

2011 SENATE JUDICIARY

SCR 4001

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee  
Fort Lincoln Room, State Capitol

SCR 4001  
January 11, 2011  
12767

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

This concurrent resolution came from the Commission on Alternatives to Incarceration.

## Minutes:

No attached testimony

**Senator Nething** opened the hearing on 4001SCR, a concurrent resolution directing the Legislative Management to study; the imposition of fees by courts at sentencing and other fees that are imposed upon offenders.

**John Bjornson**, Legislative Staff introduced the bill and explained the bill, and gave background on the last three interim studies where the supervision fee was added, taken away and put back at half the amount. He said that it is a mandatory fee but it is so far down the list that it isn't imposed sometime. He said that a study of all fees, imposed upon offenders, may address the effectiveness of fees and determine the appropriate hierarchy for collection purposes and which ones need to be collected.

**Senator Sitte** asked why this issue has consumed three interim studies and what are we going to accomplish by putting it in a fourth.

**Mr. Bjornson** answered that the community service programs are not self sustaining and funds were needed to keep these programs in place and that is why the fee was put in place to help support these programs. There is a lack of uniformity on if and how these fees are collected. One or two regions collect most of the collections that come into this special fund through those fees. Other areas are virtually collecting nothing. So the question was, why isn't this fee being collected and maybe all the fees should be looked at and see how we can address these issues.

**Senator Nething** said that this is not a one fee study; it is a twelve fee study. Eleven of the fees haven't been looked at in the three previous interims.

**Senator Olafson** asked if the Commission on Alternatives to Incarceration considered eliminating the supervision fee, which in many cases isn't being collected, and leaving the other eleven up to judicial discretion.

**Mr. Bjornson** said some of the fees maybe discretionary, but this fee is mandatory.

**Senator Nething** stated that there is a need for the supervision fee but there is no funding in the Governor's budget for their services.

**Senator Nething** closed the hearing on 4001.

**Senator Nething** said he felt this particular fee that was discussed in the previous interim is important because the offender gets a lot of benefit from it. It is not like paying a fee for a penalty. Those community service programs help that person get a turnaround in life.


Discussion followed on the importance of studying the twelve fees and how effective they are. Mr. Bjornson will collect information from the commission's meeting on the twelve fees and get that information back to the committee.

# 2011 SENATE STANDING COMMITTEE MINUTES

**Senate Judiciary Committee**  
Fort Lincoln Room, State Capitol

SCR4001  
2/9/11  
Job #14265

Conference Committee

Committee Clerk Signature 

## Explanation or reason for introduction of bill/resolution:

To study the imposition of fees by courts at sentencing and other fees that are imposed upon offenders.

Minutes:

## Senator Nething – Chairman

Committee discusses this is a study and it addresses the 12 different fees that are accessed by the courts. Senator Nething says this studies all fees not a single one.

**Senator Olafson** moves a do pass  
**Senator Lyson** seconds

Roll call vote – 6-0  
Motion carries  
**Senator Nelson** will carry

Date: 2/9/11  
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 4001

Senate Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By S. Olafson Seconded By S. Lyson

Senators	Yes	No	Senators	Yes	No
Dave Nething - Chairman	X		Carolyn Nelson	X	
Curtis Olafson - V. Chairman	X				
Stanley Lyson	X				
Margaret Sitte	X				
Ronald Sorvaag	X				

Total (Yes) 6 No 0

Absent \_\_\_\_\_

Floor Assignment S. Nelson

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SCR 4001: Judiciary Committee (Sen. Nething, Chairman)** recommends **DO PASS**  
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4001 was placed on the  
Eleventh order on the calendar.

2011 HOUSE JUDICIARY

SCR 4001

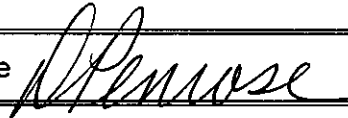
# 2011 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee  
Prairie Room, State Capitol

SCR 4001  
March 21, 2011  
15736

Conference Committee

Committee Clerk Signature



## Minutes:

Chairman DeKrey: We will open the hearing on SCR 4001.

John Bjornson, Legislative Council staff: I was counsel for the Commission on Alternatives to Incarceration during the last interim; SCR 4001 is a product of that Commission. Just a little background, the Commission on Alternatives to Incarceration is a commission that was established about six years ago. It's been in operation for three interims. It acts like most other interim committees, but this Commission consists of only six legislators and 12 other members: representatives of counties, the judiciary, law enforcement; the purpose of the commission is to find alternatives to incarceration. That means keeping people from being incarcerated in the first place and then preparing them to reenter the community so that they don't reoffend and become incarcerated again.

During the Commission's study over the last three interims, it's had this issue come before it each interim; the imposition of fees and costs by courts at sentencing. In 2007, the legislative assembly created a \$50 court supervision fee that would be imposed upon offenders that are sentenced to community service. In 2007-2008 interim, there was a review of it by the Commission on Alternatives to Incarceration. The Commission came back and recommended that the fee be reduced to \$25 because there are so many fees imposed and the Commission felt that it might be better to cut the fee in half.

During the 2009-2010 interim, the Commission was informed that the courts either don't impose the fee frequently, or that it is waived because it's very low on the hierarchy of the scale of fees. The Commission was told that there are at least 10 fees; it was difficult to find out exactly how many there were. Some thought 11, some thought 12; but there were a number of fees, over 10, that are imposed on offenders at sentencing. Many of these offenders are subject to one or more, or several of those fees that are imposed. The Commission, after discussing this issue, came up with this resolution to take another look at this whole idea of sentencing fees that are imposed because this particular fee, the expectation was that it would collect a fair amount of money that would help support community



service programs. That money never really materialized. I believe the last report, during the last interim, indicated about \$14,000 had been collected through the fee and that was significantly lower than what had been anticipated. Much of the fee was collected in one or two of the judicial districts in the state, one or two of the counties. It clearly wasn't being imposed uniformly throughout the judicial districts. So the Commission recommended this resolution that is before you today. Essentially it would call for a study of all the fees that are imposed at sentencing and any other fees that might be imposed upon offenders throughout the process. The idea would be to try to get a handle on exactly what is imposed, how many are imposed, what is the hierarchy, and then sort out the facts and make recommendations to adjust or correct that for the next legislative assembly.

Rep. Delmore: Are they using these fees when they figure out their budgets. Do you know what the breakdown is, of how much goes to the state, to whatever funds, does that vary too.

John Bjornson: There was some sort of breakdown of this particular fee. In the last session, you may recall, there was a separate bill introduced that provided an appropriation to each of the community service programs that are in operation in the state. I'm not sure exactly what formula was used, but it went through the Office of Management and Budget. These court supervision community service programs were initially funded 15 years or more ago. The idea supposedly was that they would become free-standing programs as time went along. The state continued to support the programs over the years, and this really came up four years ago, essentially when the money was put in the Corrections budget but it was ultimately reduced substantially and I think there was about one year of funding available for the programs. The interim commission decided that something needed to be done to help provide a steady funding source to continue the programs. The \$50 fee didn't work; it was proposed that it be reduced to \$25 and during the last interim it was considered that it be cut out entirely because part of the Commission believed that the fees being collected currently weren't adequate to support the programs. Some programs were collecting a substantial amount of money compared to the rest. The programs themselves were being funded in a variety of manners. Some programs had good local support, had Boards that took their funding rather seriously and tried to formulate a plan, where others maybe not so much. The idea to cut the fee during the interim died, but this resolution was the result.

Rep. Delmore: That was good background. When they don't uniformly impose these fees, could there be ramifications for that.

John Bjornson: There was discussion during the interim. The law that imposes this fee says that the court shall impose the fee, it is a mandatory fee. The question asked then, was why then aren't the courts imposing the fee. Courts have the ability to waive fees and some courts and judges just do what they want to do as well. There is a complete lack of uniformity in the collection of fees. Fairness is probably an issue.

Rep. Delmore: This will not just look at that one fee; however, it will look at many of them, correct?

John Bjornson: This will try to look at all of the fees.

Ch. DeKrey: Thank you. Further testimony in support. Testimony in opposition. We will close the hearing.

Rep. Delmore: I move a Do Pass on SCR 4001 and place on Consent calendar.

Rep. Koppelman: Second the motion.

**13 YES 0 NO 1 ABSENT DO PASS AND PLACE ON CONSENT CALENDAR**

**CARRIER: Rep. Delmore**

Date: 3/21/11  
 Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. 4001

House JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Delmore Seconded By Rep. Koppelman

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin	✓		Rep. Guggisberg	✓	
Rep. Beadle	✓		Rep. Hogan	✓	
Rep. Boehning			Rep. Onstad	✓	
Rep. Brabandt	✓				
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				
Rep. Maragos	✓				
Rep. Steiner	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Delmore

If the vote is on an amendment, briefly indicate intent:

*Place on Consent Calendar.*

**REPORT OF STANDING COMMITTEE**

**SCR 4001: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SCR 4001 was placed on the Tenth order on the calendar.**