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REPORT ON POLICY CONSIDERATIONS
FOR
COURT FEE STRUCTURES

February, 1974

TABLE OF CONTENTS

Introduction.....	1
I. Case Filing Fees.....	4
II. Marriage Fees.....	6
III. Support Payment Fees.....	8
IV. Notary and Clerical Fees.....	10
V. Transcript Fees.....	11
VI. Estate Fees.....	13
VII. Adoption and Guardianship Fees.....	15
VIII. District Recording Services.....	16

INTRODUCTION

This study is one part of a larger effort to reevaluate the fee schedules of the Alaska Court System. Before the Judicial Council hired a director to provide research assistance, the Honorable Clifford H. Groh, Chairman of the Senate Finance Committee, requested that the Council examine court fee schedules and make appropriate recommendations to the Legislature. In his letter, Senator Groh cited comparisons of revenues and appropriations for fiscal years 1971-73, indicating that revenues produced by the Court System have not increased at the same rate as program needs. At the same time, the Alaska Bar Association appointed a Judiciary Committee and delegated responsibility to this committee to conduct a study of the court fee schedule.

Initially, a study by either the Judicial Council or the Alaska Bar Association was substantially hampered by the absence of any definitive data separating fees by collection units, and providing cost information for services rendered. The executive director of the Judicial Council and the president of the Alaska Bar Association mutually agreed that the financial and statistical experts of the Office of the Administrative Director, Alaska Court System, must examine the problem of developing a data base prior to any possible involvement of parties lacking the expertise to find and analyze the financial and statistical information. The Administrative Director of the Court System cordially agreed to assign the ambitious task to his staff. He reported the results of his studies to the Judicial Council on November 13, 1973.

A copy of the statistical report and analysis by the Court System is contained in Appendix I of this study. On close reading, it became apparent that the report required many estimations, generalizations and even some "hunches" of deputy clerks. While this approach may be less than satisfactory for the statistician or the accountant, it is sufficient for the present purpose of the Judicial Council. The Council and its staff claim no expertise in judicial administration, and hence limit the following analysis and recommendations to statements of policy which the court fee structures should serve. Some discussion of the basic assumptions underlying this examination and analysis of policies for fee structures is warranted at this point.

First, courts are an institutionalized method for orderly resolution of disputes. As such, they benefit both the society, which is more peaceful and secure from the existence of such an institution, and the individual users, who can achieve an orderly resolution of their disputes and then continue about other business. Hence, policy considerations for fee structures must include an analysis which not only considers the user benefits but also considers the community benefits inuring whenever any individual utilizes the orderly dispute resolution process of the court rather than engaging in self-help which might result in violence and destruction.

Secondly, the court system as a social institution must be conceived as a "public service" in terms of costs and revenues. Like police protection, ambulance services and fire protection, the courts require such a broad economic base of support that they cannot be conceived as potentially self-sufficient. The cost of mobilizing fire equipment and trained firefighters is far in excess of what any citizen could afford to pay, or would be expected to pay if his house caught fire. Similarly, the cost of a court facility, a judge, the clerks of court, etc., could never be offset by the users of the process alone. Indeed, the basic reason for having a community-wide tax base is to provide the revenues necessary to finance services which no one uses regularly but everyone wants available, and services which no one can afford but everyone needs the potential benefit of. Hence, the following policy discussion does not presume in every case that users should pay their own way, that the system should necessarily be revenue producing, or that fees should necessarily be commensurate with benefits received.

Still another assumption in this report is that special considerations must be given to whether the court service is mandatory (e.g., estate probating and marriage licenses) or electives (e.g., filing a complaint and using notarial services); and whether the service is available exclusively through the courts (e.g., adoption proceedings and recording services) or generally available elsewhere (e.g., notarial services and the performance of marriage services). Other policy considerations include the desirability of setting the fee at a level which limits or controls the use of the service (and the extent to which other mechanisms will serve this function even without fees), and, the desirability of apportioning the cost of some service according to relative benefits inuring to the users and the community (where such an apportionment is even feasible).

As noted in the Fee Structure report in Appendix I, the Court System charges fees for 24 different categories of services. Twelve of these categories account for more than 95% of court service transactions and fee revenues. Only those twelve are the subject of this study. Discussions and recommendations are divided by particular fee type.

I. CASE FILING FEES.

This fee is the price charged for filing the documents which initiate lawsuits and appeals. The amounts are: \$5 for small claims and magistrates' courts, \$15 for district courts, and \$30 for superior and supreme courts. In fiscal year 1972, these filings accounted for 13% of all court system transactions and produced revenue of \$176,500. The cost of processing the filing has been estimated to have been \$195,000, of which an estimated \$29,250 to \$41,250 was attributed to fee handling.

One commonly recognized purpose of the filing fee is to provide a mechanism for channeling smaller cases to courts of lesser jurisdiction, and for limiting the crank claims and frivolous lawsuits which might otherwise be filed. Although a \$500 contract claim may be filed in district court, the forum designed and perhaps best suited to adjudicate such a controversy is the small claims court. The \$10 difference in the filing fees may tend to channel the dispute to the intended forum.

But the legitimacy of the claim that the fee screens frivolous suits is considerably more problematic. Certainly the working of such a price mechanism in no way distinguishes between the meritorious contract claims of less value than the filing fee, and the flippant claim of the litigious neurotic.

Perhaps for most people the more active deterrent to filing of frivolous lawsuits is the cost of an attorney. And, among those who can afford the attorney, his counseling should operate to deter the unmeritorious suit. For the few litigious neurotics among persons who file their own claims, (at least one frequents most every court), it is clear that the filing fee does not act as a deterrent to filing a single complaint, but may act to prevent greater volume of such cases.

Still another possible function of the filing fee is to encourage the exhaustion of reasonable alternatives to court adjudication. Negotiation and compromise, mediation, psychological and social counseling and many other forums for dispute resolution are often preferable to the judicial decision. However, it is highly doubtful that the price mechanism of the filing fee alone accomplishes this exhaustion of other forums, or even that it is a significant factor. More likely, it is the total cost of pursuing a lawsuit -- in time and money -- that operates to encourage settlement out of court.

A distribution of the cost of the lawsuit by benefit to society and the individual respectively is impossible to achieve. There are many cases where the plaintiff's benefit of having the forum available is supplanted by the fact

that he or she loses the case. Society, on the other hand, benefits an immeasurable amount from orderly dispute resolution every time judicial services are used.

Finally, the availability of the courts to receive and adjudicate lawsuits is voluntary or elective in the sense that the person being charged the fee has freely chosen the service rather than being required by law to use it. Also, the court system has no monopoly on dispute resolution in the sense that the user loses his or her free choice for lack of an alternative forum or method of settling the controversy. Hence, there is no possibility with filing fees that a social burden imposed upon an individual is made more burdensome by a charge.

In summary, the filing fee is only a minor part of the cost of most lawsuits, and thus does not act as the singular or even a significant deterrent to unmeritorious lawsuits. More influential deterrents include the cost of an attorney, the counseling by that attorney, losses of time and the power of the judge to summarily dismiss a spurious action. On the other hand, the fee probably does deter frivolous suits which might otherwise be filed repeatedly by litigious neurotics; the fee does serve a legitimate channeling function to the proper forum; and there is nothing repressive about the fee, in the sense of imposing cost on an already involuntary process.

The present fee covers the cost of its collection, and approaches covering the cost of filing a court action. There is no evidence that the fee works a significant financial burden on potential users of the courts, and hence it need not be decreased. If the fee is increased, that increase should not be significantly more than the amount of revenue necessary to cover the cost of the filing process, an increase which appears to be about 10%.

RECOMMENDATION. The filing fee should be recognized as serving a legitimate forum-channeling function, but assisting insignificantly in the function of deterring frivolous lawsuits. The indiscriminate price mechanism of the filing fee should not replace existing mechanisms for deterring unmeritorious lawsuits. A filing fee should be set at an amount which does not discourage the use of the courts as a forum for dispute resolution. Filing fees should not be increased more than the relatively small percentage presently necessary to make revenues pay the cost of filing a complaint.

II. MARRIAGE FEES.

These fees are the prices charged for issuing marriage licenses (\$2.50), filing marriage certificates (\$2.50), and performing the ceremony (\$10.00). In fiscal year 1972 these fees produced revenue of \$27,000. The clerks of court have estimated that only \$7,500 in costs were incurred in handling the documentation and related fee collection. No estimate has been made of the cost of performing the ceremony.

A primary purpose of issuing marriage licenses is to promote public health by requiring physical examinations prior to obtaining a license. Quite clearly, both the individual and society benefit from this requirement.

The primary purpose of filing the marriage certificate is for governmental and public interests in vital statistics, and to provide certified documentation of the marriage relationship for the future use of spouses and family. Again, benefits inure to both the individual and society generally.

The licensing and certification services are mandatory, in the sense that they are legally required prerequisites to marriage. Licensing and certification are also services exclusively provided by the Court System.

Certainly there is no deterrent function presently being served by a fee totaling five dollars. Indeed, society has a strong interest in encouraging marriage, to the extent that sexual relations, procreation, guardianship, support and child-rearing are made more orderly and predictable.

However, some variations enter the considerations of the marriage ceremony service being provided by the courts. Society still obtains the benefits of orderliness arising from the institution of marriage, but no public benefit similar to the compilation of vital statistics or insurance of public health is achieved by providing the service of the marriage ceremony.

Moreover, the service of the marriage ceremony is neither legally mandatory nor exclusively controlled by the courts. Unlike the fees for the license and certification, the individual wanting the service is not being charged a fee for a service both required and found nowhere else.

In summary, there are significant benefits inuring to both the individual and society by performance of the licensing and certification service of marriage. The services are legally necessary prerequisites to entering the marriage. The performance of the marriage ceremony as a service of the court is less beneficial to society than the performance of the licensing and certification functions, and

such a service is neither mandatory nor available only through the courts. Charging a higher fee only diverts some of the requests for this court service to other sources of the service.

RECOMMENDATION. The licensing and certification services of the court provide substantial social as well as individual benefits, in addition to being mandatory and exclusively provided by the courts. The fees charged for these services should be minimal, and should not be increased from present charges. On the other hand, the performance of the marriage ceremony by the court is primarily beneficial to the individual requesting the service, and is both voluntary by nature and available outside the courts. The fee charged for this service should amount to the full cost of providing the service; and the Administrative Director of the Court System should calculate the cost and increase the fee as soon as possible.

III. SUPPORT PAYMENT FEES.

Individuals making support payments periodically transfer funds into the court system. These payments are then forwarded to the custodian of the minor being supported. The court charges the paying party 3% of the amount of the support fund for this intermediary service. Thus the total cost to the payor is 103% of the support amount. This fee produced \$80,000 in revenue for fiscal year 1972. The cost of providing this service was negligible in the Anchorage area because such transfers are computerized. Outside of Anchorage such transactions are executed by hand at a cost to the Court System of \$15,000. According to the court's statistician most of the personnel time expended on this service is the result of clarifying misunderstandings about the purpose of the service and the fee.

The primary purpose for charging the three percent fee is to offset the cost of the court trustee collecting and re-conveying the support payment to the guardian of the child. As the report of the Court System indicates, however, the cost of providing this service is negligible in Anchorage, and for the rest of the state, less than one-fifth the amount of total revenues generated throughout the whole state.

Even if it is assumed that all persons making support payments should subsidize the cost of the court trustee pursuing collections from delinquent persons -- a policy of tenuous desirability -- the amount being charged is still extremely disproportionate to the costs actually incurred by the Court System, and the greater amount being charged persons with higher support payments is even more disproportionate. A grave inequity is also produced by the fact that court trustees take 3% "off the top" even if the amount received is only equal to or less than the support payment ordered by the court.

The present, implicit policy of the three percent charge on support payments is counterproductive to the primary purpose of using the institution of the courts for collecting support: the incentive to payment created by the authority of the court is countered by the disincentive to payment created by the additional and disproportionate fee for the collection service. Moreover, the present fee is counterproductive to the social and personal benefits inuring from the court collection process. Society should not do anything to discourage payment, or society will have to pay the cost of the child's support through welfare programs.

RECOMMENDATION. The support payment fee should be reduced to an amount reflecting the actual cost of collecting that fee. If this amount is negligible, it is preferable to the interests of all parties and society generally that no fee is charged.

IV. NOTARY AND CLERICAL FEES.

These fees are charged for the notarization of writings, the certification or conformation of documents or record, and the copying of such certificates and documents. The fees are also charged for taking and certifying affidavits and for affixing the court seal to various documents.

In fiscal year 1972, these services produced \$31,300 in revenues. Notary and clerical services constituted 20% of the Court System's fee producing transactions, yet only 1.75% of personnel cost. An estimated \$21,875 is attributable to the cost of handling the fees.

Some of these notarial and clerical services arise in the context of other services and functions of the Court System, and other uses of the services are neither required by the judicial process nor exclusively available in the Court System. However, the statistical analysis provided in Appendix I does not distinguish demand created within the system from demand arising outside the system.

To the extent that the Court System produces the need for notarial and clerical services internally, the fee for these services should never exceed the cost of providing them. On the other hand, to the extent that the Court System is offering a service available elsewhere without substantial inconvenience, the fee for the court providing the service should at least equal the cost, and consideration should be given to discouraging the use of the court for the service by charging an amount which actually produces revenue.

RECOMMENDATION. The Administrative Director of the Alaska Court System should examine notarial and clerical services to distinguish internal and external sources of demand; and the fees for the latter should be increased to a point of discouraging the use of the courts where no substantial inconvenience to the user is created. Where demand is created by required procedures of the judicial process, the fee should not exceed the cost of providing the service.

Finally, the fee variations for transcribing in district and superior court are justified in terms of the financial limits of respective jurisdictions. The district courts have jurisdiction over disputes of less than \$10,000 in value. The decision to appeal from the district court necessarily involves considerations of lesser amounts of money at stake, and unless the transcription fees are adjusted to equalize the difference in dollar value of disputes in the two different jurisdictions, persons in district court might be discouraged from pursuing their right to appeal because of costs disproportionate to the value of the claim litigated.

RECOMMENDATION. The transcription fee should be recognized as serving legitimate but limited control over the demand for the service. The fee should be set at an amount which does not discourage the right of appealing, and which encourages the use of either tapes or private transcribing services. In no case should that amount exceed \$1.00 per page, in either court.

V. TRANSCRIPT FEES.

Transcript fees are charged for the preparation of a written record of court proceedings, the replay of recordings, and for recording depositions with court equipment. The basic fee charged for transcribing is \$.85 per page for district court proceedings and \$1.50 per page for superior court proceedings. The fee charged for providing the recording tapes for private transcription, and the fee charged for recording depositions with court equipment, is \$2.00 per half hour of use. Under a new program, the Court System provides cassette tapes of grand jury proceedings for \$5.00 per 90-minute tape.

During fiscal year 1972, these fees (except the cassette fee) generated \$30,000, \$3,750 of which was attributable to fee handling.

The policy considerations for transcription fees are similar to the considerations discussed above for filing fees. The transcription fees might theoretically serve a controlling function over excessive requests for transcribing services. On the other hand, in many proceedings (especially criminal), transcription of the whole proceeding is often necessary. This certainly is true for grand jury proceedings where the purpose of obtaining a transcript is to determine what happened and what possible irregularities may have occurred in the proceeding. It is also true of the appeal where a point on appeal challenges the sufficiency of the evidence generally.

As was the situation with the filing fee, it is not the transcript fee alone which discourages unmeritorious use of the service, or frivolous appeals to a higher court. The fees charged for the service combines with the attorney's fee, time losses and other factors to discourage the unmeritorious appeal.

Unlike the filing fee, the transcription service is involuntary to the extent that one must pay even for access to the certified tapes. On the other hand, transcription services are available outside the Court System if a person so chooses. The use of private transcription services minimizes the demand on court personnel for transcript production, and transfers both the function and the costs to the private sector. Hence, the very low fee for the use of cassette recordings relative to the transcription fee is a desirable policy. Similarly, the use of the recording facilities for private transcription should be kept minimal to also reduce the demand on the time and money of the Court System for transcription.

VI. ESTATE FEES.

This fee is charged for the judicial service of probating an estate. The fee is based on the value of the estate, and is calculated as follows: 3% of the first \$1,000; 2% of the second \$1,000; 1% of the amount from \$2,000 to \$5,000; 1/2% of any value between \$5,000 and \$20,000; and 1/4% of all value in excess of \$20,000.

In fiscal year 1972, prior to the implementation of the informal probate procedures described below, the percentage fees produced revenue of \$60,000. The cost of providing the probate service has been estimated by the Court System to equal that revenue. The cost of handling the fee is estimated to have been \$6,250.

Since January 1, 1973, Alaska has had two distinctive probate procedures. The "formal" probate procedure is required whenever there is a dispute among claimants to the estate. The "informal" probate procedure provides a simplified distribution of the estate among claimants when there is no dispute. The percentage fee described above has, in the past, been paid at the point in time of the closing of the estate or the termination of probate. Under the older, formal procedures, closing was guaranteed by the fact that the dispute required a rendition of judgment by the court, and the administrator, executor or beneficiaries had an incentive to request a closing by the court. (AS 13.16.620)

However, where there is no dispute, no one has the incentive to request the court to close the estate. The consequence is that the "informal" probate procedures are being extended indefinitely in a conscious strategy by some attorneys to avoid ever paying the percentage estate fee which does not become due until closing. Hence, the fiscal year 1972 figures on costs and revenues are no longer representative of what is presently happening.

However, assuming that a statute or rule of court can correct the above manipulation of the fee structure, policies for the present fee schedule of percentages will be discussed. Apparently, the underlying policy of the present fee schedule is that the cost of probating services increases with the value of the estate at a rate similar to the increasing amounts charged by the present schedule. This assumption is not necessarily correct. It would probably be more accurate to observe that probating services are more complex as the value of an estate increases, until a point where the value of the estate is sufficiently high that the decedant would engage an attorney to plan his estate for him. With this assumption, court costs of probating would increase to a

point in value of the estate when the cost of probating would suddenly decrease significantly. This assessment of cost is, however, no less founded in conjectural measures of complexity.

In formulating policies for the probate fee, it should be noted that the service is both mandatory and exclusive. In this case, the court is more than an "available" dispute resolution forum: it is a forum and procedure which society compels the claimants to utilize.

Moreover, there is no logical distinction between a probate action and any other civil action, such that retrieval of costs based on complexity is justified in the former while not in the latter. A civil action other than probating an estate produces only the \$30.00 filing fee. At least compared to the informal probate procedure, the civil action generally requires considerably more judge-time. Also, it seems inequitable to make users pay for the mandatory probating services on a revenue producing basis when users of the elective civil law services pay only a filing fee designed to cover the cost of the filing.

RECOMMENDATION. The Court System should study the impact of the "informal" probate procedure in providing a tactic for evading the estates fees. The fee charged for probating an estate should be no more than the \$30.00 filing fee required in all other civil actions.

VII. ADOPTION AND GUARDIANSHIP FEES.

These fees are charged for processing the documents filed in compliance with statutes designed to protect the best interests of the adoptee and ward. In fiscal year 1972, these fees produced \$13,500 in revenue, \$6,000 of which was consumed in the cost of handling the fee. No figures are available for the cost of actually providing these services.

No demand-reducing, limiting or channeling function is served by this fee. Some aspects of the service (e.g., reporting to the courts) are mandatory, while other aspects of the service are elective (e.g., step-parents wishing to adopt children of spouse). However, all of the services are provided exclusively by the courts. The major benefits inure to the adoptees and wards, and to the society generally.

The persons paying the fees are generally the persons charged with the responsibility for supporting the child or children concerned. In the interest of ensuring the greatest amount of resources available for the support of these adoptees and wards, the fees charged the guardians should be minimized. Moreover, the guardian's share of the cost should be limited by the consideration that the major portion of the benefit from these services is found in the children and the community generally. Finally, the fact that the court makes some of the procedures mandatory, and is the exclusive provider of such services, suggest further that fees in such cases should be limited as much as possible.

In the present situation, the statistics of the Court System seem to indicate that a substantial portion of the fee is absorbed in the cost of handling it. Given the fact that there is no demand-reducing or channeling function to be served by the fee, the disproportionate cost of collecting it argues strongly for eliminating the fee in many cases.

RECOMMENDATION. The Court System should examine individual fees being charged in adoption and guardianship proceedings, and should adjust the fees in compliance with the interests and policies discussed above. In some cases, it appears that the disproportionate cost of collecting the fee warrants total elimination of the fee.

VIII. DISTRICT RECORDING SERVICES.

The various fees charged for recording, filing, releasing and certifying documents aggregated \$302,600 in fiscal year 1972. An estimated \$35,700 was expended to handle the fees. Estimation of the cost of providing these services is difficult. . The fiscal year 1974 budget allocates \$140,000 for recording personnel; however, that amount does not reflect the very substantial cost of equipment and facilities utilized in rendering this service.

A very strong public policy to be served by the recording function is that of promoting the marketability of property, and avoiding title disputes. The benefit of such a policy inures to both the individuals involved and to society generally.

The service is usually not mandatory, but carries an extremely powerful incentive by ensuring the legitimacy of interest or title. The service is provided exclusively by the Court System. There is no significant demand-reducing function to be served by the imposition of the fee; public interest favors the use of recording to provide public notice of interests and claims in property.

Recording costs are commonly considered business expenses comprising a part of the total cost of property transactions, and substantial benefits from recordation inure to the private sector of the economy. Inasmuch as the society relies on price mechanisms (which include recording fees) to allocate property resources, both real and personal, and inasmuch as recordation expenses would not significantly alter present property distributions, a fee approximating the cost of the service is justified.

RECOMMENDATION. The cost of equipment and facilities should be computed with the cost of personnel required to administer the recording function, and the fee should be increased accordingly.

For the purpose of management of the resources allocated to the collection and processing of fees in the Alaska Court System it is necessary to analyze each fee type to determine its contribution to the overall revenue structure; in addition, some estimate must be made of the cost of collecting that particular fee, as well as of the cost of providing the service for which the fee is charged.

The revenue analysis is straightforward; the FY74 budget, for example, lists 24 different fee types, with the associated contribution each makes to total revenue. This report addresses 12 of these fees, which in FY72, produced 733,408 dollars. Fines and forfeitures are included only to calculate their cost of collection.

The analysis of the cost of collection of fees is much more complex, especially in the context of the courts' jurisdictional division of effort. Each jurisdictional entity (Superior Court, Family Court, District Court, District Recorder, etc.) has its own cash collection point, in which clerical people devote part of their time to the fee collection function. Thus the cost of fee collection and accounting is highly diffused throughout the system, difficult to quantify due to the part-time nature of the activity, and not at all amenable to cost reduction by elimination of some fees.

Nevertheless, some measurement of resource requirements may be obtained by analyzing the number of transactions generated by the collection of each type of fee. This has been accomplished by a sampling of the revenue receipt records kept in the accounting section of the Administrative Office. Transaction volume is a generally reliable measure of collection cost, since the processing of revenue receipts, regardless of fee type, is fairly uniform throughout the system.

In order to arrive at an estimate of cost of fee collection and processing, several approaches were attempted. First, the actual

The Fee Structure
of the
Alaska Court System

- Revenue Produced
- Cost of Collecting and Handling Fees
- Effects of Changes

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APPENDIX I

section's personnel budget was \$186,600, only part of which was spent in the transcription process. This is analyzed in detail in the section dealing with transcript fees. District and Superior Courts throughout the state budgeted 4.279 million for salaries and benefits. Omitting judges, magistrates, calendaring staff, secretaries, in-court deputies, attorneys, and bailiffs, an estimated total of 1.25 million is derived, representing the overall cost of providing services by clerks of court and their staff. To arrive at the cost of providing each service, we first used transaction volume percentages. This proved invalid for clerks of court since the amount of work per transaction varies significantly from one service to another. For example, a case filing generally involves considerably more work than the issuance of a marriage license. The approach finally settled on was to make a subjective estimate of the percentage of total personnel devoted to each activity. These estimates were derived by consultation with the clerks of court. The results thus obtained appear reasonable.

001 Case Filing Fees

This fee accounted for approximately \$180,000, or 13% of total revenues. It represented 13% of total transaction volume throughout the court system. An analysis on this basis alone proceeds as follows:

The total personnel cost for all services is the sum of the personnel costs of district recorders, transcript, clerks of court, and administrative accounting. This totals approximately 1.5 million taking into account the portion of transcript activity spent on internal court work. Thirteen percent of this figure is \$195,000, the theoretical cost of case filing. Since only about 15% of this activity is spent in handling the fee, \$29,250 can be considered the fee cost. On this basis, case filing appears to be a break-even operation, with the cost of fee collection but a small fraction of the

time taken to receive, record, and process the various fees was examined. No consistent pattern emerged, and no definitive statements could be made by anyone concerning time required, or time to be saved if the fee were eliminated. The next approach was to estimate the percentage of total transaction time taken to receive and process the fee. For example, in the collection of recording fees, the processing of the fee involves about 20% of the total effort of recording the document itself. This latter approach yields estimates which appear reasonable.

The cost of total transaction time - that is, the cost of providing the service for which the fee is charged - involves a more detailed analysis. We cannot merely calculate total salary plus fringe of all clerical personnel involved in rendering the service, then multiply by the transaction volume percentages. This yields costs for the district recorder's office far in excess of their annual budget, since they process almost 30% of the transactions on 10% of the total court clerical budget, and collect over 40% of total revenues. Wherever possible, the budgets and transaction percentages of the individual sections were used to arrive at service plus fee collection costs. In some cases, such as notary fees, an estimate of the number and individual salaries of people providing the service through the system was made, and this was adjusted by the transaction volume percentages. This involves several subjective judgements, but in the absence of firm data, such estimates are at least as reliable as any heretofore attempted.

The first step is to arrive at estimates of total personnel costs for each organization providing the services. The FY74 budget provides an indication of these costs. The district recorder, for example, had a total personnel budget of about \$140,000. This figure was used as a basis for calculation of service and fee costs. The transcript

revenue generated.

The foregoing analysis fails to take into account the fact that, as stated above, a case filing transaction as a whole involves much more work than does a document recording or a marriage license. The clerks of court estimate that 33% of their total staff time is spent in collecting and processing of filing fees, as shown in table 2. The fee collection cost is thus calculated to be \$41,250. These figures are felt to be more representative of existing conditions. The policy intent of this fee should be clearly identified by court decision-makers. It is doubtful that this fee is designed to cover total operational costs. It is more likely that the intent is to discourage trivial litigation. The size of the fee ranges from five to thirty dollars and probably does little to discourage litigants.

Effect of Change

- Elimination of this fee would reduce revenues by \$180,000. Our operational costs would be reduced only slightly, since the fee handling cost of \$41,250 could not be completely eliminated due to the diffused nature of the activity as explained in the first section of this report. Elimination is not recommended.
- Halving of the fee would affect only revenues. Not recommended.
- Increasing the fees would have a direct plus effect on revenues, with only a few small claims actions possibly being discouraged by the size of the fee. Operational costs would be unaffected, unless substantial numbers of litigants were discouraged from filing cases. Subject to the court's wishes, these fees could be increased considerably to yield higher revenues.

002 Fines and Forfeitures

This is the largest revenue producer in the system, accounting for over 600,000 dollars per year - almost half of the total revenue produced by the Court System. Consideration of this item involves substantive judicial questions, rather than merely administrative decisions concerning fee sizes. Handling of this item by Superior and District Court Clerks' offices involves an estimated 20% of their total manpower, or \$250,000, as shown in table 2.

Effects of Change

- Any change in policy regarding size of fines imposed by judges would have a direct effect on revenues, and a small effect on the cost of handling the fines.

Drastic reduction of fine sizes would reduce revenues substantially, and might have the opposite effect on operational costs, since the deterrent effect might be lessened, with a subsequent increase in violations, and consequently, in work required to process the fines.

On the other hand, large increases in the fine structure would increase revenues; however, the extra work attending the increase in partial and installment payments would also drive up the cost of handling the fee.

- Abolishment of fines, even if such a course could be considered, would only result in elimination of our single largest revenue source.

003 Marriage Licenses

This activity accounts for only 2% of revenues, or 27,000 dollars, and 4% of total transactions. It is estimated that only 0.6% of

court clerical effort is expended in this fashion, yielding a net fee handling cost of 7,500 dollars.

Effects of Change

- Elimination of the fee would reduce revenues by 2%, or 27,000 dollars. Operational costs would be reduced only slightly, since fee handling is a very small part of clerical activity, and demand for this service is practically independent of fee size, within reason.
- Halving of the fee would cut revenues in half. Operational costs would remain unchanged, since no increase in demand is foreseen as a consequence of cheaper marriage licenses.
- Doubling of the fee would double revenues, with no effect upon demand or operational costs.

In general, the question of public policy and service arises in the case of this fee, as well as in case filing fees. The present fee structure calls for a total charge of \$5.00 - \$2.50 for issuing and filing the license, and \$2.50 for filing the marriage certificate. Ten dollars is charged for performing the ceremony. Based on the revenue-cost analysis, these fees could be reduced by two-thirds - to about 75¢ for issuing and filing the license, 75¢ for filing the certificate, and \$3.00 for performing the ceremony - and the fee handling cost would still be less than revenue produced.

004 Support Payment Fee

Individuals making child support payments must do so to the court. Funds are disbursed to recipients by the court, and a 3% fee is charged the payor. If the intent of the fee is to cover the

cost of the operation, then a percentage fee is invalid, since it costs us the same amount to process one payment regardless of the size. The percentage fee acts as a punitive tax on the payor - the larger his support payment, the larger the fee he is charged. In some cases, where payment is made to the court of another state and transferred to Alaska, the payor may be subject to a fee in both places, or the check to the recipient may be reduced by the amount of the fee.

This fee generates about \$80,000 annually in revenues. The cost of fee handling is negligible in Anchorage, where one revenue entry is generated each month by the computerized accounting system. In other locations, however, double entries are necessary on each transaction, one entry going to revenue (the fee), and the other going to the support trust account. A conservative estimate of fee handling cost has been made, of \$15,000 per year. A subjective feeling exists that this may be considerably low due to significant amounts of time being spent explaining the rationale of the fee to irate clients.

Effects of Change

- Increasing or reducing the fee will have a corresponding effect on revenues with no change in operational costs. A set dollar amount per payment - say five dollars - would lessen the burden on those making individual payments of \$167 or more, and would increase the burden on those paying less, since \$5.00 is the present 3% fee on a payment of \$166.67.
- Elimination of this fee is recommended. Total revenues would be reduced by \$80,000 annually; however, operational savings could be realized, in locations other than Anchorage, of at least \$15,000 annually. In addition, what appears to be an essentially punitive fee would be lifted from those probably least able to afford it.

005 Notary, Clerical

This activity generates only 2% of total revenue, about \$50,000. The cost of providing the service and collecting the fee is especially difficult to calculate, since the activity is spread throughout the system, taking a small part of many people's time. About 2% of staff activity is devoted to notary and clerical fee handling, or \$21,875. Thus, we collect but a little more from the service than it costs us to handle the fee.

Effects of Change

- Elimination of this fee is not a realistic solution. The demand for the service is elastic - that is, reduction or elimination of the fee will tend to increase the demand for the service. Thus, we would incur increased operational costs, and revenues would disappear.
- Decreasing the fee would have an effect similar in kind, but smaller in quantity, to that of fee elimination. The demand for the service would increase somewhat, thus increasing operational costs. Whether or not revenues would increase depends upon the size of the fee reduction and the size of the demand increase. It is not possible to predict with any accuracy the net effect.
- If the intent of these fees is to cover costs, then it appears that the Superior Court should increase the certifying or conforming fee (IID,1) from fifty cents to one dollar, and the certifying fee (IID,6) from one to two dollars. The District Court should increase its certifying fee (IID,1) from one dollar to two dollars. The net effect of this action would reduce slightly the demand for the service, while increasing

annual revenues by an estimated 20 to 30 percent, from its present \$30,000 to near \$40,000.

006 Transcript Fees

The percentage of clerk's staff time devoted to transcript fee handling is only 0.5%, amounting to \$3,750. Transcript fees yield just under \$30,000 per year in revenues. Actual man-hours devoted to producing transcripts for a fee amount to just over \$30,000.

Effects of Change

- Reduction or elimination of this fee is not recommended. Demand for the service would increase, and revenues would be adversely affected.
- To encourage the use of audio tapes instead of hard copy, it is recommended that "normal service" fees listed under IIB,1, Order No. 59, be increased from \$1.50 to \$2.00 for the original, and from 50¢ to 75¢ for additional copies. Further, immediate priority transcript fees (IIB,2) should be increased from \$2.00 to \$3.00 for originals, and from \$.75 to \$1.25 for each additional copy. The result of this change would be an increase in revenue by about 35%, from \$30,000 to about \$40,000, assuming no change in demand. Realistically, we should anticipate some decrease in demand because of the higher fees, to the point that only a small revenue increase is indicated. The decreased demand would enable us to address the backlog and efficiency problems of the section.

011 Estate Fees

The fee for this service is based on the value of the estate.

The percentage rate applied decreases as the value of the estate goes up. This amounts to a regressive estate tax. If the intent of this fee is to pay for the work involved, then a set money figure per item in the estate should be charged. In other words, the fee size should depend upon complexity, rather than on total value of the estate. This fee brought in nearly \$60,000, or 4% of total revenues. Cost of fee handling is estimated at \$6,250. The clerk's estimate of manpower requirements show that the fees produce in revenue an amount approximately equal to the manpower costs of the probate division.

Effects of Change

- Demand for this service is almost perfectly inelastic; that is, if we ignore the possibility of illegal subterfuge, the number of estates filed for probate will be invariant regardless of the size or nature of the fee. Therefore, any change in the fee structure will cause an immediate, direct, and corresponding change in revenues. No change in operational costs would result.
- Elimination of the fee would eliminate these revenues of \$60,000 with a net reduction of the \$6,250 fee handling cost.
- Since costs and revenues are apparently well-balanced, no pressing need exists to overhaul the fee schedule. The only consideration required is whether or not the existing structure constitutes an estate tax, or a charge for service.

012-015 Adoption, Guardianship

These are apparently token fees, costing us about \$6,000 to

collect and handle. One therefore wonders why a fee is collected at all, since these fees together produce only \$13,500, less than 1 1/2% of total revenues. The ten dollar fee for filing of annual guardianship reports is in the same category as the support fee, where the client is ordered to take some action and is then charged a fee for complying. It is highly doubtful that the existence of a fee serves to regulate or discourage this activity - nor should it.

Effects of Change

- Elimination of these fees would reduce revenues by about \$13,000, but would free up about \$6,000 worth of manpower which could be devoted to the management of adoption and guardianship matters. This is the recommended course of action.
- Increasing or decreasing the fee would have a corresponding effect on revenues, with no change in operational costs. Neither is recommended.

021-022-023-024 District Recorder Services

The District Recorder's personnel budget totals \$140,000 in FY74. Table 3 details the fee costs based upon transaction volumes. In the aggregate, this appears to be a "profitable" operation, yielding \$302,000 in revenues. The cost of fee collection is only \$35,700. However, the statewide service by remote magistrates, and the inordinately heavy equipment and computing costs, if they could be readily calculated, would show a different revenue-cost picture. It is our understanding that some fees are being increased. Other equipment and procedural changes are being considered. It is recommended that a similar analysis to that in table 3 be made one year hence. No further fee action should be taken before that time.

General Conclusion

It is evident that no hard data has heretofore been compiled to arrive at costs of providing these services. The fees have been set, therefore, in an information vacuum, regardless of the intent of the fee structure.

A policy statement is required to clarify the purpose of each of the fees, be they punitive, demand-reducing, service-cost oriented, or intended solely to produce revenue for the state general fund.

From a management standpoint, continuing attention should be devoted to the six starred items in table 1, which together account for almost 90% of revenues and 90% of transactions.

APPENDICES

1. System-Wide Revenue and Volume Percentages
2. Superior and District Court Services
3. District Recorder Services
4. Rule 59 with Consolidated Amendments
5. Memo, A.M. Vekacek - "Revenue Project"
6. Explanation of Item 5

Table 1 - System-Wide Revenue and Volume Percentages

<u>Receipt Code</u>	<u>Receipt Title</u>	<u>% of Revenues</u>	<u>% of Transactions</u>
001*	Civil Filing	13%	13%
002*	Fines & Forfeitures	47%	11%
003	Marriage Licenses	2%	4%
004*	Reciprocal Support Fees	6%	20%
005*	Notary	2%	20%
006	Transcript	2%	x
007	Passport	x	x
008	Naturalization	x	x
011	Estate	4%	1%
012	Guardianship	x	1%
013	Adoption	1%	1%
021*	Recording	18%	14%
022*	Recorder Filing	2%	10%
023	Releasing	x	2%
024	Certifying	1%	3%
062	Copies of Opinions	x	x
063	Printing of Briefs	1%	x
071	City Magistrate Fees	1%	x

x = fraction of 1%

* These account for almost 90% of transaction volume and revenue.

Table 2 - Superior and District Court Services

Receipt Type	Receipt Title	FY72 Revenue	*% of Time Handling Fee	*Cost of Handling Fee
001	Case Filing	176,539	3.3%	41,250
002	Fines and Forfeitures	641,420	20%	250,000
003	Marriage Licenses	27,215	0.6%	7,500
004	Support	80,372	1.2%	15,000
005	Notary, Clerical	31,310	1.75%	21,875
006	Transcript	28,982	0.3%	3,750
011	Estate	58,321	0.5%	6,250
012	Adoption	2,878	0.2%	2,500
013	Guardianship	<u>10,701</u>	<u>0.3%</u>	<u>3,750</u>
		1,057,738	.15%	351,875

* Based on estimated total manpower cost of \$1,250,000.

Table 3 - District Recorder Services

Receipt Type	Receipt Title	FY72 Revenue	*% of Time Handling Fee	*Cost of Handling Fee
021	Recording	254,632	9%	12,600
022	Filing	30,812	10.5%	14,700
023	Releasing	8,969	2.7%	3,780
024	Certifying	<u>8,200</u>	<u>3.3%</u>	<u>4,620</u>
		302,613	25.5%	35,700

* Based on total estimated manpower cost of \$140,000.

ALASKA COURT SYSTEM

SCHEDULE OF FEES

ANNEX TO SUPREME COURT ORDER NO. 59

I. IN THE SUPREME COURT

A. Filing Fees:

- | | |
|---|---------|
| 1. Upon filing a written notice of appeal
[Supreme Court Rule 9(m)]..... | \$30.00 |
| 2. Upon filing a petition for review
[Supreme Court Rule 26(b)]..... | 30.00 |
| 3. Upon filing original proceedings..... | 30.00 |

B. Miscellaneous Fees:

- | | |
|---|-------|
| 1. For reproducing a brief or petition, or any
motion or other document filed on multilith
master sheets in accordance with Supreme
Court Order No. 14 - per page (including
cover pages and appendices)..... | 2.50 |
| (An additional fee of \$3.00 will be charged
for each copy of the document reproduced in
excess of 3.) | |
| 2. For preparation of case record for review by
the Supreme Court of the United States..... | 30.00 |
| 3. For copies of records on file with the
Supreme Court, whether or not certified - | |
| First page..... | 1.00 |
| Each additional page..... | .25 |
| 4. For copies of court opinions, per copy..... | 1.00 |
| 5. For annual subscription to court opinions..... | 10.00 |
| 6. For issuing certificate of good standing
as attorneys..... | 3.00 |

Note: Postage may be charged in all courts where airmail or special mailing services are requested.

II. IN THE SUPERIOR COURT:

A. Filing Fees:

1. Upon filing any civil case, including a petition for deposition before action (Rule 11, Rules of Administration)..... 30.00
2. Upon filing any case for probate of an estate:
Initial filing fee..... 30.00

Upon closing of the estate, a fee based upon the gross value of the entire estate, as follows:

First: For the first \$1,000 or any less sum, at the rate of 3 per centum thereof;

Second: For all above \$1,000 and not exceeding \$2,000 at the rate of 2 per centum thereof;

Third: For all above \$2,000 and not exceeding \$5,000 at the rate of 1 per centum thereof;

Fourth: For all above \$5,000 and not exceeding \$20,000 at the rate of 1/2 per centum thereof;

Fifth: For all above \$20,000 in value, at the rate of 1/4 per centum thereof.

The initial and closing probate fees cover all ordinary services, including filing, providing copies of letters testamentary or of administration, certifying of documents, etc.
3. Upon filing of an adoption proceeding, without regard to the number of minors involved..... 30.00
4. Upon filing any guardianship proceeding, to include all services in the first year..... 30.00

Upon filing annual guardianship reports in each succeeding year..... 10.00
5. Upon filing an appeal or petition for review from a magistrate court, except in forma pauperis cases..... 15.00
6. Upon filing an action to enjoin or enforce orders of the Alaska Workmen's Compensation Board..... 30.00
7. Upon filing an action for review of a decision by the Department of Labor under AS 23.20 (Employment Security Act), except as exempted by AS 23.20.460..... 30.00

- 8. Upon filing an appeal or petition for review from an administrative order (AS 44.62.560)..... 30.00
- 9. Upon filing an affidavit of intent to study law in the office of an attorney in Alaska..... 3.00
- 10. Upon filing a petition for incorporation of a village under AS 29.25..... 75.00

B. Transcript and Related Fees:

- 1. For preparation of any transcript of proceedings, whether or not an appeal is taken:
 - Original, per page..... 1.50
 - Each additional copy, per page..... .50
- 2. For any transcript during trial or otherwise for which immediate priority in preparation is requested:
 - Original, per page..... 2.00
 - Each additional copy, per page..... .75
- 3. For recording depositions with court recording equipment, per each 1/2 hour, or fraction thereof. 2.00
- 4. For re-play of tapes of any proceeding, including deposition, per each 1/2 hour, or fraction thereof 2.00

C. Support Payment Fees:

- 1. In cases arising under the Uniform Reciprocal Enforcement of Support Act, all ordinary fees shall be charged, subject to the waiver provisions of Supreme Court Order No. 19.
- 2. In all cases where collection and disbursement through the court of child support monies is ordered, a fee of 3% shall be added to the amount ordered to be paid by the court.

D. Miscellaneous Fees:

- 1. For certifying or conforming a copy of any document of record, where copy is furnished..... .50
- 2. For copying any document, by photocopy process or other means, whether or not certifying is required:
 - First page..... 1.00
 - Each additional page..... .25
 (When more than one copy of a document is requested, the "First page" fee applies only to the first copy; the "Each additional page" fee applies to all pages of the additional copies.)

3.	For issuing a certificate of office to a notary public.....	3.00
4.	For issuing exemplifications.....	2.00
5.	For filing or recording certificates of license to practice in learned professions.....	3.00
6.	For certifying and taking an affidavit and affixing the court seal.....	1.00
7.	For taking acknowledgment of any instrument in writing.....	2.00
8.	For filing articles of incorporation as required by law.....	3.00
9.	For filing oaths of office as required by law.....	1.00
10.	For providing in writing requested information from search of records, per report.....	1.00
11.	For service of process:	
	By certified mail.....	1.00
	By registered mail.....	2.00
	(Necessary postage, and addressed envelope for mailing and completed postal forms for delivery receipt and the record of mailing must be supplied by the party requesting service by mail.)	

Note: No filing, certifying, or copying fee shall be charged to any agency of the State of Alaska.

IT IS FURTHER ORDERED:

That in all proceedings received by the Clerks of the Superior Court under the provisions of the Uniform Reciprocal Enforcement of Support Act wherein Alaska is the initiating or responding state and where petitioner has signed pauper's affidavit the filing fees, as prescribed by Order No. 59, Amendment No. 2, issued July 30, 1966, are waived.

III. IN THE DISTRICT COURT:

A. Filing Fees:

1.	Filing fees, District Court jurisdiction [Rule 12(a) Administrative Rules].....	15.00
2.	Filing fees, Magistrate jurisdiction [Rule 12(b) Administrative Rules].....	5.00

3. Filing fees where Magistrates accept for filing civil cases beyond their jurisdiction, but within the jurisdiction of the District Court [Rule 40(a) Administrative Rules].....	15.00
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B. Transcript and Related Fees:

1. For preparation of any transcript of proceedings, whether or not an appeal is taken:	
Original, per page.....	.85
Each additional copy, per page.....	.15
2. For any transcript during trial or otherwise for which immediate priority in preparation is requested:	
Original, per page.....	1.25
Each additional copy, per page.....	.25
3. For recording depositions with court recording equipment, per each 1/2 hour, or fraction thereof.	2.00
4. For re-play of tapes of any proceeding, including depositions, per each 1/2 hour, or fraction thereof.....	2.00

C. Marriage Fees:

1. For issuing and filing marriage license.....	2.50
2. *For filing marriage certificate.....	2.50
3. For performing marriage ceremony.....	10.00

D. Notary Public Fees:

1. For certifying and taking an affidavit and affixing the seal.....	1.00
2. For taking acknowledgment of any instrument in writing.....	2.00
3. Notarization required in an action by a person represented in such action by an attorney furnished to him by an organization authorized to provide legal services to indigents are exempted from notary public fees provided under this schedule.	

* Note: When a marriage license is issued by a court office, the fee for filing the marriage certificate should be collected at that time.

Memorandum

Alaska Court System

TO: Ray Ellis, Systems Analyst
Alaska Court System
Anchorage

DATE : October 29, 1973

FROM: A. M. Vokacek, Clerk
Superior Court
Anchorage

SUBJECT: Revenue Project

Pursuant to your verbal request of the 25th, herewith are employee percentages relevant to Revenue Funds:

Code 001:

Civil section	4 employees	325%
File section	2 employees	193%
Accounting section	2 employees	12%
Journaling section	1 employee	85%
Appeals section	1 employee	57.5%
Statistics and		
Closing section	1 employee	92%
Secretary	1 employee	15%

Code 002:

Accounting section	4 employees	5%
Journaling section	1 employee	.25%

Code 004:

Accounting section	2 employees	practically nil
Journaling section	1 employee	7%
Secretary	1 employee	8%

Code 005:

Civil section	4 employees	35%
Accounting section	2 employees	40%
Journaling section	1 employee	4%
Appeals section	1 employee	3%
Secretary	1 employee	5%
Probate section	1 employee	5%

Code 006:

Civil section	4 employees	5%
Accounting section	4 employees	5%

Codes 011, 012 and 013:

Civil section	4 employees	20%
Accounting section	2 employees	5%
Journaling section	1 employee	practically nil
Appeals section	1 employee	5%
Probate section	1 employee	80%

Balances of employees' time devoted to non-revenue matters.

EXPLANATION OF ITEM 5

The Superior Court Clerk has estimated fee handling time on a percentage basis. The figures quoted represent percentages of one employee; for example, the first line under Code 001 reads as follows:

Civil Section	4 employees	325%
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This means that 3.25 man-years, per year, out of 4 available, are spent in providing services for a fee. Combining this ratio with the ratios for the other activities under Code 001 gives an aggregate ratio of 8 man-years per year out of 12 available spent in 001 fee services in this Superior Court. The remaining 4 man-years were spent in other fee categories, or in non-revenue work.

The corresponding ratios in other Superior Courts and in District Courts were established by verbal estimates and by looking at comparable transaction volumes. An estimated 25 man-years per year statewide was derived as the total manpower devoted to services for which filing fees were charged. Since an estimated 10% of this manpower was used to collect and handle the fee itself, we arrive at 2.5 man-years per year to collect and record filing fees statewide. At \$12,000 per year plus benefits of 17.5%, this comes to \$41,250, the total cost of handling and collecting filing fees. This represents 3.3% of the total clerical budget, estimated to be \$1,250,000 statewide.