

1999 HOUSE JUDICIARY

HB 1458

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1458

House Judiciary Committee

Conference Committee

Hearing Date January 1, 1999

Tape Number	Side A	Side B	Meter #
1	X		0
Committee Clerk Signature <i>Alan Lindberg</i>			

Minutes:

REP. GULLESON This bill return the fees and fines to the counties and provides for a clerk of court in each county. It will allow a combination Clerk of Court and Register of Deeds, and allows counties to pool with other counties under the tool chest bill. In a hearing on the judiciary budget in Appropriations the judges admitted that there is a down side to unification, and this bill will help keep the down side from being too bad.

KAREN FISCHER Submitted written testimony, a copy of which is attached.

CINDY SCHMITZ (Richland Co. Clerk) I favor this bill. In addition I have some letters here from lawyers and county commissioners for your information. They are attached.

BOB COOK: I am a lawyer and a Barnes County Commissioner. I am opposed to HB 1275 and for this bill. HB 1275 will reduce services. Counties do not like unfunded mandates. What problem does HB1275 solve?

Page 2

House Judiciary Committee

Bill/Resolution Number 1458

Hearing Date : February 1, 1999

LINDA ROHRBACK: Submitted written testimony, which is attached.

MARK JOHNSON: (Association of Counties) submitted written testimony, which is attached.

DWAYNE OSTER (McLean Co. Register of Deeds) Submitted written testimony, a copy of which is attached.

COMMITTEE ACTION: February 2, 1999

REP MEYER moved that the bill be amended as per attachment. Rep Hawken seconded and the motion was passed with a unanimous voice vote.

REP. KOPPELMAN moved that the committee recommend that the bill DO NOT PASS AS AMENDED. Rep. Gorder seconded and the motion was passed on a roll call vote with 8 ayes, 7 nays and 0 absent. Rep. Maragos was assigned to carry the bill on the floor.

Section 5 of House Bill 1458 would amend NDCC 11-17-04, which governs filing fees received by clerks of court and the manner in which the filing fee revenue is distributed. Under section 11-17-04, as it will read effective April 1, 1999, \$65 of each general civil filing fee would be deposited in the state general fund. There are approximately 12,400 general civil filings per year or 24,800 filings per biennium. Therefore, approximately \$1,612,000 in general civil filing fee revenue would be deposited in the state general fund during a biennium under section 11-17-04 as it will read effective April 1, i.e., \$65 per filing x 12,400 filings per year x 2 years = \$1,612,000.

Section 5 of House Bill 1458 would amend section 11-17-04 to provide that **\$35**, rather than \$65, of each general civil filing fee would be deposited in the state general fund, with the remaining \$30 retained by the counties. This would result in a state general fund deposit of general civil filing fee revenue of approximately \$868,000 per biennium, i.e., \$35 per filing x 12,400 filings per year x 2 years = \$868,000. This would represent a net loss to the state general fund of \$744,000 per biennium, i.e., \$1,612,000 per biennium at \$65 per filing minus \$868,000 per biennium at \$35 per filing = \$744,000. The amendment would result in a net gain to the counties of \$744,000 per biennium, i.e., \$30 per filing x 12,400 filings per year x 2 years.

Date: 3/2
 Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1458

House JUDICIARY Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number Do not pass as amended.

Action Taken _____

Motion Made By Koppelman Seconded By Gorder

Representatives	Yes	No	Representatives	Yes	No
REP. DEKREY	✓		REP. KELSH		✓
REP. CLEARY		✓	REP. KLEMIN	✓	✗
REP. DELMORE	✓		REP. KOPPELMAN	✓	
REP. DISRUD	✓	✓	REP. MAHONEY		✓
REP. FAIRFIELD		✓	REP. MARAGOS	✓	
REP. GORDER		✓	REP. MEYER		✓
REP. GUNTER	✓		REP. SVEEN		✓
REP. HAWKEN	✓				

Total Yes 8 No 7

Absent 0

Floor Assignment Maragos

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

REPORT OF STANDING COMMITTEE

HB 1458: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (8 YEAS, 7 NAYS, 0 ABSENT AND NOT VOTING). HB 1458 was placed on the Sixth order on the calendar.

Page 1, line 1, after "Act" insert "to provide for the deposit of bond forfeitures in the county treasury;"

Page 1, line 2, after the fourth comma insert "29-26-22, 29-27-02.1,"

Page 1, line 3, after "court" insert "and bond forfeitures"

Page 6, after line 18, insert:

"SECTION 6. Deposit of bond forfeitures. Except for forfeitures of bail bond or other property or money deposited as bail under section 29-27-02.1, all bond forfeitures collected by the clerk of district court for violations of state law must be deposited in the county treasury."

Page 7, after line 9, insert:

"SECTION 8. AMENDMENT. Section 29-26-22 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

29-26-22. Judgment for fines, costs, and court administration fee - Statement to be filed by court - Docketing and enforcement. In all criminal cases upon a plea or finding of guilt, a court administration fee of up to thirty percent of the maximum allowable fine for the offense may be taxed against the defendant in lieu of the assessment of court costs. If the court does assess costs as part of its sentence, the court shall include in the judgment the facts justifying the amount assessed. District court costs, and administration fees, and forfeitures must be deposited in the state general fund. A judgment that the defendant pay a fine, costs, or court administration fee, or any combination thereof, may be docketed, and thereafter constitutes a lien upon the real estate of the defendant in like manner as a judgment for money rendered in a civil action. The court may allow the defendant to pay any assessed costs or administrative fee in installments. When a defendant is assessed costs or administrative fees, the court may not impose at the same time an alternative sentence to be served if the costs are not paid.

SECTION 9. AMENDMENT. Section 29-27-02.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

29-27-02.1. Disposition of statutory fees, fines, ~~forfeitures~~, pecuniary penalties, and bond forfeitures. Except as otherwise provided by law, all statutory fees, fines, ~~forfeitures~~, and pecuniary penalties prescribed for a violation of state laws, when collected, must be paid into the treasury of the proper county to be added to the state school fund. When any bail bond or other property or money deposited as bail is forfeited to the state, the proceeds collected therefrom must be paid over to the proper state official and credited to the state general fund."

Renumber accordingly

1999 TESTIMONY
HB 1458

From: Dennis D. Schulz/ISD/NoDak@Hub on 01/29/99 02:45 PM
To: Pam M. Guleson/NDLC/NoDak@NoDak
cc:
Subject: Testimony RE HB1458

Rep. Pam Guleson
ND House of Representatives
ND State Capitol
Bismarck, ND 58505

RE: HB 1458

Dear Representative Guleson:

I regret that I will be unable to attend the House Judiciary Committee hearing on HB1458 on Monday, February 1, 1999. That is also the regular court day for Logan County, and I feel compelled to remain here to perform my clerk of court responsibilities.

I am forwarding to you the following testimony which I would appreciate your entering into the record at the hearing:

Chairman DeKrey and Members of the House Judiciary Committee:

My name is Dennis Schulz, and I have been the elected Register of Deeds and Ex-Officio Clerk of District Court in Logan County, North Dakota since January 1, 1971.

Since being elected to this position, I have seen the title of this office changed numerous times with the most recent being in 1997. Section 11-10-02 now provides for only a Register of Deeds performing the functions of the Clerk of District Court in counties with a population of six thousand or less.

I really do not care what title is given to this position, my main concern is that someone [official and staff] is available in each county to perform the duties and provide the services.

The latest title change has raised concern as to whether a Register of Deeds may sign and certify court related documents. The State Court Administrator's Office has concluded that a Register of Deeds who performs the functions of a Clerk of District Court in the smaller counties may sign court documents, It is, nevertheless, quite confusing to the general public to have a Register of Deeds, who deals with land transactions, issue their marriage license, sign a Letters of Administration in a probate matter, or sign a Judgment in a civil or criminal court matter.

It is important for us to preserve what we have in allowing counties flexibility in providing services and making the court system as "user friendly" to the public as possible.

While there appears to be some confusion, even among county officials, as to the ramifications of HB1458, I feel that it does preserve what we have and at the same time restores the present formula of filing fee distribution after April 1, 1999 which is very crucial to the funding concerns of counties.

I would encourage your support of and a "do pass" recommendation to HB1458.

Thank You.

Dennis D. Schulz
Register of Deeds & Ex-officio Clerk of District Court
Logan County, North Dakota

COUNTY OF RICHLAND

STATE OF NORTH DAKOTA

418 Second Avenue North
Wahpeton, North Dakota 58075

January 29, 1999

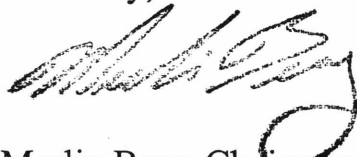
To All Members of the House Judiciary Committee:

We would like to add our support and urge you to pass House Bill 1458. This bill will return some of the funds to the counties that have been previously taken away. It is imperative that a portion of the monies collected remain local to allow for adequate services in **each** county.

We hope that you will consider the best interests of **all** North Dakota citizens in deciding the outcome of this important bill.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Merlin Berg', with a large, stylized flourish at the end.

Merlin Berg, Chairman
Richland County Commissioner

COUNTY OF RICHLAND

STATE OF NORTH DAKOTA

418 Second Avenue North
Wahpeton, North Dakota 58075

January 29, 1999

To All Members of the House Judiciary Committee:

We would like to add our support and urge you to pass House Bill 1458. This bill will return some of the funds to the counties that have been previously taken away. It is imperative that a portion of the monies collected remain local to allow for adequate services in **each** county.

We hope that you will consider the best interests of **all** North Dakota citizens in deciding the outcome of this important bill.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "David Paulson". The signature is written in a cursive style with a large, looping initial "D".

David Paulson
Richland County Commissioner



GRACE L. EHLERS
OFFICE MANAGER

MARY BETH REYNOLDS
PEGGY BLAUFUSS
LEGAL ASSISTANTS

January 29, 1999

Representative Duane DeKrey
Chairman, House Judiciary Committee
600 East Boulevard Ave.
State Capitol
Bismarck, ND 58505

PRESENTED BY FAX ONLY

Re: HB 1458 and 1275

Dear Representative DeKrey:

Today I read House Bill No. 1458. It prompted me to visit with other concerned individuals about House Bills 1458 and 1275. In this letter I will attempt to provide your committee with information that may help you structure a reasonable solution to the clerk of court dilemma.

As background for the committee members, I am an attorney from Wahpeton and I have practiced law in Richland County and throughout the states of Minnesota and North Dakota since 1977. I served with you on the Consensus Committee that helped draft HB 1275.

I have the following thoughts concerning HB 1275 and 1458:

1. I, like most others connected with the court system, believe the clerk of court system works just fine right now.
2. I think it would be fair to say that when the state took fines and fees a few years back the counties were left with the duty to pay for the clerk of court system without an accompanying revenue stream. That was an unfortunate and unfair result.
3. I believe Legislative members, and particularly the leadership, have felt that it is time to return some of the revenue back to the counties to help pay for the clerk system. That is what our Consensus Committee was told as justification for our efforts. For some unknown reason, a return of the revenue has somehow been conditioned upon a wholesale revision of the Clerk of Court system.
4. The Consensus Committee members all agreed that judicial administration should be a concern. No system should unduly burden the judiciary.

321 DAKOTA AVENUE
POST OFFICE BOX 38
WAHPETON, ND 58074-0038
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TELEPHONE: (701) 642-2658

TELECOMMER: (701) 642-4729

January 29, 1999

Page 2



5. The Consensus Committee agreed that some form of flexibility should be inherent in the clerk system to allow for local needs to be met without closing our eyes to the fact that certain counties will require less clerk services than were provided in the past.
6. The judiciary is not too interested in seeing trial centers which would increase the administration load on judges, particularly presiding judges. Trial attorneys are not too interested in seeing trial centers that would force lawyers, witnesses and court interested folks to travel great distances for hearings and trials. The better trial center concept is some form of mini-trial centers where several like minded counties band together to form a trial center that meets their needs. For instance, rather than have a trial center in Fargo that would serve 10 to 15 counties, those same 10 to 15 counties could have four or five trial centers, with each center serving two or three counties.

The reason trial centers even come up at all is because many of us in the legal community believe that a major overhaul of the clerk of court system is nothing more than a precursor to further court re-structuring which will inevitably lead to trial centers.

7. I am not too enthralled with the middle category in which Richland County (and other like sized counties) is placed under HB 1275. The counties in the middle category could feel like they are being pushed into something they don't want or that doesn't fit their needs. Judges don't want a whole bunch of different kinds of employees for the judiciary to administer (contract, county or state) and would prefer that categorization be minimized. It seems that the simplest solution (maintain the status quo while returning revenue to the counties) would be the best solution.

I support legislation that: 1) restores funding to the counties, 2) is simple, 3) does not require a major overhaul of a system that isn't broken, 4) does not require our judiciary to focus more time on administration and less time on helping the public resolve their disputes, 5) allows counties to control their own destiny, 6) does not eliminate judicial services because the state budget can't handle the expense, and 7) does not treat rural folks different from urban ones.

Even though I had a hand in drafting HB 1275 through the Consensus Committee process, it seems like HB 1458 comes far closer to effecting a simple solution that meets all the goals and objectives that we, on the Consensus Committee, had agreed were worthy and attainable. I would hope that your committee recognizes that we do not have a problem with how the clerk of court system operates and that we only have a problem with how the system is funded. Accordingly, I urge your committee to craft a rational and proportional solution.

January 29, 1999
Page 3



Please provide these thoughts to your committee members for their consideration with respect to both HB 1458 (particularly at the hearing on February 1) and HB 1275.

Thank you and good luck.

Sincerely yours,

SMITH & STREGE LTD.

A handwritten signature in black ink, appearing to read 'Fred Strega', written over the typed name.

Fred Strega
A Member of the Firm

FS:fs
F:\DATA\F&S\TR\DEKREY1.WPD

February 1, 1999

Good morning Chairman DeKrey and Committee Members;

My name is Karin Fischer; I am the Clerk of Court in LaMoure County. I have spent the past week doing some deep soul-searching over court unification; and particularly about this bill and HB1275. I have carefully considered my position- including my own motives, the best interests of my county, other clerks of court and other county officials; especially registers of deeds.

I had lengthy discussions with my own commissioners, legislators, the president of the register of deeds association and a member of the state court administrators office, attempting to understand the view of each. I have read and reread and reread again both bill drafts and am giving you my very considered opinion today. I believe each of you will give serious consideration to the following points and I trust you will use your very best judgment when making your decisions.

This bill is before your committee today so that the committee would have another choice. Counties have been voicing their wish to retain county clerks of court or clerk/register of deeds, and that changes should be made "from the bottom up, not the top down." Counties currently have considerable flexibility under existing law. They have options under 11-10.2, 11-10.3 and 11-17-11 for combining offices within the county, between counties and turning clerks of court offices entirely over to the state. They could also forge joint powers agreements, if my reading of the code is accurate, that could resemble the contract provisions proposed in HB1275.

HB1275 doesn't allow ALL counties to make choices. At the very least, the state should only be able to assume, without a contract option, the very largest four to six counties. Even this violates the fairness of every county having the same choices.

A contract for judicial services in every county would be the least costly for the state to implement because contract salaries are based on current county salaries, and the state-assumed employees would receive higher state pay levels. Further, Governor Schafer has stated that he has no desire to add more employees to the state payroll.

This bill would represent a smaller return in dollars to the counties, but reflects the amount of the filing fee that counties retained before the judge consolidation under court unification and state assumption of court fees. This should be a perfect example of the state judiciary's recent history on providing judicial services. Before judge consolidation, civil filing fees were \$30; they are now \$80. Filing an answer is now \$50, where there was previously no fee, as is the case in filing a motion, which now has

a \$30 filing fee. In exchange for these added fees, our judges' presence has been drastically reduced. Citizen cost skyrocketed,

judicial service was reduced, but technically we have retained judicial presence in every county. To an extent this has been possible because clerks of court were given additional responsibilities, formerly performed by judges. Both counties and the state, have made adjustments to implement the changes with the least impact on citizens, thanks in the most part to counties and clerks or clerk/ register of deeds.

Clerks are a continuous court presence in each county, and fit well into the existing structure of county government, while facilitating court services for the state to all North Dakota residents. This bill ensures that a clerk of court, or clerk/ register of deeds, would be present in each county, not just clerk services. If clerk service experiences were to equate to judge services, county residents would be terribly shortchanged. HB1275

does not ensure a clerk of court in every county; and the only tangible evidence that we have to determine what the intent of the judiciary might be is our experience of the results of the judge consolidation under court unification. Future appropriations will determine the level of funding to contract counties, and probably the level of staffing or services in the assumed counties. The language in HB1275 uses "may" rather than "shall" and leaves plenty of room for doubt for the future of these offices.

This bill gives counties less money in return for judicial services, but it keeps county government intact, and allows counties to determine their own destinies. Counties are in the best position to determine their own needs and to make changes tailored to meet their individual situations. County government is essential in North Dakota because we are a large state and have a diverse population. Citizen needs are very different in Cass and Dunn Counties and counties are the most flexible in meeting those needs. The state should not be so arrogant as to assume that it alone holds the best interests of its citizens. Because we have such a low population it is even more important that we hold each other up. If we don't hold each other up, we will only pull one another down. Keep in mind that each of us, and each of you, is a citizen of our county as well as our state.

As a final note, administrative fees and a percentage of court costs were also retained by counties before judge consolidation. It would be another small fee that could easily be returned to counties and would increase the benefits realized by them under a simple amendment to this bill.

Please vote on this and other unification issues after thoroughly looking at all aspects. There is an incredible amount of information available and it would be tragic to look back and find that because of tremendous political pressure a huge mistake was made at this time.

Helped with concessions

Aberdeen Club thanks Fair con-

It goes out consis- services prepare is for the detail is as you.

to count ny dedi- fllessly busy sum- h of the

ake on

this annual fund-raising event without these people who are our heart and backbone.

Thanks also to the vendors for their support and cooperation throughout the fair. Special thanks to Jerry Rau, Lang's TV and Appliance, Hansen Video Services, Midco Cable TV and Aberdeen TV Audio and Appliance.

On behalf of the Aberdeen Area Boys and Girls Club, we are deeply grateful for the dedication and generosity of every person involved with this event.

Shelly Fredrickson
Boys and Girls Club
Aberdeen

Club coverage applauded

Half of the ard of thanks an News ne news ting our

of ath- sport. e and te ac- paper.

th in our ears, the

community exposure is important for public awareness about competitive swimming, its benefits and what the sport of swimming can offer Aberdeen and surrounding area youth.

Once again, thank you for the swim club coverage, and we look forward to working with you on an ongoing basis.

Elyce Kastigar
Aberdeen Swim Club head coach
Aberdeen

Business cards help youths

f of the rs. I nesses ide this cards 0 of reula- e fol- d more them- ng Cen- usic erd Lu- ich 4- High

s to the re on special

C-Express, D&d Paint & Frame, D'Luxe Car Wash, Enterprise Rent-A-Car, Hitch 'N Post, Kentucky Fried Chicken, Ken's SuperFair Foods, Kessler's, Klein's, Kusler's Amoco, McDonald's, Mercury Cleaners, Millstone Family Restaurant, Quality Quick Print, RG's Restaurant, Shenanigans, Strudle 'C' Store, Subway, SuperAmerica, 32nd & Bagel, Ward Hotel, Wendy's and Wimpy's.

Our club looks forward to sponsoring this project again and giving these youth organizations an excellent opportunity to raise funds to help their worthy activities. Again, thanks to all those

Public Voice

Take responsibility for animals

To the editor — Do unto others . . .

What does this mean? It means taking care of your dog or cat instead of dumping it off at someone else's home, thinking that we, just because we live in the country, will take pity, take the animal in and give it a good home.

No! We cannot take in every

dog or cat that you feel you have no time for or that you can't take some responsibility to find a home for it.

Just remember, we all must answer for what we do, not only to humans, but to God's creatures.

Teresa and Tammy Knoll
Warner

Clerk of courts office changes

To the editor — I am concerned by the situation that has recently arisen in Campbell County and other counties in South Dakota. Few people realize that, at the present, counties have no say in the matter of whether or not the county clerk of courts office will stay open, be consolidated or have its hours reduced. Decisions concerning such matters are made by the Unified Judicial System (UJS). In Campbell County, the hours have been reduced from five half days to three half days per week, and in other small counties similar reductions have been made.

I understand that the UJS has begun the process of closing the doors or consolidation of offices in some counties.

I believe that it is wrong that the office can be closed without any input from county residents or county commissioners. Let The UJS's state

court administrator Michael L. Buenger know your concerns. Write him at 500 E. Capitol, Pierre, S.D. 57501-5070; or call him at (605) 773-3474.

I also encourage you to contact your friends and legislators, and ask them also to let the UJS know how you feel about the closure and reduction of hours in county clerk of courts offices without any county input. Although this may not have happened in all small counties yet, you can be certain that if a county has a low population and is rural in nature, closure or substantial reduction in office hours may occur soon, and without notice.

The UJS needs to know that rural residents won't take this lying down. Stand up for your rights!

Mark K. Kroontje
Campbell County State's Attorney
Herreid

It's time for fat cats to pay

To the editor — The Aberdeen School District would like a new high school. The Aberdeen Chamber of Commerce, the Aberdeen City Commission and Mayor Tim Rich have all endorsed building a new school.

Now, let's go back to Gov. Bill Janklow's comments when he spoke at the Aberdeen Chamber of Commerce prelegislative luncheon on Dec. 17. He made it quite explicit that

and Rich have supported Janklow's philosophy of not taxing the fat cats.

The wealthy of this state must participate more fully in the funding of education or education will suffer - and school bond issues may fail.

If those mentioned above are truly sincere in the funding of education and the building of a new school, then they should live up to an old say-

From: Steven J Lies@steven on 02/01/99 08:40 AM
To: Kim A. Koppelman/NDLC/NoDak@NoDak
cc:
Subject: HB 1452--sorry about earlier transmission!

Lies & Bullis
Attorneys at Law
Wahpeton Office: Breckenridge Office:

610 Second Avenue North P.O. Box 151
P.O. Box 275 Steven J. Lies Breckenridge, MN 56520
Wahpeton, ND 58074-0275 John D. Bullis, P.C.*
Telephone: (701) 642-8055 * Denotes a professional corporation
Fax: (701) 642-1449

F 1, 1999

Honorable Duane DeKrey, Chairman
and Members of the House Judiciary Committee
State Capitol
600 East Boulevard Avenue
Bismarck, ND 58505-0530

RE: House Bill 1452

Unfortunately I did not find out until Friday noon that the hearing on this bill was scheduled for Monday morning, February 1, 1999. I have not been able to rearrange my schedule to appear personally and thus am submitting this written comment on House Bill 1458.

House Bill 1458 is a legislative marvel because of its simplicity in dealing with issues that House Bill 1275 makes into a complex structure of mazes of uncertainty.

House Bill 1458 allows counties to continue to operate what has been unanimously agreed to be a well working system. It allows the system to continue without any added costs or added bureaucracy. House Bill 1458 rightfully provides for some of the monies taken by the State to go back to the counties. It is truly win-win legislation. The court system is a winner, the counties are winners and most importantly, the people residing in the state are winners.

I strongly urge you to recommend do pass on this bill which will cost the State far less money and provide the people with far better services than any of the other proposed legislation dealing with these issues.

Thank you for your consideration.

Sincerely,

Steven J. Lies

SJL/amw

Good Morning Mr. Chairman, and committee members,

My name is Linda Rohrbach and I am Register of Deeds/Clerk of Court for McIntosh County. I am testifying for the passage of HB1458 and I am giving this testimony not only on behalf of Clerks of Court but also on the behalf of all elected officials. All counties need to keep services to the voting public "within" our counties and HB1458 will assure Clerk of Court services.

We can not give in to pressures from our urban counterparts to hand over these responsibilities to the State - State assumption means state control. Why then do we say " By the people and 'most important' for the people! State assumption will rape all counties of the right to govern and provide services for themselves - "by the people"! It robs the voting citizens of their right to vote for the person who will perform these services for them. We may as well have some state entity determine who our legislators and senators will be.

HB1458 reestablishes the office of Clerk of Court, retains a small token fee for the counties and leaves the governing with our elected officials and County commissions. Keep our governing ladders in tact - removing any part of it may have an escalating effect.

Vote for a **"DO PASS"**

Thank - You

**TESTIMONY TO THE
HOUSE JUDICIARY COMMITTEE
Prepared February 1, 1999, by the
North Dakota Association of Counties
Mark A. Johnson, NDA Co Executive Director**

CONCERNING HOUSE BILL NO. 1458

Chairman DeKrey and members of the House Judiciary Committee, I am here to represent our Association regarding House Bill 1458. First of all I must state that county government is very thankful to the bill sponsors for their interest and desire to restore revenue that was lost to counties during the last session. The position of our Association however has been to support HB1275 regarding funding for the office of clerk of court, and to the extent that HB1458 is an alternative to that proposal, we must oppose it today.

When we entered into the last interim, our Association was committed to working with the Legislature and the Judiciary to find a solution that restored revenue to counties or reduced county costs, but one that preserved county decision-making with regard to the future of court services in each county. HB1275 was the compromise that achieves both of those goals, and to abandon that solution for an alternative at this time would be inconsistent with our commitment.

The other reason for this decision is much more pragmatic, and is illustrated by the attached table estimating the revenue and/or cost savings that each of the two bills will generate. Based on the fiscal notes, the 1997 civil filings, and the court's estimated staffing levels that they would fund under HB1275; we have tried to apportion by county the funding that these two bills represent.

Assuming that under HB1275 every county would either transfer staff to state employment or enter into a contract with the state for a portion of county employees time, the court estimates that \$2.3 million will be used for staff costs during the final six months of the biennium. Even without the equipment, indirect, and supervisory costs that we did not allocate by county, this is three times what HB1458 would generate in fee revenue for the whole biennium. Since the fee revenue is not projected to change significantly, the difference for the entire 2001-2003 biennium is twelve times.

As counties can still maintain court services indefinitely under HB1275 and in light of the difference in the ultimate effect on property taxes; we feel that we must urge the committee to find HB1458 a mere statement on past actions of a prior Legislative Assembly and not a basis for moving forward into the next biennium. A true leadership position for the future of the State Court, the Clerks, the State's Attorneys, law enforcement, and the counties' fiscal strength is embodied in HB1275. We therefore urge a "do not pass" recommendation on HB1458.

Estimated Revenue or County Cost Reductions
Due to Pending Clerk of Court Legislation
Based on Fiscal Notes, Caseloads, Proposed Staffing, & Supporting Data

COUNTY	House Bill No. 1275		House Bill No. 1458		COUNTY
	99-01 Biennium	01-03 Biennium	99-01 Biennium	01-03 Biennium	
Adams	11,265	45,062	3,840	3,840	Adams
Barnes	52,572	210,289	21,920	21,920	Barnes
Benson	16,898	67,593	4,571	4,571	Benson
Billings	3,755	15,021	731	731	Billings
Bottineau	24,409	97,634	7,977	7,977	Bottineau
Bowman	11,265	45,062	3,520	3,520	Bowman
Burke	5,633	22,531	2,057	2,057	Burke
Burleigh	249,718	998,871	84,343	84,343	Burleigh
Cass	420,577	1,682,310	139,451	139,451	Cass
Cavalier	15,021	60,082	5,440	5,440	Cavalier
Dickey	15,021	60,082	4,891	4,891	Dickey
Divide	5,633	22,531	2,903	2,903	Divide
Dunn	11,265	45,062	3,131	3,131	Dunn
Eddy	7,510	30,041	2,171	2,171	Eddy
Emmons	11,265	45,062	4,046	4,046	Emmons
Foster	11,265	45,062	2,766	2,766	Foster
Golden Valley	7,510	30,041	1,737	1,737	Golden Valley
Grand Forks	292,902	1,171,609	74,629	74,629	Grand Forks
Grant	5,633	22,531	1,829	1,829	Grant
Griggs	3,755	15,021	731	731	Griggs
Hettinger	5,633	22,531	1,691	1,691	Hettinger
Kidder	7,510	30,041	3,291	3,291	Kidder
LaMoure	7,510	30,041	2,949	2,949	LaMoure
Logan	3,755	15,021	1,669	1,669	Logan
McHenry	13,143	52,572	2,286	2,286	McHenry
McIntosh	5,633	22,531	2,194	2,194	McIntosh
McKenzie	18,776	75,103	5,577	5,577	McKenzie
McLean	26,286	105,144	6,971	6,971	McLean
Mercer	20,653	82,613	5,783	5,783	Mercer
Morton	84,491	337,964	26,217	26,217	Morton
Mountrail	16,898	67,593	5,303	5,303	Mountrail
Nelson	7,510	30,041	1,257	1,257	Nelson
Oliver	3,755	15,021	1,029	1,029	Oliver
Pembina	30,041	120,165	8,937	8,937	Pembina
Pierce	22,531	90,124	4,983	4,983	Pierce
Ramsey	78,858	315,433	14,606	14,606	Ramsey
Ransom	16,898	67,593	5,417	5,417	Ransom
Renville	5,633	22,531	2,103	2,103	Renville
Richland	58,205	232,820	20,640	20,640	Richland
Rolette	31,919	127,675	11,451	11,451	Rolette
Sargent	15,021	60,082	3,611	3,611	Sargent
Sheridan	1,878	7,510	1,463	1,463	Sheridan
Sioux	1,878	7,510	823	823	Sioux
Slope	1,878	7,510	617	617	Slope
Stark	122,043	488,170	23,246	23,246	Stark
Steele	7,510	30,041	1,600	1,600	Steele
Stutsman	107,022	428,088	32,160	32,160	Stutsman
Towner	11,265	45,062	4,571	4,571	Towner
Traill	22,531	90,124	5,211	5,211	Traill
Walsh	65,715	262,861	16,594	16,594	Walsh
Ward	223,432	893,727	76,686	76,686	Ward
Wells	9,388	37,552	3,749	3,749	Wells
Williams	78,858	315,433	21,029	21,029	Williams
County Direct(Salaries/Contacts)	2,316,931	9,267,724	744,000	744,000	County Fee Revenue
Other Equip/Indirect/Supervisory	710,069	3,565,276			
Fiscal Note Total	3,027,000	12,833,000	744,000	744,000	Fiscal Note Total

North Dakota



Register of Deeds Association

Dwayne J. Oster
McLean County
President

Vicki Kubat
Cavalier County
1st Vice President

Karen Samek
Stutsman County
2nd Vice President

Ann Johnsrud
McKenzie County
Secretary-Treasurer

TO: Chairman DeKrey and Members of the House Judiciary Committee

FR: Dwayne "Dewey" Oster, McLean County ROD and Current ROD Assn President

RE: HB 1458 - Relating to the Office of Clerk of District Court

I'm present this morning to present neutral testimony in regards to HB 1458. I really can't say I'm here to testify on behalf of the ND ROD Assn because this bill has driven a wedge into our group. Its like going back to the 1860s and the Civil War....friend against friend.

This bill has placed the register of deeds of the state in a quandary....while we want to support our fellow ROD-Clerks in their attempt to restore their function and their name...along with placing some fees back to their respective counties, we don't feel we want to see our office being placed in an option situation in which we could be absorbed into the state's district court system. The county real estate records belong to the respective counties and we would like for them to remain that way.

The register of deeds office is probably the oldest county office. It predates all the others. Like Rodney Dangerfield....we are just simply looking for a little respect. It is sad enough that the county clerks have had to undergo turmoil these past two years in the court consolidation process, but why drag into the fray the register of deeds' office?

Its almost like the "Powers That Be" out there want to change forever the face of county government as we know it....and in my opinion...it doesn't really matter which bill...either 1458 or its sister, HB 1275, pass the 56th Assembly, both never needed to be introduced.... things were operating just fine without the meddling. Maybe Gov. Schafer will veto both.

It has been said so many times...it is tiresome...but the system was working just fine without the plans these bills are designed to implement. I just wish if the ultimate goal is to destroy small town county government, then those "Powers That Be" do it quickly...toss us into that school of piranhas...get it over with...don't stake us to an ant hill or have us wandering in a desert with no water. This slow cancer stuff is a terrible way to go!!! Maybe its just that us county government loyalists just don't see the future in the proper light.

I wish I could answer any questions you might have committee...but I don't think I can help you much. Thanks for listening.