

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1207

2001 HOUSE POLITICAL SUBDIVISIONS

HB 1207

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1207

House Political Subdivisions Committee

Conference Committee

Hearing Date 1-26-01

| Tape Number                                | Side A | Side B | Meter #  |
|--|--------|--------|----------|
| 1  | xx     |        | 4900-end |
| 1  |        | xx     | 240-590  |
| Committee Clerk Signature <i>Pam Greve</i> |        |        |          |

Minutes: Chair Froseth called the hearing to order with all members present except Rep. Ekstrom and Rep. Fairfield.

Rep. DeKrey : I bring HB1207 before you on behalf of the ND Supreme Court. This bill is to clarify certain issues for the State Treasurer.

Jim Ganje, Staff Attorney-Supreme Court (500) : testified in support of HB1207. This bill allows a district clerk of court set up a separate fund at a local bank to funnel money that is paid out to private parties for restitution, etc. The State Treasurer's Office raised questions whether these moneys had to first be deposited in the state treasury. This bill clarifies. **(SEE ATTACHED)**

Rep. Delmore : (5905) How many clerks will be effected by this bill?

Jim Ganje : There are 11 clerks of district court and their staff will become state employees.

Chair Froseth : Any more testimony for or against? Hearing none, hearing closed.

**Tape 1, side B (240-590)** Chair Froseth : Let's look at HB1207.

Page 2  
House Political Subdivisions Committee  
Bill/Resolution Number HB1207  
Hearing Date 1-26-01

Rep. Delmore : I move a **DO PASS**.

Rep. Niemeier : I second.

Rep. Herbel : In essence, the bill will establish a separate fund for the fees that are collected by the district clerks to put into, that are dispersed to private parties.

Rep. Delmore : (155) There will be 11 counties clerk of court that will be state employees. This sets it up so that they can put the clerk of court money, that isn't state money, into an account.

**VOTE: 13 YES and 0 NO with 2 absent. BILL PASSED. Rep. Delmore will carry.**

**FISCAL NOTE**  
 Requested by Legislative Council  
 01/11/2001

Bill/Resolution No.: HB 1207

Amendment to:

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

|                | 1999-2001 Biennium |             | 2001-2003 Biennium |             | 2003-2005 Biennium |             |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
|                | General Fund       | Other Funds | General Fund       | Other Funds | General Fund       | Other Funds |
| Revenues       |                    |             |                    |             |                    |             |
| Expenditures   |                    |             |                    |             |                    |             |
| Appropriations |                    |             |                    |             |                    |             |

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

| 1999-2001 Biennium |        |                  | 2001-2003 Biennium |        |                  | 2003-2005 Biennium |        |                  |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties           | Cities | School Districts | Counties           | Cities | School Districts | Counties           | Cities | School Districts |
|                    |        |                  |                    |        |                  |                    |        |                  |

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill provides changes which allow the clerk of court to efficiently disburse funds received to the appropriate governmental entity or individual party according to court orders. There is no fiscal impact from changes proposed in this bill.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

|               |                  |                |               |
|---------------|------------------|----------------|---------------|
| Name:         | Kelthe E. Nelson | Agency:        | Supreme Court |
| Phone Number: | 328-4216         | Date Prepared: | 01/11/2001    |

Date: 1-26-01  
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1207

House POLITICAL SUBDIVISIONS Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

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

Action Taken DO PASS

Motion Made By Rep. Delmore Seconded By Rep. Niemeier

| Representatives             | Yes | No | Representatives      | Yes | No |
|-----------------------------|-----|----|----------------------|-----|----|
| Chairman Glen Froseth       | /   |    | Rep. Wayne W. Tieman | /   |    |
| Vice-Chair Dale C. Severson | /   |    |                      |     |    |
| Rep. Lois Delmore           | /   |    |                      |     |    |
| Rep. Rachael Disrud         | /   |    |                      |     |    |
| Rep. Bruce Eckre            | /   |    |                      |     |    |
| Rep. Mary Ekstrom           |     |    |                      |     |    |
| Rep. April Fairfield        |     |    |                      |     |    |
| Rep. Michael Grosz          | /   |    |                      |     |    |
| Rep. Jane Gunter            | /   |    |                      |     |    |
| Rep. Gil Herbel             | /   |    |                      |     |    |
| Rep. Nancy Johnson          | /   |    |                      |     |    |
| Rep. William E. Kretschmar  | /   |    |                      |     |    |
| Rep. Carol A. Niemeier      | /   |    |                      |     |    |
| Rep. Andrew G. Maragos      | /   |    |                      |     |    |

Total (Yes) 13 No 0

Absent 2

Floor Assignment Rep. Delmore

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

**REPORT OF STANDING COMMITTEE (410)**  
January 26, 2001 10:43 a.m.

**Module No: HR-13-1690**  
**Carrier: Delmore**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1207: Political Subdivisions Committee (Rep. Froseth, Chairman) recommends DO PASS (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1207 was placed on the Eleventh order on the calendar.**

2001 SENATE POLITICAL SUBDIVISIONS

HB 1207



2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1207

Senate Political Subdivisions Committee

Conference Committee

Hearing Date February 16, 2001

| Tape Number                                     | Side A | Side B | Meter #   |
|---|--------|--------|-----------|
| 1   |        | x      | 32.1-40.0 |
|   |        |        |           |
|   |        |        |           |
| Committee Clerk Signature <i>Mary Jo Wobler</i> |        |        |           |

Minutes:

The hearing was opened on HB1207; relating to receipt of fees and other moneys by clerks of district court and the creation of a special fund.

JIM GANJE: Staff attorney for the Supreme Court, officer of the Supreme Court administrator.

Representative DeKrey was gracious enough to introduce this bill on our behalf to correct a possible problem with the statutes concerning clerks of district court. In the manner of which clerks handle money, that they will be receiving as state employees beginning April 1st, 2001.

See written testimony.

Hearing Closed HB1207

Senator Lyson moved for a Do Pass on HB1207

Senator Mathern 2nd.

Roll Call Vote: 8 Yeas, 0 No 0 Abs.

Carrier: Senator Watne

Date: Feb. 16, 2001  
Roll Call Vote #: /

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. H. B. 1207

Senate Political Subdivisions Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

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

Action Taken No Pass

Motion Made By Sen. Lyson Seconded By Sen. Mathern

| Senators        | Yes | No | Senators            | Yes | No |
|-----------------|-----|----|---------------------|-----|----|
| Senator Cook    | ✓   |    | Senator Christenson | ✓   |    |
| Senator Lyson   | ✓   |    | Senator Mathern     | ✓   |    |
| Senator Flakoll | ✓   |    | Senator Polovitz    | ✓   |    |
| Senator Lee     | ✓   |    |                     |     |    |
| Senator Watne   | ✓   |    |                     |     |    |
|                 |     |    |                     |     |    |
|                 |     |    |                     |     |    |
|                 |     |    |                     |     |    |
|                 |     |    |                     |     |    |
|                 |     |    |                     |     |    |
|                 |     |    |                     |     |    |
|                 |     |    |                     |     |    |
|                 |     |    |                     |     |    |
|                 |     |    |                     |     |    |
|                 |     |    |                     |     |    |
|                 |     |    |                     |     |    |
|                 |     |    |                     |     |    |
|                 |     |    |                     |     |    |
|                 |     |    |                     |     |    |
|                 |     |    |                     |     |    |
|                 |     |    |                     |     |    |

Total (Yes) 8 No 0

Absent 0

Floor Assignment Sen. Watne

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

**REPORT OF STANDING COMMITTEE (410)**  
February 21, 2001 4:11 p.m.

**Module No: SR-32-4276**  
**Carrier: Watne**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1207: Political Subdivisions Committee (Sen. Cook, Chairman) recommends DO  
PASS (8 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1207 was placed on the  
Fourteenth order on the calendar.**

2001 TESTIMONY

HB 1207

Jim Ganje - brought  
1-26-03

**SUMMARY OF HOUSE BILL NO. 1207**

House Bill 1207 amends NDCC Section 27-05.2-04, which was enacted in 1999 as part of House Bill 1275 - legislation that provides for state funding of clerk of district court services. Section 27-05.2-04 describes the responsibilities of clerks, both county- and state - employed, with respect to handling and reporting revenues received by clerks.

The amendments set out in House Bill 1207 specifically address monies received by state-employed clerks which are not required by statute or constitutional provision to be deposited in the state general fund or a designated special fund. These typically are monies received as restitution, bail, or other monies received as ordered by the court and which are intended for payment at some point to a private party. For example, restitution is paid to the victim of a criminal offense, or bail, if exonerated, is returned to the person posting the bail amount. When Section 27-05.2-04 was originally drafted as part of 1999 House Bill 1275 it was considered that, because these types of monies are not received for a public purpose and are intended for payment to a private party, it was unnecessary to provide for deposit of those monies in the state general fund or a special fund. Additionally, it was thought that allowing the clerk to establish a separate banking account for purposes of receiving and paying out these monies was the best way of ensuring the efficient and expeditious payment of these monies to the recipients. However, recent discussions with representatives of the State Treasurer's office raised questions regarding whether a state-employed clerk could receive these monies and pay them out to a private party, without those monies first having been deposited in the state treasury. House Bill 1207 addresses these questions.

*Section 1* of House Bill 1207 amends Section 27-05.2-04 as it exists now and as it will exist on January 1, 2003. The amendments in both versions of the statute are identical. (Note: The two versions of the statute reflect the transition of the clerk of district court, effective 1/1/2003, from an elected official to an appointed or designated official.) The amendments provide the following:

- A special court receivables fund would be established in the state treasury for purposes of depositing monies received by a state-employed clerk which are not required to be deposited in the state general fund or a different special fund.
- Monies deposited in the receivables fund would be appropriated on a continuing basis to the judicial branch for purposes of refunding bail, forwarding restitution, or otherwise making payments to private recipients as ordered by a court.
- To facilitate making payments from the special fund, the clerk of district court would be authorized to establish a banking account in a local, approved banking institution.

The effect of the House Bill 1207 would be to address any concerns about the handling of monies received by a public employee by establishing a special fund and providing for deposits in the special fund. The bill ensures timely and expeditious payment of those monies to the entitled recipients by appropriating the monies on a continuing basis to the judiciary and allowing the clerk of district court to establish a banking account from which to make those payments. It is anticipated that the State Treasurer will enter into memorandums of understanding with local, designated banking institutions which will appoint those institutions as agents of the State Treasurer for purposes of receiving and maintaining special fund deposits. This authority is conferred on the State Treasurer under NDCC Section 54-11-15.

*Section 2* of the bill provides an emergency clause to ensure the statute is modified and in place by April 1, which is the date on which clerks and clerk staff in 11 counties will become state employees.

Submitted by: Jim Ganje, Staff Attorney, Office of State Court Administrator

## SUMMARY OF HOUSE BILL NO. 1207

House Bill 1207 amends NDCC Section 27-05.2-04, which was enacted in 1999 as part of House Bill 1275 - legislation that provides for state funding of clerk of district court services. Section 27-05.2-04 describes the responsibilities of clerks, both county- and state - employed, with respect to handling and reporting revenues received by clerks.

The amendments set out in House Bill 1207 specifically address monies received by state-employed clerks which are not required by statute or constitutional provision to be deposited in the state general fund or a designated special fund. These typically are monies received as restitution, bail, or other monies received as ordered by the court and which are intended for payment at some point to a private party. For example, restitution is paid to the victim of a criminal offense, or bail, if exonerated, is returned to the person posting the bail amount (If bail is forfeited, it is deposited in the state general fund). When Section 27-05.2-04 was originally drafted as part of 1999 House Bill 1275 it was considered that, because these types of monies are not received for a public purpose and are intended for payment to a private party, it was unnecessary to provide for deposit of those monies in the state general fund or a special fund. Additionally, it was thought that allowing the clerk to establish a separate banking account for purposes of receiving and paying out these monies was the best way of ensuring the efficient and expeditious payment of these monies to the recipients. However, recent discussions with representatives of the State Treasurer's office raised questions regarding whether a state-employed clerk could receive these monies and pay them out to a private party, without those monies first having been deposited in the state treasury. House Bill 1207 addresses these questions.

*Section 1* of House Bill 1207 amends Section 27-05.2-04 as it exists now and as it will exist on January 1, 2003. The amendments in both versions of the statute are identical. (Note: The two versions of the statute reflect the transition of the clerk of district court, effective 1/1/2003, from an elected official to an appointed or designated official.) The amendments provide the following:

- .. A special court receivables fund would be established in the state treasury for purposes of depositing monies received by a state-employed clerk which are not required to be deposited in the state general fund or a different special fund.
- Monies deposited in the receivables fund would be appropriated on a continuing basis to the judicial branch for purposes of refunding bail, forwarding restitution, or otherwise making payments to private recipients as ordered by a court.
- To facilitate making payments from the special fund, the clerk of district court would be authorized to establish a banking account in a local, approved banking institution.

The effect of the House Bill 1207 would be to address any concerns about the handling of monies received by a public employee by establishing a special fund and providing for deposits in the special fund. The bill ensures timely and expeditious payment of those monies to the entitled recipients by appropriating the monies on a continuing basis to the judiciary and allowing the clerk of district court to establish a banking account from which to make those payments. Monies received and paid out by a state-employed clerk would be subject to standard state auditing requirements and procedures. It is anticipated that the State Treasurer will enter into a memorandum of understanding with a designated banking institution which will appoint that institution as an agent of the State Treasurer for purposes of receiving and maintaining special fund deposits. This authority is conferred on the State Treasurer under NDCC Section 54-11-15.

*Section 2* of the bill provides an emergency clause to ensure the statute is modified and in place by April 1, which is the date on which clerks and clerk staff in 11 counties will become state employees.

Submitted by: Jim Ganje, Staff Attorney, Office of State Court Administrator