

**HOUSE BILL NO. 1458**

Introduced by

Representatives Gulleson, Eckre, Koppang, Meyer

Senators Heitkamp, Thane

1 A BILL for an Act to amend and reenact sections 11-10-02, 11-10-06, subsection 2 of section  
2 11-10-10, sections 11-10-11, 11-17-04, 27-01-01.1, and subdivision j of subsection 1 of section  
3 40-01.1-04 of the North Dakota Century Code, relating to the office of clerk of district court; and  
4 to repeal section 11-17-11 of the North Dakota Century Code, relating to state funding of clerk  
5 of district court.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Section 11-10-02 of the 1997 Supplement to the North  
8 Dakota Century Code is amended and reenacted as follows:

9 **11-10-02. Number and election of county officers.** Each organized county, unless it  
10 has adopted one of the optional forms of county government provided by the code or has  
11 combined or separated the functions of county offices or redesignated offices as elective or  
12 appointive pursuant to chapter 11-10.2 or 11-10.3, must have the following officers:

- 13 1. One county auditor.
- 14 2. One register of deeds, except as otherwise provided by this section.
- 15 3. One clerk of the district court, ~~except as otherwise provided by this section.~~
- 16 4. One state's attorney.
- 17 5. One sheriff.
- 18 6. One county treasurer.
- 19 7. One coroner.
- 20 8. A board of county commissioners consisting of three or five members as provided  
21 in this title.

22 ~~In counties having a population of six thousand or less, the register of deeds shall perform the~~  
23 ~~functions of the clerk of the district court, unless the board of county commissioners adopts a~~  
24 ~~resolution separating the offices no less than thirty days before petitions for nomination to~~

1 ~~county offices may first be filed for the primary election. In a county having a population of~~  
2 ~~more than six thousand, the~~ The offices of clerk of district court and register of deeds may be  
3 combined into an office of ~~register of deeds~~ clerk of district court if the board of county  
4 commissioners, ~~following consultation with the supreme court,~~ adopts a resolution combining  
5 the offices no less than thirty days before petitions for nominations to county offices may first be  
6 filed for the primary election. ~~For a county that has properly initiated the option pursuant to~~  
7 ~~section 11-17-11, and the office of the clerk of court is funded by the legislative assembly, the~~  
8 ~~board of county commissioners may provide for the functions of the register of deeds, which~~  
9 ~~may include functions of the clerk of district court and other functions as determined by the~~  
10 ~~board of county commissioners. Counties having a population of six thousand or less and~~  
11 ~~exercising the option provided in section 11-17-11 may contract with the state court~~  
12 ~~administrator for the provision of shared funding for register of deeds' services. The required~~  
13 officers must be chosen by the qualified electors of the respective counties at the general  
14 election in each even-numbered year, except the register of deeds, county auditor, treasurer,  
15 sheriff, state's attorney, and clerk of the district court, who must be chosen in 1966 and every  
16 four years thereafter, the members of the board of county commissioners, who must be chosen  
17 in the manner prescribed in section 11-11-02, and the county coroner, who must be chosen in  
18 the manner prescribed in section 11-19.1-03. ~~The clerk of district court elected pursuant to this~~  
19 ~~section is not subject to election in any future general election that occurs after the start of the~~  
20 ~~state biennium after the county has properly initiated the option and the legislative assembly~~  
21 ~~has provided appropriations pursuant to section 11-17-11.~~

22       **SECTION 2. AMENDMENT.** Section 11-10-06 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24       **11-10-06. Bonds of county officers.** Before entering upon the duties of their  
25 respective offices, the following county officers must be bonded for the faithful discharge of their  
26 respective duties in the same manner as other civil officers are bonded and in the following  
27 amounts:

- 28       1. The county auditor, clerk of the district court, register of deeds, and sheriff, fifteen  
29       thousand dollars, except in counties having a population of less than ten thousand,  
30       where the amount must be ten thousand dollars.
- 31       2. A county commissioner, two thousand dollars.

- 1           3.    The county coroner, five hundred dollars.
- 2           4.    The state's attorney, three thousand dollars.
- 3           5.    The county surveyor, an amount, not to exceed two thousand dollars, as may be
- 4                 determined by the board of county commissioners.
- 5           6.    The public administrator, not less than ten thousand dollars.
- 6           7.    The county treasurer, an amount fixed by the board of county commissioners of not
- 7                 less than seventy-five thousand dollars, except in counties having a population of
- 8                 less than ten thousand, an amount of not less than forty thousand dollars. When
- 9                 the total amount of taxes to be collected by the county treasurer in any one year is
- 10                less than the minimum amount of bond specified in this subsection, the bond may
- 11                be in a sum equal to the amount of taxes to be collected.
- 12           8.    ~~Repealed by S.L. 1989, ch. 137, § 10, effective January 1, 1993.~~

13   When the amount of any bond required under this section is dependent upon the population of  
14   a county, the population must be determined as provided in section 11-10-10. ~~The bond for the~~  
15   ~~clerk of a district court which is state funded pursuant to section 11-17-11 must be set by the~~  
16   ~~supreme court.~~

17           **SECTION 3. AMENDMENT.** Subsection 2 of section 11-10-10 of the North Dakota  
18   Century Code is amended and reenacted as follows:

- 19           2.    The county treasurer, county superintendent of schools, register of deeds, county
- 20                 auditor, and clerk of district court each shall receive the following annual salary,
- 21                 payable monthly, for official services rendered:
  - 22                 a.    Seventeen thousand dollars in counties having a population of less than eight
  - 23                        thousand.
  - 24                 b.    Seventeen thousand five hundred dollars in counties having a population of or
  - 25                        exceeding eight thousand plus additional compensation of one hundred
  - 26                        dollars per year for each one thousand additional population or major fraction
  - 27                        thereof over eight thousand. However, in counties where the population
  - 28                        consists of more than twenty-five percent Indians who have not severed tribal
  - 29                        relations, the county commissioners may adjust the salaries provided for
  - 30                        herein within the limitations contained in this subdivision.

1           ~~The compensation for the clerk of a district court which is funded by the state~~  
2           ~~pursuant to section 11-17-11 must be set by the supreme court as a part of the~~  
3           ~~judicial branch personnel system.~~

4           **SECTION 4. AMENDMENT.** Section 11-10-11 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6           **11-10-11. Appointment and salary of deputies and clerks.** The salaries of deputies,  
7 clerks, and assistants for the county auditor, county treasurer, sheriff, register of deeds, clerk of  
8 the district court, and state's attorney must be fixed by a resolution of the board of county  
9 commissioners. Each of the named officers may appoint such deputies, clerks, and assistants,  
10 in accordance with the budget, except none of the officers mentioned in this section may  
11 appoint as deputy any other officer mentioned in this section. ~~The number and compensation~~  
12 ~~of deputies, clerks, and assistants for a clerk of district court which is funded by the state~~  
13 ~~pursuant to section 11-17-11 must be set by the supreme court.~~

14           **SECTION 5. AMENDMENT.** Section 11-17-04 of the 1997 Supplement to the North  
15 Dakota Century Code is amended and reenacted as follows:

16           **11-17-04. (Effective through March 31, 1999) Fees to be charged by the clerk of**  
17 **the district court.**

18           1. The clerk of the district court shall charge and collect the following fees in civil  
19 cases:

20           a. For filing a case for decision that is not a small claims action, eighty dollars.

21           (1) Fifteen dollars of this fee must be paid by the clerk of court to the state  
22 treasurer for deposit in the civil legal services fund. Any fees collected  
23 under this paragraph which exceed four hundred thousand dollars in  
24 any biennium must be paid by the clerk of court to the state treasurer  
25 for deposit in the state general fund.

26           (2) For the filing of a petition for dissolution of marriage, annulment, or  
27 separation from bed and board, fifty dollars of this fee must be paid by  
28 the clerk of court to the state treasurer for deposit in the displaced  
29 homemaker account created by section 14-06.1-14.

30           (3) For all other filings, forty-five dollars of this fee must be paid by the clerk  
31 of court to the state treasurer for deposit in the state general fund.

- 1           b. For filing an answer to a case that is not a small claims action, fifty dollars.  
2           The clerk shall deposit this fee with the state treasurer for deposit in the  
3           general fund in the state treasury.
- 4           c. For filing a small claims action in district court, ten dollars.
- 5           d. For filing any matter authorized to be filed in the office of the clerk of court  
6           other than under subdivision a, b, or c, ten dollars.
- 7           e. For preparing, certifying, issuing, or transmitting any document, ten dollars; or  
8           a lesser fee as may be set by the state court administrator.
- 9           f. For filing a motion or an answer to a motion to modify an order for alimony,  
10          property division, child support, or child custody, thirty dollars. The clerk shall  
11          deposit this fee with the state treasurer for deposit in the general fund of the  
12          state treasury.
- 13          2. Section 27-01-07 applies to fees charged under this section. The clerk of court  
14          may not charge or collect any fee, prescribed by this or any other section, from the  
15          state or an agency thereof or from a political subdivision or agency thereof.

16          **(Effective ~~April~~ July 1, 1999) Fees to be charged by the clerk of the district court.**

- 17          1. The clerk of the district court shall charge and collect the following fees in civil  
18          cases:
- 19           a. For filing a case for decision that is not a small claims action, eighty dollars.
- 20           (1) Fifteen dollars of this fee must be paid by the clerk of court to the state  
21           treasurer for deposit in the civil legal services fund. Any fees collected  
22           under this paragraph which exceed four hundred thousand dollars in  
23           any biennium must be paid by the clerk of court to the state treasurer  
24           for deposit in the state general fund.
- 25           (2) For the filing of a petition for dissolution of marriage, annulment, or  
26           separation from bed and board, fifty dollars of this fee must be paid by  
27           the clerk of court to the state treasurer for deposit in the displaced  
28           homemaker account created by section 14-06.1-14 and fifteen dollars  
29           of this fee must be paid by the clerk of court to the state treasurer for  
30           deposit in the state general fund.

- 1                   (3) For all other filings, ~~sixty-five~~ thirty-five dollars of this fee must be paid  
2                   by the clerk of court to the state treasurer for deposit in the state  
3                   general fund.
- 4                   b. For filing an answer to a case that is not a small claims action, fifty dollars.  
5                   The clerk shall deposit this fee with the state treasurer for deposit in the  
6                   general fund in the state treasury.
- 7                   c. For filing a small claims action in district court, ten dollars.
- 8                   d. For filing any matter authorized to be filed in the office of the clerk of court  
9                   other than under subdivision a, b, or c, ten dollars.
- 10                  e. For preparing, certifying, issuing, or transmitting any document, ten dollars; or  
11                  a lesser fee as may be set by the state court administrator.
- 12                  f. For filing a motion or an answer to a motion to modify an order for ~~alimony~~  
13                  spousal support, property division, child support, or child custody, thirty  
14                  dollars. The clerk shall deposit this fee with the state treasurer for deposit in  
15                  the general fund of the state treasury.
- 16                  2. Section 27-01-07 applies to fees charged under this section. The clerk of court  
17                  may not charge or collect any fee, prescribed by this or any other section, from the  
18                  state or an agency thereof or from a political subdivision or agency thereof.

19                  **SECTION 6. AMENDMENT.** Section 27-01-01.1 of the 1997 Supplement to the North  
20                  Dakota Century Code is amended and reenacted as follows:

21                  **27-01-01.1. Budgeting and financing of the supreme court and district courts.**

22                  The state court administrator shall submit a comprehensive budget for the supreme court and  
23                  the district courts to the legislative assembly. An informational copy of the budget must be  
24                  delivered to the director of the budget pursuant to section 54-44.1-13. The budget for the  
25                  district courts must include all salary and expenses for the district courts, including the juvenile  
26                  courts, and their employees ~~except the clerks of district courts and their deputies and~~  
27                  ~~employees, whose salaries and expenses must be paid by the counties unless the county has~~  
28                  ~~properly exercised its option pursuant to section 11-17-14.~~ Each county shall provide the  
29                  district court in that county with adequate chamber, court, and law library quarters, and lights  
30                  and fuel ~~and appropriate facilities for clerk of court services that are state funded pursuant to~~  
31                  ~~section 11-17-14.~~ Any equipment, furnishings, and law libraries in the control and custody of

1 the district court on January 1, 1980, and any such property acquired from that date until July 1,  
2 1981, must continue to be in district court's custody and control until the state court  
3 administrator determines such items are no longer needed by the court. ~~Any equipment and  
4 furnishings in the control and custody of a clerk of district court on the date of the exercise of  
5 the county option pursuant to section 11-17-11, and any such property acquired from that date  
6 until the beginning of the next state biennium, must continue in the district court's custody and  
7 control until the state court administrator determines such items are no longer needed by the  
8 judicial system.~~ Upon that determination custody and control of the property must revert back  
9 to the county.

10 **SECTION 7. AMENDMENT.** Subdivision j of subsection 1 of section 40-01.1-04 of the  
11 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

12 j. Exercise of county options with respect to register of deed services and clerk  
13 of district court services pursuant to ~~sections~~ section 11-10-02 and ~~11-17-11~~.

14 **SECTION 8. REPEAL.** Section 11-17-11 of the North Dakota Century Code is  
15 repealed.