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To: Members of the Commission on Courts
From: Mark Goodpaster
Date: October 24, 2008
Re: Court Fees

At an earlier meeting of the Commission on Courts, Senator Bray asked for an overview of court fees and more information on the revenue generated by these fees.

In response, I am providing this memo and a table that show how these fees have changed since 1990. I also discuss in the second section how revenue from three fees are paying for the costs of the new courts and salary increases for all court officers.

Court Fees Prior to 1988 to the Present:

Prior to 1988, plaintiffs filing civil, probate or small claims cases and defendants in criminal, juvenile, and infractions and ordinance violations cases paid more than 16 court fees to clerks. Because the clerks maintained their financial records with manual systems, maintaining and reporting these records was difficult and inconsistent. The State Board of Accounts also was concerned about the accounting and reporting inconsistencies. In 1988, the General Assembly replaced these fees with a single fee for each of the major type of cases: criminal, civil, probate, juvenile, small claims, and infractions and ordinance violations.

Since 1988, the General Assembly has added a series of fees that are mandatory for all non-indigent plaintiffs filing a civil, probate or small claims action or all non-indigent defendants who are convicted or plead guilty in criminal, juvenile, infractions or ordinance violations cases.

The General Assembly has also created a series of fees that are paid when specific conditions exist, such as the following:

- Plaintiffs in civil and small claims actions pay Civil Service and Small Claims Service fees when more than one defendant is named in a case. These proceeds are used to pay for the added costs of certified mail sent to notify defendants named in the lawsuit.
- Persons convicted of certain violent crimes pay Domestic Violence and Treatment fees to help fund rape crisis centers.
- Persons convicted of drug-related offenses pay a Drug Abuse, Prosecution, Interdiction, and

Correction Fee to fund drug abuse and prosecution programs.

- Persons convicted of traffic offenses pay a Highway Work Zone Fee.

The accompanying table shows how the number of broad-based fees has changed since 1990. New broad-based fees that have been added since 2004 pay for the salary increases (not the entire salary) of court officers, new courts, and the judicial technology automation projects initiated by the Supreme Court.

Number of Mandatory Fees for Each Major Case Type by Fiscal Year																			
	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Criminal	2	2	2	2	2	2	2	3	3	3	3	5	5	5	7	10	10	10	10
Civil	1	1	1	1	1	1	1	1	1	1	1	3	3	3	5	7	7	7	7
Juvenile	2	2	2	2	2	2	2	3	3	3	3	5	5	5	7	10	10	10	10
Small Claims	1	1	1	1	1	1	1	1	1	1	1	2	2	2	5	7	7	7	7
Probate	1	1	1	1	1	1	1	1	1	1	1	3	3	3	5	7	7	7	7
Infractions & Ordinance Violations	2	2	2	2	2	2	2	3	3	3	3	5	5	5	7	10	10	10	10

Court Fees Financing New Courts and Salary Increases for Court Officers:

There are three fees that specifically relate to financing new court officer positions and salary increases of these court officers since 2004.

- A \$1 Judicial Insurance Adjustment Fee was created in 2004 to fund a \$2,522 salary increase for 390 justices, judges of the court of appeals, trial courts and magistrates. This salary adjustment was instituted to pay for added health insurance costs for judges.
- A \$2 Court Administration Fee was created in 2005 to fund the creation of one magistrate and eight judges. The fee was increased to \$3 in 2006 to finance the creation of four more magistrates and four more judges.
- A \$10 Judicial Salaries Fee was assessed on all plaintiffs filing small claims actions beginning in July 1, 2005. A \$15 Judicial Salaries fee was assessed on all other cases. This fee was used to fund salary increases of 390 judicial officers and 90 prosecuting attorneys and 115 deputy prosecuting attorneys. A section that was added to statute ensures that between 2005 and 2010, all court officers would receive the same salary increase that executive branch employees at the same salary level would receive. To pay for these added expenditures, the judicial salaries fee is increased by \$1 each year the salaries of these court officers were increased. Fee increases under this provision end in 2010.

New Court Officers Created Since 2005:

Since 2005, the General Assembly has created positions for 13 new magistrates, 16 new judges, and one prosecuting attorney. Of these new positions, 17 were financed by a court administration fee. The other 13 positions were financed through added expenditures from the state general fund. The added salary expenditures of 30 court officers will be financed out of the state general fund and not by the judicial salaries fee.

Features of Three Court Fees			
	<u>Fee Amount</u>	<u>Court Officers Covered by</u>	<u>Other Comments</u>
Judicial Salaries Fee	\$13 for small claims, \$18 for all others;	390 judicial officers and 205 prosecuting attorneys	Judicial Salaries Fee may increase each year between 2005 and 2010
Court Administration Fee	\$2 in 2005; \$3 since 2006	12 trial court judges and 5 magistrates created in HEA 1141 and HEA 1113 - 2005 and HEA 1156 - 2006	Court Administration Fee covers initial salary expenses but not salary increases
Judicial Insurance Adjustment Fee	\$1 since 2004	390 judicial officers and 205 prosecuting attorneys	increases salaries of all court officers
No Fee		4 trial court judges; 8 magistrates; 1 prosecuting attorney created in HEA 1001 - 2005, HEA 1001 - 2007 and HEA 1096 - 2008	Salary expenses covered by state General Fund

Comparing Fee Revenues and Added Expenditures for Court Officers:

In the following table, expenditures associated with added court officers and added salaries have exceeded the revenues collected from these three new fees. This can be explained in part by the new court positions that have been created with no fee to offset the costs. The differences between the revenues from new court fees and new expenditures will continue to increase as court positions not originally funded with court administration fees receive higher salaries.

Comparing New Salary Expenditures for Court Officers and Revenue from New Fees (In \$ Millions)				
<u>Fiscal Year</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	
Supreme Court	\$0.12	\$0.15	\$0.16	
Court Of Appeals	\$0.40	\$0.49	\$0.52	
Trial Courts	\$8.49	\$11.16	\$14.93	
Prosecuting Attorneys	<u>\$4.04</u>	<u>\$5.27</u>	<u>\$6.76</u>	
Total Benefits Expenditures	\$13.05	\$17.07	\$22.37	
Judicial Salaries Fee	\$8.99	\$12.68	\$15.12	
Judicial Insurance Adjustment Fee	\$1.02	\$1.03	\$1.09	
Court Administration Fee	<u>\$1.47</u>	<u>\$2.64</u>	<u>\$3.19</u>	
Total Fee Revenue	\$11.48	\$16.35	\$19.40	
Difference	-\$1.57	-\$0.72	-\$2.97	