

# MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

1193

2001 HOUSE JUDICIARY  
HB 1193


2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1193

House Judiciary Committee

☐ Conference Committee

Hearing Date 01-17-01

Tape Number	Side A	Side B	Meter #
Tape II	x		5050 to 6250
		x	01 to 764
Committee Clerk Signature 			

Minutes: Chr DeKrey opened the hearing on HB 1193. Relating to the assessment of legal fees following a judgment.

Rep Klemin: sponsor of the bill introduced the bill. District 47 of Bismarek. This bill amends section 28-26-06 of the North Dakota Century Code. Line 7 the clerk of the district court shall tax as a part of the judgment in favor of the prevailing party the following necessary disbursements. Line 9 and 10 the terms sheriffs, clerks of district court, the clerk of the supreme court and process servers Fees to these can be included in the judgment but is not set out in state law. The purpose is to set out in state law of those that are included in the judgment.

Rep Delmore: In line 18 it refers to reasonable fees as determined by the court plus actual expenses.

Rep Klemin: This bill has nothing to do with those fees.

Rep Delmore: An the actual expense would be mileage, motel etc.?

Rep Klemin: That could be, correct.

TAPE II SIDE B

Rep Delmore: These items are normally included

Rep Klemin: Normally there is no question about them, but they are not set out by statute.

Rep Onstad: If a sheriff testifies, is he on the payroll of the county at that time. Would he be double reimbursed?

Rep Klemin: This does not cover that type of thing.

Rep Kingsbury: You are saying, these were dealt separately and now they are putting them all together, but there isn't a statute out.

Rep Klemin: No, if you are involved in a lawsuit, you are entitled to recover of your expenses, if you win. Line 9 and 10 would be added to the amount awarded.

Rep Mahoney: Why you have the clerk of the supreme court.

Rep Klemin: Originally I had the clerk of court in there and I went to the Legislative Council and they told me I had to break it down.

Rep Mahoney: On appeals, when you finish your appeal at the Supreme Court, they decide the amount.

Rep Klemin: The Supreme Court does decide, but it goes back to District Court to be included in the judgment.

Rep Mahoney: It appears it doesn't give any discretion, it says the District Court shall tax.

Rep Klemin: There is another statute on the Supreme Court that sets fees. The Supreme Court makes the decision as to what fees are included.

Rep Mahoney: IF it hasn't been authorized by the Supreme Court, it is still going to have to be assessed.

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House Judiciary Committee  
Bill/Resolution Number HB 1193  
Hearing Date 01-17-01

Rep Klemin: I don't see any change to existing procedure.

Rep Mahoney: Not according to your bill.

Rep Klemin: The word shall is in existing law.

Rep Mahoney: I would agree but it says it shall assess.

Rep Klemin: I can't see charging fee.

Rep Mahoney: The other provisions directs what the Supreme Court can do this directs what the District Court can do.

Chr DeKrey: Is there anyone else here to testify on HB 1193? I will appoint a sub committee of Rep Kretschmar, Rep Klemin, Rep Mahoney to figure this one out. I will close the hearing on HB 1193.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1193a

House Judiciary Committee

☐ Conference Committee

Hearing Date 02-06-01

Tape Number	Side A	Side B	Meter #
TAPE 1		x	1788 to 2353
Committee Clerk Signature <i>Jan DeKrey</i>			

Minutes: Chairman DeKrey called the committee to order on HB 1193.

COMMITTEE ACTION

Rep Mahoney explained the amendments. Rep Mahoney moved the amendments, seconded by Rep Grande. Voice vote on the amendments, amendments pass.

Chairman DeKrey what are the wishes of the committee? Vice Chr Kretschmar moved a DO PASS as amens, seconded by Rep Kingsbury.

DISCUSSION

The clerk will call the roll on a DO PASS as amend. The motion passes 10 YES, 5 NO, 0

Absent. Carrier Rep Maragos.

VR  
2/6/01

HOUSE AMENDMENTS TO HB 1193 HOUSE JUDICIARY 02-07-01

Page 1, line 9, replace the first underscored comma with an underscored semicolon, replace the second underscored comma with an underscored semicolon, and replace the third underscored comma with an underscored semicolon

Page 1, line 10, replace "and" with "if ordered by the supreme court;" and replace the second underscored comma with an underscored semicolon

Renumber accordingly

Date: 02-06-01  
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1193

House JUDICIARY

Committee

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

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

Action Taken Do Pass as amended

Motion Made By Rep Chr Kretschmar Seconded By Rep Kingsbury

Representatives	Yes	No	Representatives	Yes	No
CHR - Duane DeKrey	✓				
VICE CHR -- Wm E Kretschmar	✓				
Rep Curtis E Brekke	✓				
Rep Lois Delmore		✓			
Rep Rachael Disrud	✓				
Rep Bruce Eckre		✓			
Rep April Fairfield		✓			
Rep Bette Grande	✓				
Rep G. Jane Gunter	✓				
Rep Joyce Kingsbury	✓				
Rep Lawrence R. Klemin	✓				
Rep John Mahoney		✓			
Rep Andrew G Maragos	✓				
Rep Kenton Onstad		✓			
Rep Dwight Wrangham	✓				

Total (Yes) 10 No 5

Absent 0

Floor Assignment Rep Maragos

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



**REPORT OF STANDING COMMITTEE**

**HB 1193: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1193 was placed on the Sixth order on the calendar.

Page 1, line 9, replace the first underscored comma with an underscored semicolon, replace the second underscored comma with an underscored semicolon, and replace the third underscored comma with an underscored semicolon

Page 1, line 10, replace "and" with "If ordered by the supreme court;" and replace the second underscored comma with an underscored semicolon

Renumber accordingly

2001 SENATE JUDICIARY

HB 1193

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1193

Senate Judiciary Committee

☐ Conference Committee

Hearing Date March 12th, 2001

Tape Number	Side A	Side B	Meter #
1	x		26-38
Committee Clerk Signature			

Minutes: **Senator Traynor**, opened the hearing on HB 1193.

**Rep. Klemin**, appeared in favor of HB 1193. Bill provides for specific authority in the statute for the type being approved by the court. (testimony attached)

**Senator Traynor**, what is included in the costs?

**Rep. Klemin**, this bill talks about disbursements and there are other sections that talk about costs.

**Senator Lyson**, Are we talking about the fees of disbursements after the execution?

**Rep. Klemin**, that would be in another kind of court.

**Senator Traynor**, all disbursements won't be approved by the court.

**Rep. Klemin**, they do. Other party has opportunity to object to costs and disbursements.

Maybe a hearing on objections.

**Senator Traynor**, it is up to the prevailing party to give notice to the other parties?

**Rep. Klemine**, yes.

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Senate Judiciary Committee  
Bill/Resolution Number 1193  
Hearing Date March 12th, 2001

**Senator Lyson**, When a judgment is given, the clerk figures the interest rate, who figures it out?

**Rep. Klemin**, this bill does not address that.

**Senator Bercier**, what are the fees in general?

**Rep. Klemin**, that can vary considerably. Sheriff fees could be for serving an order or something related. Witness fees could be 24 dollars. Clerks of district courts would have filing fees. Quite a few other kinds of fees.

**Senator Traynor**, closed the hearing on HB 1193.

**SENATOR WATNE MOTIONED TO DO PASS, SECONDED BY SENATOR BERCIER.**  
**VOTE INDICATED 7 YEAS, 0 NAYS AND 0 ABSENT AND NOT VOTING. SENATOR**  
**WATNE VOLUNTEERED TO CARRY THE BILL.**

Date: 3/12/01  
Roll Call Vote #: 1

**2001 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO.**

Senate	Judiciary	Committee
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☐ Subcommittee on \_\_\_\_\_  
or  
☐ Conference Committee

Legislative Council Amendment Number HB-1193

Action Taken Do Pass

Motion Made By Watne Seconded By Brown

[illegible]

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

**Absent**

Floor Assignment Water

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

**REPORT OF STANDING COMMITTEE (410)**  
**March 12, 2001 2:58 p.m.**

**Module No: SR-42-5402**  
**Carrier: Watne**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1193, as engrossed: Judiciary Committee (Sen. Traynor, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1193 was placed on the Fourteenth order on the calendar.**

2001 TESTIMONY

HB 1193



Representative Lawrence R. Klemin  
District 47  
1709 Montego Drive  
Bismarck, ND 58501

# NORTH DAKOTA HOUSE OF REPRESENTATIVES

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360



COMMITTEES:  
Judiciary  
Government and  
Veterans Affairs

## TESTIMONY OF REP. LAWRENCE R. KLEMIN SENATE JUDICIARY COMMITTEE HOUSE BILL NO. 1193 MARCH 12, 2001

MR. CHAIRMAN AND MEMBERS OF THE SENATE JUDICIARY COMMITTEE. I AM LAWRENCE R. KLEMIN, REPRESENTATIVE FROM DISTRICT 47 IN BISMARCK. I AM HERE TO TESTIFY IN SUPPORT OF HOUSE BILL 1193

HOUSE BILL 1193 AMENDS SUBSECTION 1 OF SECTION 28-26-06 OF THE NORTH DAKOTA CENTURY CODE TO CLARIFY THE TYPES OF DISBURSEMENTS THAT THE CLERK OF THE DISTRICT COURT MAY TAX IN THE JUDGMENT IN FAVOR OF THE PREVAILING PARTY. CURRENTLY, THE ONLY TYPES OF DISBURSEMENTS SPECIFICALLY AUTHORIZED BY SUBSECTION 1 ARE THE LEGAL FEES OF WITNESSES, REFEREES, AND OTHER OFFICERS. HOWEVER, THE LEGAL FEES OF SHERIFFS, CLERKS OF THE DISTRICT COURT AND THE SUPREME COURT, AND OF PROCESS SERVERS, ARE ALSO TYPICALLY INCLUDED IN JUDGMENTS AS ORDERED BY THE COURT, EVEN THOUGH NOT MENTIONED IN THE STATUTE.

ALL THAT THIS BILL DOES IS TO PROVIDE SPECIFIC AUTHORIZATION IN THE STATUTE FOR THE TYPES OF DISBURSEMENTS THAT ARE BEING APPROVED BY THE COURTS. THE BILL BRINGS THE STATUTE INTO CONFORMITY WITH THE ACTUAL PRACTICE IN THE COURTS. THE COURT STILL HAS THE AUTHORITY TO APPROVE THE DISBURSEMENTS THAT ARE INCLUDED AS A PART OF THE JUDGMENT AWARDED TO THE PREVAILING PARTY.

THE CHANGES IN THE LANGUAGE IN SUBSECTION 5 ARE FORM AND STYLE CHANGES THAT WERE MADE BY THE LEGISLATIVE COUNCIL STAFF WHEN THE BILL WAS DRAFTED AND DO NOT HAVE ANY SUBSTANTIVE LEGAL EFFECT IN THE BILL.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, I URGE YOUR SUPPORT OF HOUSE BILL 1193.