



State of New Hampshire Judicial Branch

E-Filing Policy #1 (Transactional Fees)

Issue: (State the issue and whether it is specific to certain level of court or case type)

Under what situations should we charge transaction fees above the filing fee? Should we fund the construction and operation of e-Filing (to some extent) through user fees?

Discussion: (Provide the factual setting or context for the issue):

The purpose of a transaction fee is to sustain the system going forward. The fee structure will have enormous impact on our ability to pay costs related to ongoing hardware and software acquisition, support, and maintenance. Studies show a \$75 per case savings to lawyers when cases are filed electronically rather than in hard copy.

(See pp. 14-20 at <http://www.courts.state.nh.us/nh-e-court-project/e-court-issues-choices.htm>.)

Authorities: (references to statutes, rules, codes or administrative orders pertinent to the issue)

RSA 490:26-a: Court fees, fines, forms and personnel.

Alternative Solutions: (list all identified alternative solutions for the issue)

Alternative 1 - State/Court Funded/Free to Use

In this scenario the court would provide a system to use for free for all case types for all litigants. This could be provided by development, acquisition, or by a commercial vendor as a contracted service. This same or a very similar system could be provided for use on State initiated case types. The disadvantage is that this solution does not account for significant ongoing hardware and software acquisition, support, and maintenance costs.

Alternative 2 -Impose Transactional Fees

In this scenario, certain case types and certain users are charged a transaction fee for each filing. This is a model used by the majority of jurisdictions where e-Filing is implemented. With legislative action, fees collected could be dedicated to ongoing hardware and software acquisition, support and maintenance costs.

Position/Recommendation (list all identified alternative solutions for the issue)

Empower an authority to set transactional fees.

1. Guide that authority to set transaction fees that reflect the national norms. These fees could follow national norms to apply to case types that are non State initiated or other case types for public policy interests.
2. The fees should be charged both to attorneys and self represented filers.
3. The court should remain in control of setting and collecting transactional fees.

Decision:

No filing fee will be charged for state initiated cases or for certain other case types such as domestic violence petitions, for public policy reasons. Transactional fees will be charged for certain types of cases. The specifics of the fee structure and applicability to type of users and cases will be developed as e-court is expanded to different case types. The Judicial Branch will remain in control of setting and collecting transactional fees. Legislative action will be needed if the fees are to be directed into a fund dedicated to hardware and software acquisition, support and maintenance.

The New Hampshire Judicial Branch Administrative Council recommended that the New Hampshire Supreme Court adopt the recommendations made by the NH e-Court Advisory Committee. The Supreme Court adopted the recommendations.