9,606.56	1,017.50	65.00	20,478.79
Lincoln	9,450.45	6,209.33	879.50	45.00	16,584.28
Lyman	4,043.83	2,145.50	377.50	0.00	6,566.83
Marshall	1,480.97	969.51	167.50	5.00	2,622.98
McCook	962.51	690.50	85.00	20.00	1,758.01
Mcperson	30.00	11.50	2.50	0.00	44.00
Meade	6,842.32	5,139.53	680.00	115.00	12,776.85
Mellette	2,968.00	1,576.50	275.00	0.00	4,819.50
Miner	414.00	234.00	35.00	0.00	683.00
Minnehaha	97,270.46	64,179.28	9,177.65	1,125.00	171,752.39
Moody	3,907.62	2,174.00	347.50	5.00	6,434.12
Pennington	178,603.76	101,026.39	17,098.06	500.00	297,228.21
Perkins	1,228.05	1,063.05	140.00	0.00	2,431.10
Potter	648.00	459.00	65.00	20.00	1,192.00
Roberts	15,198.80	9,188.46	1,586.19	20.00	25,993.45
Sanborn	540.00	244.50	47.50	0.00	832.00
Spink	2,223.54	1,330.40	219.85	10.00	3,783.79
Stanley	2,736.65	1,596.50	255.00	0.00	4,588.15
Sully	1,146.00	537.17	107.50	5.00	1,795.67
Tripp	4,066.76	2,614.19	405.00	25.00	7,110.95
Turner	1,949.52	1,714.00	195.00	20.00	3,878.52
Union	5,557.88	4,898.68	555.00	20.00	11,031.56
Walworth	8,580.06	4,998.00	804.50	10.00	14,392.56
Yankton	9,482.59	8,957.59	949.20	85.00	19,474.38
Ziebach	180.00	97.00	15.00	0.00	292.00
Total Due	\$498,916.31	\$318,897.99	\$48,101.40	\$2,680.00	\$868,595.70

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