

**BILL NO.**

Introduced by

(At the request of the Supreme Court)

1 A BILL for an Act to amend and reenact subsection 1 of section 11-08-06 and sections 11-08-11,  
2 11-08-14, 11-10-02, 11-10-11, 11-10-14, 11-10-20, 11-10-22, 11-10-28, 11-22-01, 27-01-01.1,  
3 27-05.2-01, 27-05.2-02, and 27-05.2-04 of the North Dakota Century Code, relating to clerks of  
4 court; to repeal section 27-05.2-07 of the North Dakota Century Code, relating to clerk of court  
5 neglect of duty; and to provide a continuing appropriation.

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

7 **SECTION 1. AMENDMENT.** Subsection 1 of section 11-08-06 of the North Dakota Century  
8 Code is amended and reenacted as follows:

- 9 1. One county auditor who ~~shall~~must be the ex officio recorder and, ~~unless the clerk of~~  
10 ~~district court serving the county is an employee of the state judicial system, ex officio~~  
11 ~~clerk of the district court.~~

12 **SECTION 2. AMENDMENT.** Section 11-08-11 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 **11-08-11. Powers and duties of county auditor.**

15 The county auditor, in addition to the duties and powers conferred by law on that officer,  
16 shall perform the duties and functions and exercise the powers conferred on the recorder and,  
17 ~~subject to subsection 1 of section 11-08-06, the clerk of the district court.~~ The auditor ~~shall~~must  
18 be the chief administrative officer of the county. The board of county commissioners may  
19 delegate to the county auditor ~~such~~ duties of an administrative or executive nature as are not  
20 specifically conferred by law upon other officers. ~~Such~~The delegated duties ~~shall~~must be  
21 exercised by the county auditor under the supervision of the board of county commissioners.

22 **SECTION 3. AMENDMENT.** Section 11-08-14 of the North Dakota Century Code is  
23 amended and reenacted as follows:

1           **11-08-14. Deputies and employees - Appointment - Compensation - Terms.**

2           Subject to the approval of the board of county commissioners, the county auditor may  
3 appoint a deputy auditor, and a deputy recorder, ~~and, subject to subsection 1 of section~~  
4 ~~11-08-06, a deputy clerk of the district court.~~ The compensation of ~~any such~~ a deputy appointed  
5 pursuant to this section ~~shall~~ must be fixed by the board of county commissioners. The same  
6 ~~person~~ individual may be appointed to serve as deputy in two or more offices. Subject to the  
7 approval of the board of county commissioners, the county auditor may employ ~~such clerks,~~  
8 ~~stenographers,~~ and other county employees as may be required to perform the duties of the  
9 several offices under the auditor's direction. The compensation of the employees ~~shall~~ must be  
10 fixed by the board of county commissioners. Any deputy or employee shall serve at the  
11 pleasure of the county auditor and may be appointed or employed to serve on a part-time basis.

12           **SECTION 4. AMENDMENT.** Section 11-10-02 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14           **11-10-02. Number and election of county officers.**

- 15           1. Each organized county, unless it has adopted one of the optional forms of county  
16 government provided by the code or has combined or separated the functions of  
17 county offices or redesignated offices as elective or appointive pursuant to chapter  
18 11-10.2 or 11-10.3, must have the following officers:
- 19           4. a. One county auditor.
  - 20           2. b. One recorder.
  - 21           3. c. One county treasurer.
  - 22           4. d. One coroner.
  - 23           5. e. A board of county commissioners consisting of three or five members as provided  
24 in this title.
- 25           2. In addition, unless otherwise provided in section 11-10-02.3, each county must have  
26 an elected state's attorney and an elected sheriff. ~~In counties having a population of~~  
27 ~~six thousand or less, the recorder also serves as ex-officio clerk of the district court.~~  
28 The required officers must be chosen by the qualified electors of the respective  
29 counties at the general election in each even-numbered year, except the recorder,  
30 county auditor, treasurer, sheriff, and state's attorney, who must be chosen in 1966  
31 and every four years thereafter, the members of the board of county commissioners,

1           who must be chosen in the manner prescribed in section 11-11-02, and the county  
2           coroner, who must be chosen in the manner prescribed in section 11-19.1-03.

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

5           **11-10-11. Appointment and salary of deputies and ~~clerks~~assistants.**

6           The salaries of deputies, ~~clerks~~, and assistants for the county auditor, county treasurer,  
7 sheriff, recorder, ~~ex officio clerk of the district court~~, and state's attorney must be fixed by a  
8 resolution of the board of county commissioners. Each of the named officers may appoint  
9 ~~such~~the deputies, ~~clerks~~, and assistants, in accordance with the budget, except none of the  
10 officers mentioned in this section may appoint as deputy any other officer mentioned in this  
11 section.

12           **SECTION 6. AMENDMENT.** Section 11-10-14 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14           **11-10-14. Fees received by county officers turned over to county treasurer.**

15           The salaries fixed by this chapter ~~shall~~must be full compensation for all county officials,  
16 deputies, ~~clerks~~, and assistants, respectively, and all fees and compensation received by any  
17 official, deputy, ~~clerk~~, or assistant for any act or service rendered in an official capacity  
18 ~~shall~~must be accounted for and paid over monthly to the county treasurer and be credited to the  
19 general fund of said county, except that ~~such~~an official, deputy, ~~clerk~~, and assistant ~~shall be~~is  
20 entitled to retain such fees as now are allowed to that officer and permitted by law or as may be  
21 hereafter permitted and allowed.

22           **SECTION 7. AMENDMENT.** Section 11-10-20 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24           **11-10-20. Board of county commissioners to provide offices, courtroom, and jail –**  
25 **~~Where public records kept -- Authorization for central filing of documents of recorder and~~**  
26 **~~clerk of district court.~~**

27           The board of county commissioners shall provide a courtroom and jail, and shall provide  
28 offices in the courthouse of the county for the sheriff, county treasurer, recorder, auditor, clerk of  
29 the district court, state's attorney, county superintendent of schools, and any other officer who  
30 has charge of public records. If there is no courthouse in the county or if the courthouse erected  
31 has insufficient capacity, ~~such~~the offices must be furnished by the county in a suitable building

1 at the county seat for all elected officials, and at any place within the county for appointive or  
2 administrative officials, at the lowest rent to be obtained, provided that this section does not  
3 apply where county officials may serve more than one county as may be otherwise authorized  
4 by law. ~~The board of county commissioners may provide by resolution for the filing in a single-~~  
5 ~~location of documents maintained by the recorder and the clerk of the district court. The~~  
6 ~~resolution must state in which office the filing is to be done, the persons who are to have~~  
7 ~~custody of and access to the central files, and must list the documents which are to be centrally~~  
8 ~~filed.~~

9 **SECTION 8. AMENDMENT.** Section 11-10-22 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **11-10-22. Unlawful for officer to purchase county warrant or evidence of debt -**  
12 **Penalty.**

13 Every ~~person~~individual who, while an officer of any county of this state or the deputy or  
14 clerk of any such officer, directly or indirectly, buys or traffics in, or in ~~anywise~~any way becomes  
15 a party to the purchase of, any county warrant or order, or any bill, account, claim, or evidence  
16 of indebtedness of the ~~person's~~individual's county, for any sum less than the full face value  
17 thereof, is guilty of an infraction.

18 **SECTION 9. AMENDMENT.** Section 11-10-28 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20 **11-10-28. Newly elected or appointed county officials - Training.**

21 Within one year of assuming office, an individual who is elected or appointed to the office of  
22 county commissioner, auditor, ~~clerk of district court,~~ recorder, or treasurer shall attend training  
23 based upon a curriculum specific to that office and approved by the statewide association for  
24 that office.

25 **SECTION 10. AMENDMENT.** Section 11-22-01 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27 **11-22-01. Sheriff, ~~clerk of court,~~ and public administrator may deposit funds**  
28 **entrusted to them with county treasurer.**

29 Any ~~and all~~ funds, other than fees and taxes, received by any sheriff, ~~ex officio clerk of the~~  
30 ~~district court,~~ or public administrator by virtue of the office may be paid over and delivered to the

1 treasurer of the county. Upon the delivery of the ~~money~~funds to the treasurer, the officer  
2 depositing the ~~same shall be~~funds is absolved from all liability for the safekeeping of the funds.

3 **SECTION 11. AMENDMENT.** Section 27-01-01.1 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **27-01-01.1. Budgeting and financing of the supreme court and district courts.**

6 The state court administrator shall submit a comprehensive budget for the supreme court  
7 and the district courts to the legislative assembly. An informational copy of the budget must be  
8 delivered to the director of the budget pursuant to section 54-44.1-13. The budget for the district  
9 courts must include all salary and expenses for the district courts, including the juvenile courts,  
10 and their employees. Each county shall provide the district court in that county with adequate  
11 chamber, court, and law library quarters, and lights and fuel and appropriate facilities for clerk of  
12 court services ~~that are state-funded pursuant to section 27-05.2-02. Any equipment, furnishings,~~  
13 ~~and law libraries in the control and custody of the district court on January 1, 1980, and any~~  
14 ~~such property acquired from that date until July 1, 1981, must continue to be in the district~~  
15 ~~court's custody and control until the state court administrator determines such items are no~~  
16 ~~longer needed by the court.~~

17 **SECTION 12. AMENDMENT.** Section 27-05.2-01 of the North Dakota Century Code is  
18 amended and reenacted as follows:

19 **27-05.2-01. Statement of intent.**

20 It is the intent of the legislative assembly that adequate and proper judicial services,  
21 including clerk of district court services, be provided in each county in this state. It is also the  
22 intent of the legislative assembly that funding for clerk of district court services be provided by  
23 the state judicial system within the limits of legislative appropriations ~~and in cooperation with the~~  
24 ~~several boards of county commissioners of the various counties in this state.~~

25 **SECTION 13. AMENDMENT.** Section 27-05.2-02 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27 **27-05.2-02. State funding of clerk of district court services - ~~Agreements to provide~~**  
28 **~~services~~ - Transition schedule.**

29 1. ~~Except as provided in subsection 2, the~~The supreme court, within the limits of  
30 legislative appropriations ~~and pursuant to subsection 7,~~ shall provide clerk of district  
31 court services in each county in the state. The supreme court may provide such

1 services through clerks of district court, deputies, and assistants who are employees  
2 of the judicial system ~~or through service agreements under subsection 6~~. The supreme  
3 court shall develop standards and procedures to ensure that adequate clerk of district  
4 court services are provided. "Clerk of district court services" means those duties and  
5 services, as provided by statute or rule of the supreme court, that directly serve the  
6 judicial system and the provision of effective and efficient judicial services to the  
7 public. ~~Beginning January 1, 2003, the individual designated by a board of county~~  
8 ~~commissioners to provide clerk of district court services under subsection 2 or 6~~  
9 ~~serves as ex officio clerk of district court. The salary and bond for the ex officio clerk of~~  
10 ~~district court must be fixed by a resolution adopted by the board of county~~  
11 ~~commissioners~~At least one clerk of court or deputy must be located in each county in  
12 the state.

13 2. ~~A county may elect to provide clerk of district court services at the county's own~~  
14 ~~expense. The board of county commissioners shall forward to the supreme court a~~  
15 ~~resolution indicating its election to provide services under this subsection. Such~~  
16 ~~services must be provided in a manner consistent with standards and procedures~~  
17 ~~established by the supreme court. If the county is unable to provide adequate clerk of~~  
18 ~~district court services, the supreme court shall provide for those services in any~~  
19 ~~manner it considers appropriate. If a county has entered into an agreement under~~  
20 ~~subsection 6, the county may not provide clerk of district court services under this~~  
21 ~~subsection until after the agreement has expired.~~

22 3. ~~In a county in which the supreme court determines that at least five full-time~~  
23 ~~employees are necessary to provide adequate clerk of district court services, the~~  
24 ~~elected clerk of district court and clerk of court staff designated by the supreme court~~  
25 ~~shall become employees of the state judicial system if the board of county~~  
26 ~~commissioners consents to the transition after consultation with the elected clerk. This~~  
27 ~~subsection applies upon receipt by the supreme court of a resolution adopted by the~~  
28 ~~board of county commissioners indicating its consent. Any equipment, including~~  
29 ~~technology-related equipment, and furnishings in the control and custody of the clerk~~  
30 ~~of district court on the date the clerk becomes a state employee must remain in the~~  
31 ~~control and custody of the clerk until the state court administrator determines the items~~

1 are no longer needed. The clerk, upon becoming a state employee, shall receive a  
2 salary in an amount not less than the salary received as a county employee and shall  
3 remain an employee of the state judicial system until the clerk retires, resigns, or the  
4 term for which the clerk was initially elected expires, whichever occurs earlier.

5 Thereafter, the clerk of district court must be appointed in the manner provided by  
6 supreme court rule. ~~If the board of county commissioners does not consent to the clerk  
7 and designated staff becoming employees of the state judicial system, the county  
8 must provide clerk of district court services at its own expense in accordance with  
9 subsection 2.~~

10 4. ~~In a county in which the supreme court determines that one or more, but less than five,  
11 full-time employees are necessary to provide clerk of district court services, the  
12 elected clerk of district court and clerk of court staff designated by the supreme court  
13 shall become employees of the state judicial system in the manner described in  
14 subsection 3. If the board of county commissioners does not consent to the clerk and  
15 designated staff becoming employees of the state judicial system, the county may  
16 provide clerk of district court services at its own expense under subsection 2 or the  
17 supreme court may provide funding for clerk of district court services in accordance  
18 with an agreement under subsection 6.~~

19 5. ~~In a county in which the supreme court determines that less than one full-time  
20 employee is necessary to provide clerk of district court services, the supreme court  
21 may provide funding for such services in accordance with an agreement under  
22 subsection 6.~~

23 6. ~~The supreme court may enter into an agreement with one or more boards of county  
24 commissioners to provide funding for the provision of clerk of district court services in  
25 a manner consistent with standards and procedures established by the supreme court.  
26 Funding for personnel under the agreement must be equal to the amount, based on  
27 county employee compensation levels, necessary for the number of full-time  
28 employees needed to provide clerk of district court services. Funding must be  
29 available under the agreement to defray the cost of technology-related equipment  
30 considered necessary by the supreme court for the delivery of adequate clerk of  
31 district court services. After entering into an agreement under this subsection, a county~~

1           may, under chapter 11-10.2 or 11-10.3, provide for the delivery of clerk of district court  
2           services in a manner consistent with the agreement. If a county fails to fulfill the terms  
3           of an agreement or is unable to provide clerk of district court services consistent with  
4           standards and procedures established by the supreme court, the supreme court shall  
5           provide for those services in any manner it considers appropriate.

6           7. a.

7           3. State funding for the provision of clerk of district court services ~~may~~must be provided  
8           beginning January 1, ~~2004~~2024, in every county of the state, ~~except in a county with~~  
9           an elected clerk of district court state funding must begin upon expiration of the  
10           elected clerk of district court's term. Before April 1, 2000, each board of county  
11           commissioners shall notify the supreme court of its election to provide clerk of district  
12           court services under subsection 2, of its consent to the elected clerk of court and  
13           designated staff becoming state employees under subsection 3 or 4, or of its election  
14           to enter into an agreement under subsection 6. If a board of county commissioners  
15           elects to enter into an agreement under subsection 6, the agreement must be  
16           executed before July 1, 2000. If an agreement is not executed before that date, the  
17           county must provide clerk of district court services at its own expense under  
18           subsection 2.

19           b. Before April 1, 2002, and thereafter before April first of each succeeding  
20           even-numbered year, each board of county commissioners that has executed an  
21           agreement under subsection 6 or whose county is providing clerk of district court  
22           services under subsection 2 must notify the supreme court of its election to  
23           continue the existing arrangement or initiate a different option. If a board of  
24           county commissioners elects to enter into an agreement under subsection 6, the  
25           agreement must be executed before July first of the year the election is made. If  
26           an agreement is not executed before that date, the county must provide clerk of  
27           district court services at its own expense under subsection 2

28           4. A county employee who becomes a state judicial employee after December 31, 2023,  
29           or upon expiration of the elected clerk of district court term is considered an existing  
30           employee for state retirement purposes.



1       **SECTION 14. AMENDMENT.** Section 27-05.2-04 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **27-05.2-04. Clerk to keep record of fees - Monthly report to county auditor or state**  
4 **treasurer - Continuing appropriation.**

5       ~~A clerk of the district court providing clerk services in accordance with subsection 2 or 6 of~~  
6 ~~section 27-05.2-02 shall keep a public record of all money received as fees for services~~  
7 ~~rendered as clerk. Within three days after the close of each calendar month, the clerk shall file~~  
8 ~~with the county auditor a statement under oath showing the amount of fees received as clerk~~  
9 ~~since the date of the clerk's last report and within three days thereafter the clerk shall deposit~~  
10 ~~with the county treasurer the total sum of such fees which must be used for facilities, except~~  
11 ~~fees that the clerk is directed to deposit with the state treasurer or is authorized expressly to~~  
12 ~~retain. Within three days after the close of each calendar month, at the clerk who has become a~~  
13 ~~state employee under subsection 3 or 4 of section 27-05.2-02 of district court shall file with the~~  
14 ~~state treasurer a statement under oath showing the amount of fees received by the clerk since~~  
15 ~~the date of the clerk's last report. Within three days thereafter, the clerk shall deposit with the~~  
16 ~~state treasurer the total sum of fees required to be deposited in the general fund or in a~~  
17 ~~designated special fund. The clerk shall forward to the county treasurer any fees received under~~  
18 ~~section 27-05.2-03 which are not required to be deposited in the state general fund or a~~  
19 ~~designated special fund. Those fees must be used for facilities. A special court receivables fund~~  
20 ~~is established in the state treasury for purposes of depositing any money received by the clerk~~  
21 ~~which is not required to be deposited in the state general fund, a different special fund, or the~~  
22 ~~county treasury and which is received as bail or restitution, or otherwise received pursuant to an~~  
23 ~~order of the court. Moneys in the special fund are appropriated to the judicial branch on a~~  
24 ~~continuing basis for purposes of refunding bail, forwarding restitution amounts to the entitled~~  
25 ~~recipient, or otherwise making payments as directed by an order of the court. To facilitate~~  
26 ~~making payments from the special fund, the clerk may establish a special account in the Bank~~  
27 ~~of North Dakota or in a banking institution designated as a depository of public funds under~~  
28 ~~chapter 21-04. If money deposited as bail is forfeited, the clerk shall submit the appropriate sum~~  
29 ~~to the state treasurer for deposit in the state general fund. If the clerk is unable to make~~  
30 ~~payments from the special account because the address of the recipient is unknown or the~~

- 1 recipient cannot otherwise be located, the clerk shall dispose of the deposited money in
- 2 accordance with chapter 47-30.2.
- 3       **SECTION 15. REPEAL.** Section 27-05.2-07 of the North Dakota Century Code is repealed.