

1999 HOUSE JUDICIARY

HB 1275

(See also HB 1458)

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1275

House Judiciary Committee

Conference Committee

Hearing Date January 18 & 19, 1999

Tape Number	Side A	Side B	Meter #
Jan 18, #1	X		0
Jan 19, #1	X		0
Committee Clerk Signature			

Minutes: January 18, 1999

Chairman DeKrey called the meeting to order and informed the committee that William Kretschmar, representing the association of counties is unable to be present on January 19 when this bill is scheduled to be heard and that his testimony will be taken now. He also informed the committee that Mr. Kretschmar served on the Interim Judiciary Committee which developed this plan.

WILLIAM KRETSCHMAR: (Presented written testimony which is attached) I worked on the this bill in the interim committee. In 1976 the voters approved adoption of the Judicial Article from the 1972 Constitutional Convention. That mandated a Unified Court System. The Clerks of Court are an integral part of the court system and should be part of the unification. The interim committee and the Association of Counties joined for a joint study of this issue. This bill is a compromise that almost all members of the committee supported. I know the smaller counties are concerned about a loss of services and this bill is an attempt to allay those concerns.

If this bill passes it will be up to the county commissioners to decide if they want their clerks to become state employees. This bill is a good compromise and I urge its passage.

January 19, 1999

REP. DORSO: This bill came out of the interim study where it had a lot of input from all parties. This bill is a good compromise to continue the efforts to fully unify the court system. This matter would have been included in the original court unification.

JIM GANJE: (Sup. Ct.) Mr Ganje presented a written summary of the bill, a copy of which is attached.

REP. GULLESON: I appear in opposition to this bill. Keeping control of our services at the local level is a good idea. The system is working well now - if it isn't broken, why try to fix it.

She then presented the committee with copies of letters from Ted Kessel Jr., Lamoure County States Attorney, Steven Lies, Attorney from Wahpeton and written testimony from Attorney Fred Strege in opposition to the bill.

ALON WEILAND: (Cass Co. Commission) Presented written testimony, a copy of which is attached.

REP. MEYER: Cass County will always have a clerk, but couldn't this have a negative effect on services in rural counties?

MR. WEILAND: Under this legislation there is an option for every county to have a resident clerk.

ROBERT INDVIK: (Clerk of Court, Bottineau Co.) Presented written testimony in opposition to this bill, a copy of which is attached.

KARIN FISCHER: (LaMoure Co. Clerk of Court) I appear in opposition to this bill. I have been on a number of committees that have considered this issue. I have met with Chief Justice Vandewalle and he said the Supreme Court doesn't want the district court clerks. Nobody in the sssystem wants this legislation. If you do pass it, all counties with less than 5 FTEs should have the contract option.

CHM. DEKREY: Court unification is going to continue. How do the clerks want it to include them?

MS. FISCHER: We already are unified. We all do our work in accordance with a manual developed by the Supreme Court.

REP. DEKREY: This bill will be a benefit to rural counties as it will shift the funding to the state which gets its money from sales and income tax, which are greater in urban areas. This will assist in helping hold down property taxes.

WADE ENGET: (Mountrail County States Attorney) I was a member of the Consensus Council which developed this bill. We county officials complain about lack of control over judiciary and about the cost of providing services. We could ask to have the fees and fines go back to the county, but that proposal won't pass. I went into the consensus meetings strongly opposed to this concept but came to realize that something had to be done and that compromise is necessary. This bill is the result of that compromise. Even though they are limited, the legislation does give the counties some options.

HON JOHN MCCLINTOCK: (District Judge, Pierce & McHenry County) I have signed in as neutral on this bill but I feel we need to do something. I feel that this is not a bad bill but I don't

think the plan calls for enough FTEs. Also, I appreciate the rural outlook, but something is going to be done in this area.

REP. DEKREY: The fractional FTE is only a tool to determine the amount the state will pay.

The state will pay only for the judicial work load and the county will have to pay the rest. If a county now has 3 employees in clerk's office and they are allocated 1.2 FTEs, the county will have to pay the other 1.8.

JUDGE NORMAN BACKES: District Judge in Cass Co.) I am in favor of this bill. I was a member of the consensus council that developed this legislation. I don't agree with everything in the bill, but it is a step in the right direction. All in all it is an honest effort to come up with a good bill. I don't believe that North Dakota can afford a clerk of court in every county.

KEITHE NELSON: (Court Administrator) Called attention to the fiscal note. The method of determining FTEs was that it was felt that each county needed one full time person for each 600 filings, and the FTE's were allocated on that basis. Contrary to what you have been told, I am not against this bill. It's not perfect and it has some things in it I don't like, but I am for it.

CHIEF JUSTICE VANDEWALLE: This bill does what I asked for in my State of the Judiciary speech in 1997. The scenario I envisioned did not happen. The consensus council proposal is a compromise between my idea and that of the clerks. Unifying the clerks is not my number one priority, but I am for this bill.

REP. KOPPELMAN: Does this bill accomplish what the statement of intent says it is to do?

CJ VANDEWALLE: By and large it does.

COMMITTEE ACTION: January 26, 1999

Page 5

House Judiciary Committee

Bill/Resolution Number 1275

Hearing Date January 18, 1999

REP KLEMIN moved that the committee recommend that the bill DO PASS. Rep Koppelman seconded the motion. The motion failed on roll call vote 7 to 8.

REP MAHONEY moved that the committee recommend DO NOT PASS and that motion was passed on a roll call vote of 8 to 7.

January 27, 1999

REP GUNTER move that the committee reconsider the action it previously took on HB 1275.

That motion was passed 8 to 7 on a roll call vote.

REP. KOPPELMAN moved that the committee recommend that HB 1275 DO PASS, Rep.

Klemin seconded and that motion passed on a roll call vote of 8 to 7.

FISCAL NOTE

(Return original and 14 copies)

Bill/Resolution No.: HB1275 Amendment to: _____

Requested by Legislative Council Date of Request: 1-13-99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, and cities.

Narrative: This bill provides for state funding of clerk of court offices in large counties and an option for medium size counties to request state funding for clerk of court offices, and for small counties to apply for state funding assistance for clerk of court services within the county. Funding is for the last six months of the 1999-01 biennium and 24 months in the following biennium.

2. **State** fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium		
	General Fund	Special Funds	General Fund	Special Funds	General Fund	Special Funds	
Revenues:	0	0	0	0	0	0	0
Expenditures:	0	0	3,005,847	0	11,069,000	0	0

3. What, if any, is the effect of this measure on the appropriation for your agency or department:

- a. For rest of 1997-99 biennium: 0
- b. For the 1999-2001 biennium: 3,005,847
- c. For the 2001-2003 biennium: 11,069,000

4. **County, City, and School District** fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
0	0	0	(3,027,000)*	0	0	(12,833,000)*	0	0

*These are best estimates based on data received from counties. They are based on the assumption that all counties will opt for state funding.

If additional space is needed,
attach a supplemental sheet.

Signed Keith E. Nelson

Typed Name Keith E. Nelson

Department Judicial Branch

Phone Number 328-4216

Date Prepared: 1/13/99

Date: 1/26
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1275

House JUDICIARY Committee

Subcommittee on _____
or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Klemin Seconded By Koppelman

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

Total (Yes) 7 No 8

Absent _____

Floor Assignment _____

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

Date:
Roll Call Vote #:

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1275

House JUDICIARY Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number Do Not

Action Taken Do Not Pass

Motion Made By Mahoney Seconded By Sveen

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

Total (Yes) 8 No 7

Absent 0

Floor Assignment Mahoney

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

Date: 4/27
 Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1275

House JUDICIARY Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Reconsider

Motion Made By Gunter Seconded By Koppelman

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

Total (Yes) 8 No 7

Absent 0

Floor Assignment _____

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

Date: 1/27
 Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1275

House JUDICIARY Committee _____

Subcommittee on _____
 or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Koppelman Seconded By Klemin

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

Total (Yes) _____ No _____

Absent _____

Floor Assignment DeKrey if maragos is up

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

REPORT OF STANDING COMMITTEE (410)
January 27, 1999 3:44 p.m.

Module No: HR-17-1300
Carrier: DeKrey
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1275: Judiciary Committee (Rep. DeKrey, Chairman) recommends **DO PASS** (8 YEAS, 7 NAYS, 0 ABSENT AND NOT VOTING). HB 1275 was placed on the Eleventh order on the calendar.

1999 SENATE JUDICIARY

HB 1275

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1275

Senate Judiciary Committee

Conference Committee

Hearing Date March 3, 1999

Tape Number	Side A	Side B	Meter #
1	x		0 - END
1		x	0 - 3280
3-16-99 1	x		3500 - 3655
Committee Clerk Signature <i>Jackie Follman</i>			

Minutes:

HB 1275 to state funding of clerk of district court services and relates to duties, responsibilities, and funding of clerks of district court; and to provide an effective date.

SENATOR STENEHJEM opened the hearing on HB1275 at 9:00 A.M.

All were present except Senator C. Nelson.

REPRESENTATIVE DEKREY, District 14, testified in support of HB1275. This bill came out of an Interim Committee. This is a part of the Court Unification process.

JIM GANJE, Supreme Court, testified to explain HB1275. Testimony attached.

REPRESENTATIVE DELMORE, District 43, testified in support of HB1275. This bill was an honest intent to get money back to the counties. There is flexibility in this bill.

BILL KRETSCHMAR, North Dakota Association of Counties, testified in support of HB1275.

Testimony attached.

DAN KALIL, NDCCA, testified in support of HB1275. Testimony attached.

ALAN ERICKSON, Renville County Commissioner, testified in support of HB1275. Testimony attached.

FRED STREGE, Attorney from Wahpeton, testified in support of HB1275. Testimony attached.

RICHARD BENDICK, Chairman of Morton County Commission, testified in support of HB1275. The State should move forward with the Court Unification to include this bill.

SENATOR STENEHJEM asked if he had a position on the amendments that Fred was suggesting.

RICHARD BENDICK stated that he thought his amendments may be proper.

BONNIE JOHNSON, Cass County Coordinator, testified in support of HB1275. Testimony attached.

BOB INDVICK, Bottineau County Clerk of Court, testified in opposition of HB1275. Testimony attached.

BRAD GRUFF, Barnes County Commission, testified in opposition of HB1275. We are concerned with the services in rural areas. We are concerned with the subjectivity that this law represents. Handout attached.

KARIN FISCHER, LaMoure County Clerk of Court, testified in opposition of HB1275. Testimony attached.

SENATOR SAND, District 10, testified in opposition of HB1275. Testimony attached.

SENATOR WATNE asked why you presume your clerk's office may close.

SENATOR SAND stated that my information has led me to believe that clerks in both the counties that the state may hire and not continue to pay them. They feel there will be a reduction of services. The basic thought is that we'll have less services in Cavalier and Pembina County.

LINDA ROHRBACH, McIntosh Register of Deeds ex officio Clerk of Court, testified in opposition of HB1275. Testimony attached.

BOB ZENT, Stark County Commissioner, testified in opposition to HB1275. Testimony attached.

MAC ELKHART, Pembina County Commissioner, testified in opposition of HB1275. I feel this is big against small. I don't see why we need to fix something that is not broke. This bill is an economic nightmare.

SUSAN OLSON, Burke County, testified in opposition of HB1275. We are afraid of what is not said in HB1275, rather than what is said. I think some of the fees should stay with the counties.

SENATOR STENEHJEM CLOSED the hearing on HB1275.

MARCH 16, 1999 TAPE 2, SIDE A

SENATOR WATNE made a motion for DO PASS, SENATOR TRAYNOR seconded.

Discussion. Motion carried. 5 - 1 - 0

SENATOR STENEHJEM will carry the bill.

Date: 3-16-99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1275

Senate Judiciary Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do PASS

Motion Made By Senator Watne Seconded By Senator Traynor

Senators	Yes	No	Senators	Yes	No
Senator Wayne Stenehjem	X				
Senator Darlene Watne	X				
Senator Stanley Lyson	X				
Senator John Traynor	X				
Senator Dennis Bercier		X			
Senator Caroloyne Nelson	X				

Total (Yes) 5 No 1

Absent 0

Floor Assignment Senator Stenehjem

REPORT OF STANDING COMMITTEE (410)
March 16, 1999 3:51 p.m.

Module No: SR-47-4937
Carrier: W. Stenehjem
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1275: Judiciary Committee (Sen. W. Stenehjem, Chairman) recommends DO PASS
(5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1275 was placed on the
Fourteenth order on the calendar.

1999 SENATE APPROPRIATIONS

HB 1275

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1275

Senate Appropriations Committee

Conference Committee

Hearing Date 3/22/99; 3/23/99; 3/23/99

Tape Number	Side A	Side B	Meter #
1	80-2900		
3/23/99 1	1270-2470		
3/23/99 1	3525-3830		
Committee Clerk Signature <i>Gaudia Anderson</i>			

Minutes:

SENATOR NETHING: Opened the hearing on HB 1275; a BILL for an Act to create and enact chapter 27-05.2 of the North Dakota Century Code, relating to state funding of clerk of district court services: to amend and reenact ... sections of the North Dakota Century Code, relating to filing fees, filing requirements, and various functions performed by clerks of district court; to repeal sections of the North Dakota Century Code, relating to duties, responsibilities, and funding of clerks of district court; and to provide an effective date.

KEITHE NELSON: State Court Administrator, to provide background on HB 1275 funding, at the request of Senator Nething. The judiciary was directed by the last legislature to include funding for the clerk of court operations in our budget this year. That funding is included in our appropriations bill 1002. This was discussed with you March 5, although we did not get into the clerk of court portion of it in any detail. The fiscal note was also prepared and attached to the bill you have before you today. The cost for implementing this bill on January 1, 2002, for the last 6 months of the biennium, is \$3,005,847; the cost for the next biennium, 2001-2003 is \$11,069,000 plus salary increases, if any. When we developed the budget we first determined clerk of court duties that would not be assumed by the state. Since child support income withholding is being assumed by the state, we eliminated those duties. We also eliminated other non judicial duties such as passport application, cemetery license registration, and a host of other duties listed in HB 1275. We next developed staffing standards. We had to know how many people we would be paying in order to come up with the amount. At the time we developed standards, there were 154 full time clerk of court employees, and 50 part-time employees for a total of 177.8 FTE's that were paid by the counties. We settled on 1 employee for 600 court filings. This is comparable to SD and KY which recently had a weighted case load study. We knew each district would require 1 supervising clerk for the district so we added 7 supervising clerks. Additionally we added 7 more employees that we called floaters. Floaters are available to relieve clerks in small 2-person offices when someone is on leave or sick. We also added 4 FTE's which is 3% overhead for an accountant to develop policy and for audit purposes, an account technician for payroll and paying bills, a human service specialist clerk, and a computer specialist for technology support. There

are 129 FTE's that are being requested; 77% of the total budget we've presented. Operating expenses are \$357,495 for the 6-month period. Equipment costs are \$329,250. Most of the equipment expenses are startup costs which are always heavy at the beginning for licenses, and getting started in general. (tape 1, A, 120-400)

SENATOR SOLBERG: Where would the supervisory clerks be located and what would their duties be?

NELSON: The supervisory clerks would be stationed where the presiding judges are located.

SENATOR SOLBERG: Why would we have startup costs since the clerks of court have been operating a long time? Why would there be startup costs in this situation? I think most of them are computerized, are they not?

NELSON: Most are, yes. I've got a listing of them.

SENATOR SOLBERG: We have \$300,000 in startup costs, right?

NELSON: Close, no, no. Not that much. These costs include: \$329,000 equipment; of those a good share of that is the startup cost--you'll notice this year's budget is \$3M plus a few for 6 months, but it doesn't go to \$12M for the full year because it's not a times 4. The first 6 months has start up costs which are additional. If you'll give me just a minute--

SENATOR SOLBERG: While you're looking at that, you can be thinking of another which would be--

SENATOR NETHING: Why don't we let him find that first so he can concentrate on it.

NELSON: We figure there is \$40,000 for furniture, software, training ahead of time. There will be a computer position brought on 2 months before the implementation date in order to get computer programs down. There will be equipment items, furniture I mentioned and the like. There will be a requirement to have an accountant come on 6 months in advance to develop policies, and to develop audit procedures, etc. so we're ready to go when the date comes. The startup cost would be \$240,000, if that is of any help.

SENATOR SOLBERG: I believe there is a 3-tiered procedure on the implementation of this. The counties in the middle tier, the medium-sized counties, and I believe in the small counties have a choice of services, do they not? They may contract with the state, accept the state, or go their own?

NELSON: Yes.

SENATOR SOLBERG: If they go their own, I take that as meaning continue on as they are now?

NELSON: There are 3 options. it would help for me to explain those because it does fit in on the budgeting purpose. The most expensive option for the state is for the state to take over the payment of the clerk of court operation entirely; for the largest counties, that will happen - that is a given. The middle sized counties have 3 options: 1) They can go it alone without any help whatsoever, 2) they can opt for state funding, or 3) contract with the state. The state, in that contract, would pay the salary of a typical county employee at county rate, whatever percentage of that salary is developed to clerk of court duties, and the computer equipment which I recall is in the bill as well. That is a less expensive option than going with the state. We budgeted that the option would be that they would go with the state. In that regard, if there are a large number of counties that opt to go it alone or there are a large number of counties that opt to go with contracts, we're going to have money left over. But, on the other hand, we've got to have money on hand for the contract if that is what they wish for. So I guess we erred on the high side to be honest with you. We erred on the side that everyone is going to assume and take state funding.

SENATOR BOWMAN: You're going to spend \$240,000 to get this on line so we can spend an additional \$3M+? How do you justify this, and why are we doing this? It isn't to save money. There's got to be another reason, and I'd like to know.

NELSON: I'm not here to enter into a discussion on the bill. We were told to prepare the fiscal implication, and include that in the judiciary budget and that is what I've attempted to do.

SENATOR BOWMAN: So, we're just supposed to be in limbo on why we're going to spend an extra \$3M?

SENATOR NETHING: The other committee has looked at the bill. I realize what you're saying, and we do have the chairman of the committee here that can probably explain it.

SENATOR BOWMAN; Somebody's going to.

NELSON: I would say, Senator, that the startup costs are included in the \$3M. They aren't something additional.

SENATOR TALLACKSON: In the case where you take over paying the clerk in the county, do you buy the furniture from the county, or do you just take it over?

NELSON: I've not looked at the bill in that detail, but I assume it would be as we did with the judges when they were assumed into the state system. They took over that equipment, but as it was replaced it went back to the county, it did not go into state selvage. We took over a computer, for example, and we replaced it with a faster computer, and the old computer went back to the county.

SENATOR KRAUTER: We're talking \$3M and that is the last 6 months of the biennium. The next biennium you're talking \$11M. Do you foresee that will continue on out at that price?

NELSON: Our projections are that the annual biennium cost to continue this would be \$11M plus a few, and plus inflationary costs as they go along. If inflation and salary increases are 2%,

then there would be a 2% increase on that budget. That's our projection anyway. Once the state takes over there is that continuing normal cost we would have.

SENATOR NAA DEN: What about the situation in our district where the judge was chambered in Linton and no longer is there, although he is keeping his chambers there? It is a very unique situation, and really irritating to the people down there. What happens there?

NELSON: There are 3 judgeships of that type. And, when the legislature changed it, they could run from anywhere in the district that's what happened. I don't see that is going to happen with this bill. The counties have the option of the state paying the bill, or they have the option, I should say the larger counties have the option of going it alone with no state support, or contract or the state taking over those duties. The middle sized counties have 3 options. The smallest counties their only option is to go it alone or accept state funding for some percentage of the salary of the person necessary for the clerk of court operation. I don't foresee that...

SENATOR NAA DEN: That isn't what I was talking about. I'm talking about the district court being established in Linton for many years, and now the judge who ran on staying in Linton has now literally now moved his office to Mandan, or wherever, it isn't in Linton. That's what is very irritating to the people down there.

SENATOR ROBINSON: Mr. Nelson, walk us through a scenario if this bill were to be approved by this session of the legislature, and the funding level was not at \$3M, let's say it was half that, what would happen to the implementation of 1275? Talk to us in terms of the impact that has not only your budget, but the counties. What would you see if the scenario developing if we had \$1.5M or less in this bill once it gets through the process?

NELSON: That scenario developed. Initially out of the House, it was reported out at three-fourths of the funding, they dropped one-fourth off. I wrote a note and said the answer to that is that we could bring in 11 of the largest counties under state funding, but we could not then have any money to contract with any of the counties for state or who wanted to go their own. If we don't have the money, we can't make the contracts. That's the bottom line. If we get half of the money, we couldn't even have enough to bring in the largest of the counties in any significant number. Most of the expense for clerk of court operations are in the giant counties. That's where most of the employees are and most of the case filings are.

SENATOR NETHING: There has been some discussion about delaying this until the last month of the biennium, so we'd have one month costs. Could you tell us the fiscal impact of that?

NELSON: I anticipated there might be a question of that type, so I did it for 1 month, 2 months, 3 months, 4 months, 5 months, 6 months, and I can quickly establish a half a year if anyone has any questions that way. But, for 1 month the cost would be \$721,558 including \$240,000 startup costs.

SENATOR NETHING: So other than the \$500,000 per month which it kind of averages out to for 6 months, those startup costs would be the same in every month? So, if it's \$700,000 for 1 month, you add \$500,000 to it and you have \$1.2 for 2 months, is that about right?

NELSON: Yes, exactly.

SENATOR ST. AUBYN: I apologize it must be Monday. I still don't understand the startup costs.

SENATOR NETHING: Run over those startup costs again.

SENATOR ST. AUBYN: The way I understand, they're operating right now. I'm trying to figure out what is different. We're assuming their furniture, their equipment, but you're saying that you may have to buy some other computers, to upgrade?

NELSON: I'm quite confident we will have to buy. I haven't really analyzed what's in every county, but I do know not all of them are on line. We're going to have to make some decisions that are coming on line. But, let me just add it this way--if you were to start up a business, would you just open one day and then bring all of your employees in on that day, or would you train ahead of time? Would you have a supervisory staff training? We've got to have an accountant on board that can develop the policies with the handling of money because there is going to be a switch there. South Dakota has had 2 experiences, I'm close to a court administrator down there, of money disappearing from clerk of court offices. I do not want to be part of that. I've got to bring someone on so we have the procedures in place so that we're sure we're not going to have a problem like that.

SENATOR NETHING: You're not talking about in the districts that sign into the project, the switch, you're talking about in your office?

NELSON: Yes. No, not in my office. Well, yes, in my office, yes. The accountant would be located physically in my office, but the accountant would be on the road a good share of the time once we get the policies developed to make sure that there is uniform practices and procedures among the counties and that the money being collected is being accounted for in the correct way.

SENATOR NETHING: You also mention another employee that would start a month ahead, I believe?

NELSON: Two months ahead, and that would be a computer technician.

SENATOR NETHING: And, that person would be in your jurisdiction as well?

NELSON: Yes, it would.

SENATOR NETHING: So that is really, it isn't in the county court houses where you're talking about a lot of these startup dollars, you're talking about that within the judiciary system?

NELSON: Yes, within the judiciary system in order to get the system off and going on the right leg.

SENATOR NETHING: Senator Stenehjem, would you be kind enough to try to answer the question of Senator Bowman?

WAYNE STENEHJEM: Senator, Interim and Sub Committee, Chair, Clerk of Court Study. s Senator Nething, I didn't come this morning to testify, but I would be happy to try to answer the questions.

SENATOR NETHING: As I recall, you chaired the committee and the interim committee?

STENEHJEM: We were assigned this task as a result of the judicial budget passed last session that commanded the Supreme Court work to bring in the Clerks of Court into the ND Unified Court System. The proposal goes back to 1976, when the voters of ND enacted the new judicial article of the constitution that says the state of ND's judiciary consist of a unified court system. It was our view, and apparently I assume because of the amendment to the appropriation's bill last session, a view of the majority of the legislature that the clerks of court constitute a part of the judicial system and that the state ought to pay for them. Over the years, the fines, fees, penalties, etc. that have been assessed in the courts have been slowly eroded from the counties and have been assumed by the state. That started in 1995; and, of course, on April 1, 1999, the state of ND will take the rest of that money. That was not something that was done in the judiciary committee. That was done in this committee, and my understanding is that it was done with the understanding, and at least the implicit agreement that the state would eventually be assuming all of the costs of the clerks of court. That then would complete the process of providing for a unified judicial system. That basically is the background behind what happened. Our interim committee was assigned the task of coming up a proposal. We did the best we could and reached a consensus. And, at one time I thought we did have a consensus, that does not seem to be as much the case now as it was when we completed the work of the interim committee. (tape 1, A, 1575-1758)

SENATOR BOWMAN: I attended most of those interim meetings to try to learn more about this. There is still an underlying fear that with all of the great intentions that are supposed to be in this bill, that the bottom line is eventually the rural counties, whoever decides to pick and choose, will end up with no system. And, that can be argued forever, but if it's only because of an amendment that this is here today, and only because the fees have been going to the state, we can repeal the amendment and pass those fees back to the county....

SENATOR NETHING: Senator Bowman, I really think you're getting into the bill now. I'd like you to just focus on the appropriation, the fiscal impact.

STENEHJEM: I'd like to make one point in connection to the bill, Senator Bowman, we've debated this, and I'm sure we'll debate it on the floor when the time comes. As to the question as to reversing the trend and sending the money back. The House of Representatives had a bill to do just that, and it was soundly defeated. I don't think that is an idea that is too likely to get very far this session. (tape 1, A, 1885)

SENATOR ANDRIST: What would the implications be, not I realize the money will be tied to startup dates that come out of here, on the next biennium, say the legislature can't find the \$11M+ what happens? What happens if they only put \$5M into it?

STENEHJEM: The only thing that I think that needs to be done in that respect, obviously that would cause some problems if we didn't fully fund, except for those counties that had not yet entered into a contract, and retained that option. That is something that could reduce the fiscal effect next session, and I suppose it would be possible to say for that biennium there would be a moratorium on acceptance of the contract; that is one possibility. Although I think then we need to assure those counties that have entered into the contract already that they will continue to be covered.

SENATOR HOLMBERG: What is the amount of money the state is going to garner from those fees, and how does that relate to the \$11M next biennium?

STENEHJEM: Those figures exist. It seems to me that at some point the amount of fees the state will receive is in excess of \$10M. I think the additional amount we'll be taking on April 1 is about \$500,000 for the remainder of this biennium. I don't want to be quoted on this.

PAUL KRAMER: I don't have the exact numbers, but we have done some work on that and I'll get those numbers for the committee.

BRAD KRUFF: Commissioner, Barnes County, to testify against HB 1275, and noted the impact the bill would have on counties. (testimony attached #1) The credit system is employing 177 FTE's, a combination of essential and nonessential persons at a cost per biennium \$11.4M. Based on the original figures provided by the State Court Administrator's Office stating the total cost of this bill was \$12.83M. I notice Mr. Nelson paired that down to \$11M+ per biennium. He also paired down the number of employees to 129 that the state will take over, still leaving us with 48 employees the counties must fund to provide the additional services that have not been deemed essential by the state. If you knock off the \$1.5M that Mr. Nelson revised his figures on, we're still talking close to a \$14M+ total cost, state and county funded. We're spending an additional \$2.75-\$3M for the same level of service we're currently providing. I think this demonstrates that by leaving the clerks as county employees we can get by a little cheaper; our money is spent a little more wisely. The next to the last sentence shows the net tax relief to the counties, which I believe was the intention of this bill, that if you take away the \$2.83M that we're still having to have to pay for our nonessential service from the \$11.4M we're currently paying, the net relief we're going to get is only about \$8.5M on a bill that is costing \$14M. We're only saving \$.60-\$.65 if you're using the revised figures. It is my belief we can do better

SENATOR NETHING: Are these figures from the Association of County Commissioners?

KRUFF: These are from the Association's original figures.

SENATOR TALLACKSON: These essential employees then would not be part of this system?

KRUFF: The state will be funding the essential employees that do county court related activities; other things such as birth certificates, marriage licenses, etc. are deemed nonessential. I will have to carve them out of the office, house them separately, or push those duties onto other county personnel.

TOM TRENBETH: Cavalier, County seat of Pembina, and lawyer, to testify against the bill. This bill bothers me. Counties like mine may opt in or not. We're currently in an economic decline. When money is no longer available, counties that originally didn't opt in may have a legal case against the constitutionality of the law. The fiscal note includes supervisory clerks for each district. Our chief judge sits in Devils Lake. If that changes to another city after the next election, do we move clerks to a new location? We're adding 18 new individuals even though all counties may not come in. Also, we have dual judgeships. Why are we spending \$11M+ to fix something that isn't broken. (tape 1, A, 2915)

WRITTEN TESTIMONY IN SUPPORT OF HB 1275:

ND COUNTY COMMISSIONERS ASSOCIATION

SENATOR NETHING: Closed the hearing on HB 1275.

=====

3/23/99 Tape 1, A, 1270-2470;

SENATOR NETHING: Reopened the hearing on HB 1275, and noted this was a bill that is a divided question. I would like to have you consider the possibility of moving this bill out without recommendation, inasmuch as it came through an interim study and our involvement has only been with the fiscal aspect of it. I would just like to discuss the process.

SENATOR HOLMBERG: It is a contentious issue. If we were to put a do not pass on the bill, we would go onto the floor and we would be talking about the dollars, rather than focusing on the judiciary concept which is brining the clerks of court in. In other words, that entire idea. I think it would be appropriate for this committee to put a no recommendation because the most important part of this is the concept of moving those folks; it is not the dollars. The dollars are important, but not the basic concept. Let the judiciary committee sell the idea on the floor.

SENATOR HOLMBERG: Moved HB 1275 be placed on the Senate calendar without recommendation.

SENATOR KRINGSTAD: Seconded the motion.

DISCUSSION:

SENATOR KRAUTER: When I'm looking at \$3M in this process, the options are: 1) defeat the legislation, 2) delay it, or 3) pass it. I think my feelings are to either defeat it or delay it from my constituency. I think the motion for this committee, based on \$3M should be to pass it or defeat it or make amendments to delay it as far as the appropriation goes. I am going to vote against the motion without committee recommendation.

SENATOR NETHING: Let me answer one question you raised. The plan would be if the bill were to pass on the floor, in the Court budget we would reduce it to 1 month implementation period. So the fiscal impact would be \$720,000 instead of the \$3M+. That is the way that issue would be handled. If it does not pass on the floor, obviously the entire appropriation will be stricken from the judicial budget. That is one of the reasons we need to move it out is so we can get that part taken care of.

SENATOR ANDRIST: My concern is with the fiscal note for the following biennium. A \$12M impact two years from now with no allusion that money will be more free two years from now than it is now. We will, I think effectively, this legislation, even though we minimize the fiscal impact, we're doing away with our clerk of court system.

SENATOR NETHING: The only thing I want to raise a question with you is if you look at the fiscal information that the counties provided for us, that sheet was laid on your desk. Senator Holmberg had asked for this information, and what this shows what the fees would be. This comes from the County Association.

SENATOR SOLBERG: I don't care if it goes to the floor without a recommendation or not. First of all, I think the fiscal note is ill conceived by the Supreme Court. I think it was poorly explained yesterday. I cannot, if this would pass, I would have problems coming back and voting for the Supreme Court budget under that basis. Because of the so-called 7 supervisors in the presiding judge areas, because of the 2-3 people Mr. Nelson wants down here in the Supreme Court and the added cost there. It seems to me if these clerks of court have been doing their job for oh so many years, I don't know that we need supervisors running all over, I don't know that we need 2-3-4 more people in the Supreme Court Office. For that reason, I would vote against the fiscal note because I think it is a poorly conceived fiscal note. I don't think Mr. Nelson has thought it out in its entirety, and I don't think there has been a lot of consultation on that. I understand the plan, but I'm talking about the fiscal plan. It doesn't make sense to me. I don't care how it comes out of here, I will then argue the plan on the Supreme Court budget.

SENATOR TALLACKSON: With the provision that it is going to be delayed until the last month, I would be willing to vote yes and do pass out of here.

MOTION TO PLACE HB 1275 ON THE SENATE CALENDAR WITHOUT

ROLL CALL VOTE #1: 5 yeas; 9 nays; 0 absent & not voting

MOTION WITHOUT RECOMMENDATION FAILED.

Yeas: Nething; St. Aubyn, Grindberg, Holmberg, Kringstad

Nays: Naaden, Solberg, Lindaas, Tallackson, Tomac, Robinson, Krauter, Bowman, Andrist.

SENATOR NETHING: Called for the motion.

SENATOR TALLACKSON: Moved do pass HB 1275.

SENATOR GRINDBERG: Seconded the motion.

ROLL CALL VOTE #2: 6 yeas; 8 nays; 0 absent & not voting.

MOTION FAILED TO DO PASS HB 1275.

Yeas: Nething, Tallackson, St. Aubyn, Grindberg, Holmberg, Kringstad

Nays: Naaden, Solberg, Lindaas, Tomac, Robinson, Krauter, Bowman, Andrist

SENATOR ANDRIST: Moved do not pass HB 1275.

SENATOR NAADEN: Seconded the motion.

ROLL CALL VOTE #3: 8 yeas; 6 nays; 0 absent & not voting

MOTION TO DO NOT PASS HB 1275 FAILED.

Yeas: Naaden; Solberg; Lindaas; Tomac; Robinson; Krauter; Bowman; Andrist

Nays: Nething; Tallackson, St. Aubyn, Grindberg, Holmberg, Kringstad

SENATOR NETHING: One of you will need to carry the bill because it is a do not pass, and it doesn't go to the initial committee. Is there a volunteer?

SENATOR ST. AUBYN: Could we make a motion something to the effect it would carry the original committee's recommendation; let them carry the bill somehow and show their committee recommendation, but somehow announce that appropriations voted for do not pass with this vote, and let them carry it?

SENATOR BOWMAN: What was their recommendation?

SENATOR NETHING: They don't list the vote, but I think it was 5-1 do pass.

SENATOR HOLMBERG: I would think it is now this committee's responsibility to explain the concepts of the bill and why the bill should be killed.

SENATOR NAADEN: The only problem is we were never allowed to discuss the entire bill. All we could discuss was the appropriation. So, we don't have that obligation.

SENATOR KRAUTER: In response to Senator St. Aubyn's comments, I think under Mason's it requires the most current vote that has been acted on is what needs to be reflected when you're reporting the process. So, if we were to put up the other committee's vote on any recommendation, we need to use the most recent vote on the piece of legislation as it stands.

SENATOR ST. AUBYN: I go back to what Senator Holmberg said. It is difficult for us when we don't know all the intricacies of this of arguing the bill on the floor when it is really the original committee that knows about the bill. I think it would have been better if we could have done the without committee recommendation. I'm wondering if someone would reconsider that.

SENATOR NETHING: We'll hold the bill here in its present status, and we can bring it up at 3:00 when we come back.

SENATOR ANDRIST: Why can't we make arrangements with the judiciary committee to explain our no vote based on the fiscal note, and for them to explain their yes vote based on the philosophy?

SENATOR NETHING: I'll check with the Judiciary Chairman, let him know where we are, and see if there is some accommodation that can be made in that regard.

3/23/99

Reconvened Hearing

Tape 1, A, 3525-3830

SENATOR NETHING: Reconvened the Hearing on HB 1275.

SENATOR SOLBERG: I am not in favor of this bill, and will work against it on the floor; however, I think it only fair that it be allowed to go up without committee recommendation and I'm going to change my vote to that. I'm certainly not prepared to bring the bill on the floor, either for or against. I intend to speak against the fiscal note on the floor. But, I think in all fairness to Senator Stenehjem that he be allowed to carry the bill. I don't think whether it comes out of here with a do pass or do not pass or without committee recommendation will change a whole lot of votes. I think this legislature has always been pretty fair in the hearing process, and since we haven't had the full benefit of the hearing, I would hereby request that we do that.

SENATOR NETHING: Would you move then we reconsider our action?

SENATOR SOLBERG: I move we reconsider our actions on a do not pass vote on HB 1275.

SENATOR TALLACKSON: Seconded the motion.

ROLL CALL #4: Chair declared ayes voice vote prevailed to approve reconsideration of HB 1275.

SENATOR HOLMBERG: Moved we send the bill to the Senate floor without committee recommendation.

SENATOR GRINDBERG: Seconded the motion.

ROLL CALL #5: 7 yeas; 7 nays; 0 absent & not voting

MOTION TIED TO SEND HB 1275 TO THE SENATE FLOOR WITHOUT RECOMMENDATION.

Yeas: Nething, Solberg, Tallackson, St. Aubyn, Grindberg, Holmberg, Kringstad

Nays: Naaden, Lindaas, Robinson, Tomac, Krauter, Bowman, Andrist

SENATOR NETHING: The vote is tied.

SENATOR TOMAC: Just to move the bill out of committee, I'll change my vote from nay to yea.

MOTION CARRIED TO SEND HB 1275 TO THE SENATE FLOOR WITHOUT RECOMMENDATION.

Yeas: Nething, Solberg, Tallackson, St. Aubyn, Grindberg, Holmberg, Kringstad, Tomac

Nays: Naaden, Lindaas, Robinson, Krauter, Bowman, Andrist

CARRIER: Senator Stenehjem

SENATOR NETHING: Closed the hearing on HB 1275.

Date: 3-23-99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1275

Senate APPROPRIATIONS Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS WITHOUT RECOMMENDATION

Motion Made By SENATOR HOLMBERG Seconded By SENATOR KRINGSTAD

Senators	Yes	No	Senators	Yes	No
Senator Nething, Chairman	✓				
Senator Naaden, Vice Chairman		✓			
Senator Solberg		✓			
Senator Lindaas		✓			
Senator Tallackson		✓			
Senator Tomac		✓			
Senator Robinson		✓			
Senator Krauter		✓			
Senator St. Aubyn	✓				
Senator Grindberg	✓				
Senator Holmberg	✓				
Senator Kringstad	✓				
Senator Bowman		✓			
Senator Andrist		✓			

Total (Yes) 5 No 9

Absent 0

Floor Assignment SENATOR

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

Date: 3-23-99
Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1275

Senate APPROPRIATIONS Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By SENATOR Tallackson Seconded SENATOR Grindberg

Senators	Yes	No	Senators	Yes	No
Senator Nething, Chairman	✓				
Senator Naaden, Vice Chairman		✓			
Senator Solberg		✓			
Senator Lindaas		✓			
Senator Tallackson	✓				
Senator Tomac		✓			
Senator Robinson		✓			
Senator Krauter		✓			
Senator St. Aubyn	✓				
Senator Grindberg	✓				
Senator Holmberg	✓				
Senator Kringstad	✓				
Senator Bowman		✓			
Senator Andrist		✓			

Total (Yes) 6 No 8

Absent 0

Floor Assignment _____

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

Date: 3-23-99
Roll Call Vote #: 3

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1275

Senate APPROPRIATIONS Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken DO NOT PASS

Motion Made By SENATOR ANDRIST Seconded By SENATOR NAADEN

Senators	Yes	No	Senators	Yes	No
Senator Nething, Chairman		✓			
Senator Naaden, Vice Chairman	✓				
Senator Solberg	✓				
Senator Lindaas	✓				
Senator Tallackson		✓			
Senator Tomac	✓				
Senator Robinson	✓				
Senator Krauter	✓				
Senator St. Aubyn		✓			
Senator Grindberg		✓			
Senator Holmberg		✓			
Senator Kringstad		✓			
Senator Bowman	✓				
Senator Andrist	✓				

Total (Yes) 8 No 6

Absent 0

Floor Assignment SENATOR

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

Date: 3-23-99
 Roll Call Vote #: 4

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1275

Senate APPROPRIATIONS Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken MOVED to RECONSIDER action on A Do Not

Motion Made By Senator Solberg Seconded By Senator Tallackson PASS

Senators	Yes	No	Senators	Yes	No
Senator Nething, Chairman					
Senator Naaden, Vice Chairman					
Senator Solberg					
Senator Lindaas					
Senator Tallackson					
Senator Tomac					
Senator Robinson					
Senator Krauter					
Senator St. Aubyn					
Senator Grindberg					
Senator Holmberg					
Senator Kringstad					
Senator Bowman					
Senator Andrist					

Total (Yes) VOICE PASSED No _____

Absent _____

Floor Assignment Senator _____

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

Date: 3-23-99
 Roll Call Vote #: 5

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. HB1275

Senate APPROPRIATIONS Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken SENT TO THE FLOOR WITHOUT RECOMMENDATION

Motion Made By Senator Holmberg Seconded By Senator Kringberg

Senators	Yes	No	Senators	Yes	No
Senator Nething, Chairman	✓				
Senator Naaden, Vice Chairman		✓			
Senator Solberg	✓				
Senator Lindaas		✓			
Senator Tallackson	✓	✗			
Senator Tomac	✓	✗			
Senator Robinson		✓			
Senator Krauter		✓			
Senator St. Aubyn	✓				
Senator Grindberg	✓				
Senator Holmberg	✓				
Senator Kringstad	✓				
Senator Bowman		✓			
Senator Andrist		✓			

Total (Yes) 7 No 6

Absent 0

Floor Assignment Senator STENEHJEM

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

REPORT OF STANDING COMMITTEE (410)
March 23, 1999 3:44 p.m.

Module No: SR-52-5429
Carrier: W. Stenehjem
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1275: Appropriations Committee (Sen. Nething, Chairman) recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION** (8 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). HB 1275 was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

HB 1275

**TESTIMONY TO THE
HOUSE JUDICIARY COMMITTEE
Prepared January 18, 1999 by the
North Dakota Association of Counties
William Kretschmar, Lobbyist**

CONCERNING HOUSE BILL NO. 1275

Thank you Chairman DeKrey, and members of the Judiciary Committee for allowing me the opportunity to make this presentation today, as tomorrow is the single day of this Legislative Session that I am unable to be present. I have been asked to represent the North Dakota Association of Counties on this very important issue, because of my past involvement and strong interest in its development. It is my hope to convey the Association's support for the compromise that House Bill 1275 represents.

Since the first consideration of court unification in the 1980's, the role and ultimate placement of the office of Clerk of District Court has been an integral part of the discussion. When the court was reorganized into a single trial level and the county judges became district judges, it was recognized that the Clerks' office would ultimately need to be addressed, however the fiscal impact of moving all court employees to the State in one effort made an immediate change impossible.

The Governor's proposal and the Legislature's enactment of legislation to shift the revenue from court fees and bond forfeitures from the counties to the State in 1995, was really the decision that placed the Clerks on the table before us today. This \$5 million revenue shift caused county commissioners to urge either revenue replacement or relief from court costs. The legislative intent attached to the Judiciary Budget in 1997 made it quite clear that an ultimate solution was expected.

As many members of this Committee are well aware, this solution did not come easily. The efforts of the State Court, outside consultants, and the Interim Judiciary Committee seemed to polarize the parties. At the request of the Interim Committee and with funding from both the Association of Counties and the Supreme Court, the North Dakota Consensus Council convened a study group of Clerks, Judges, Legislators, a State's Attorney, a Sheriff, a County Commissioner, and a trial lawyer. House Bill 1275 was the final product of this consensus process.

The North Dakota Association of Counties was committed to seeing a solution developed that would 1) provide counties with the maximum flexibility to determine their own future and retain the level of service they desire, and 2) the option to access either additional state funding or relief of judicial costs. We believe that this proposal meets those criteria.

Obviously this is a major piece of legislation, but the bulk of the bill simply addresses those statutory duties of the Clerks of Court that were identified by the consensus process as being "non-judicial" duties. Most of the bill simply provides added flexibility for the county boards to ensure that these duties are accounted for in the future. The heart of the bill is really the three options available to counties to address the delivery of the "judicial" services.

**Proposed Required Staffing Levels
for State-Funded Judicial Duties in the
Clerk of District Court Offices
(From State Court Administrators Caseload Analysis)**

COUNTY	Staff in FTEs	COUNTY	Staff in FTEs
Cass	22.4	McHenry	0.7
Grand Forks	15.6	Adams	0.6
Burleigh	13.3	Bowman	0.6
Ward	11.9	Dunn	0.6
Stark	6.5	Emmons	0.6
Stutsman	5.7	Foster	0.6
Morton	4.5	Towner	0.6
Ramsey	4.2	Wells	0.5
Williams	4.2	Eddy	0.4
Walsh	3.5	Golden Valley	0.4
Richland	3.1	Kidder	0.4
Barnes	2.8	LaMoure	0.4
Rolette	1.7	Nelson	0.4
Pembina	1.6	Steele	0.4
McLean	1.4	Burke	0.3
Bottineau	1.3	Divide	0.3
Pierce	1.2	Grant	0.3
Trail	1.2	Hettinger	0.3
Mercer	1.1	McIntosh	0.3
McKenzie	1.0	Renville	0.3
Benson	0.9	Billings	0.2
Mountrail	0.9	Griggs	0.2
Ransom	0.9	Logan	0.2
Cavalier	0.8	Oliver	0.2
Dickey	0.8	Sheridan	0.1
Sargent	0.8	Sioux	0.1
		Slope	0.1

SUMMARY OF HOUSE BILL NO. 1275

House Bill No. 1275 establishes the statutory framework for state-funding of clerk of district court services. The bill has four components. The *central components* of the bill provide for state-funding of clerk of district court services, either through funding provided to counties or through clerks of district court and some associated staff becoming judicial system employees. The *implementation components* of the bill amend secondary statutes to fully implement the change in funding status for clerks of courts. The majority of these amendments make changes to statutes currently applying to clerks of court as elected, county officials. The *court services component* of the bill provides for the separation of court and non-court services responsibilities of clerks of court which are currently defined by statute. There are numerous amendments to statutes that require clerks of court to fulfill a host of responsibilities that are not related to the operation of the court system. The *technical amendments component* amends a series of statutes to change statutory cross-references and otherwise technically implement other amendments made in the bill. These components are summarized below.

Central Components

Sections 50, 51, and 52 - primarily section 50 - set out the central parts of House Bill No. 1275. Section 50 creates a new chapter of the North Dakota Century Code, chapter 27-05.2, which establishes the methods of providing for state-funding of clerk of district court services.

New section 27-05.2-02, in subsections 1 through 7, creates the state-funding framework.

Subsection 1 states the general proposition that the state, i.e., the supreme court, must provide clerk of district court services in each county of the state. That may be accomplished either through funding provided to a county to provide those services with county employees or by a clerk of court and certain designated staff becoming judicial system employees. The supreme court is required to develop standards and procedures to ensure that adequate clerk of court services are provided. *Clerk of district court services* are defined as those services that directly serve the judicial system and the provision of judicial services to the public. After January 1, 2003 (the date after which the office of elected clerk of court would no longer exist), a county employee designated to provide clerk services would serve as ex officio clerk of district court.

Subsection 2 establishes the single exception to state-funding of clerk of court services. A county may elect to provide clerk of district court services at the county's own expense. The board of county commissioners must forward a resolution to the supreme court stating this election. Clerk of court services must be provided in a manner consistent with supreme court standards and procedures. If the county is unable to do so, the supreme court must then provide those services in any manner considered appropriate.

Subsection 3 describes the first of three categories of possible state-funding of clerk of court services. In a county in which the supreme court has determined that at least two full-time employees are necessary to provide clerk of court services, the elected clerk of district court and certain designated staff must become judicial system employees if the board of county commissioners, after discussion with the clerk of court, makes that election. The clerk, upon becoming a state employee, would receive the same salary received as a county employee and would remain an employee of the judicial system until the clerk resigned, retired, or the term to which the clerk was elected expired, whichever occurred first. After that time, the clerk must be appointed in the manner provided by supreme court rule. *If a board of county commissioners does not consent* to the clerk and designated staff becoming judicial employees, then the county must provide clerk of district court services at its own expense. Subsection 3 thus provides *two options* for certain counties: judicial employee status for the clerk of court and designated staff or clerk of district court services provided at county expense.

Subsection 4 describes the second of three categories of state-funding of clerk of court services. In a county in which the supreme court has determined that one or more, but less than two, full-time employees are necessary to provide clerk of court services, the elected clerk and certain designated staff may become judicial system employees, the county may elect to provide clerk of court services at its own expense, or the supreme court may provide funding to the county to provide clerk of court services with county employees. Subsection 4 thus provides *three options* for certain counties.

Subsection 5 describes the third of three categories of state-funding of clerk of court services. In a county in which the supreme court has determined that less than one full-time employee is necessary to provide clerk of court services, the supreme court may provide funding to the county to provide clerk of court services with county employees. The county may also elect to provide clerk of court services at its own expense. Subsection 5 thus provides *two options* for certain counties

Subsection 6 describes the method by which the supreme court may enter into an agreement with one or more counties to provide state-funding for the provision of clerk of district court services. Funding under the agreement must be equal to the amount, based on county compensation levels, necessary for the number of full-time employees needed to provide clerk of court services. Funding must also be available to defray the cost of any technology related equipment considered necessary for the delivery of clerk of court services. If a county fails to fulfill the terms of the agreement or is unable to provide clerk of court services in a manner consistent with supreme court standards and procedures, the supreme court must provide clerk of court services in any manner considered appropriate.

Subsection 7 establishes the schedule by which state-funding options are implemented. State-funding of clerk of court services, either through judicial system employee status or through a funding agreement, would be available beginning *January 1, 2001*. *Before April 1, 2000*, each board of county commissioners must have made an election concerning clerk of court services: judicial system employee status for the clerk of court and designated staff, a funding agreement with

the supreme court, or provision of clerk of court services at the county's own expense. If the board elects to enter into an agreement, the agreement must be executed by July 1, 2000 or the county must provide clerk of court services at its own expense. After the initial election, a board of county commissioners must notify the supreme court before April 1, 2002 and before April 1 of each succeeding even-numbered year concerning whether the county will continue the existing arrangement or make a different election. If an agreement is to be entered into, the agreement must be executed by July 1 of the year that election is made or the county must provide clerk of court services at its own expense.

New sections 27-05.2-03 through 27-05.2-07 (pp. 32-35) create new sections effective January 1, 2001 to govern certain clerk of court responsibilities. Section 27-05.2-03 restates verbatim section 11-17-04, which would be repealed effective January 1, 2001. Section 27-05.2-04 restates current section 11-17-05, which would be repealed effective January 1, 2001, but adds language to govern recordkeeping by a clerk of court who becomes a judicial system employee. Section 27-05.2-05 restates current section 11-17-07, which would be repealed effective January 1, 2001. Section 27-05.2-06 creates a new, general statute governing record maintenance and disposal and would replace current sections 11-17-08, 11-17-09, and 11-17-10. Retention and disposal of court records are currently addressed by supreme court rule and procedure. Section 27-05.2-07 restates current section 11-17-06, which would be repealed effective January 1, 2001, but adds language to restrict its application to a clerk who is not a judicial system employee.

Section 51 of House Bill No. 1275 (pp. 35-36) would amend newly created section 27-05.2-04 effective January 1, 2003, to clarify the statute's application to an individual providing clerk services in accordance with a funding agreement or in an own-expense county. *Section 52 of the bill* likewise amends newly created section 27-05.2-07 effective January 1, 2003, to clarify its application to an ex officio clerk, that is, an individual providing clerk of court services who is not a judicial system employee.

Implementation Components

House Bill No. 1275 amends a number of statutes to fully implement the transition to state-funding of clerk of court services.

Section 6 of the bill amends section 11-10-02 governing the number and election of county officers to delete references to section 11-17-11, the present statute providing a mechanism for transfer of funding for clerks of district court to the state. Section 11-17-11 is repealed effective August 1, 1999. *Section 7* amends section 11-10-02 again, effective January 1, 2003, to remove the clerk of district court as a elected county official.

Sections 8 and 9 of the bill amend section 11-10-06 governing the bonds of county officers. Section 8 amends the statute effective August 1, 1999, to delete references to section 11-17-11. Section 9 amends the statute again, effective January 1, 2003, to reflect the deletion of the clerk of

court as an elected official. *Sections 10, 11, 12, and 13* make similar amendments to sections 11-10-10 and 11-10-11 governing salaries of county officers and appointment and salaries of deputies and clerks.

Sections 19, 20, 49, 73, 74, and 75 of the bill amend various statutes to reflect the application of the statutes to a clerk who is not a judicial system employee and to an ex officio clerk, that is, an individual designated by the board of county commissioners to provide clerk of court services under a funding agreement or at the county's own expense.

Court Services Component

House Bill No. 1275 amends numerous statutes to separate court and non-court related services currently provided by clerks of district court. These amendments would take effect January 1, 2001, and are intended to reflect that state-funding for clerk of district court services is to be available only for those services that directly serve the judicial system in the provision of judicial services to the public. The numerous functions and responsibilities set out in the affected statutes would be transferred to the register of deeds or another official designated by the board of county commissioners. These amendments are set out at *sections 5,14,15,16,17,18, 23,24,25,26,27,28,29,30,31,32,33,34,36,37, 38, 39, 40, 41, 42, 44, 45, 46, 47, 48, 55, 59, 60, 61, 62, 63, 64, 66, 67, 68, 70, 71, 72, 76, 77, 78, 79, and 80.*

Technical Amendments Component

House Bill No. 1275 amends a number of statutes to reflect essentially technical changes. The majority of these amendments reflect the repeal effective January 1, 2001, of the filing fee statute - section 11-17-04 - and its resurrection effective January 1, 2001, as section 27-05.2-03. These various amendments are set out at *sections 2,3,4,21,22,35,43,53,54,56,57,58,65, and 69.*

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19 1ST AVE. S.E.
LAMOURE, ND 58458

LaMoure County State's Attorney

Theodore Kessel, Jr.

January 15, 1999

Representative Pam Gulleason
Representative Mike Brandenburg
Senator Jerry Kelsh

FAX NO. 701-328-1272

Dear Pam, Mike and Jerry:

I understand that soon hearings will be held on various bills to transfer funding of the clerk of courts offices to the State or to abolish the clerk of court's office in smaller counties. Any of these bills would just be devastating to rural counties. We believe that if funding is transferred to the State, the State can eliminate the clerk of court's office by cutting off the funds to that office.

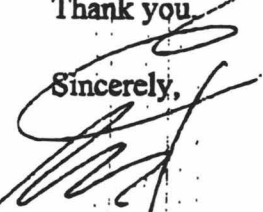
I cannot understand the thinking of the proponents of these bills. My personal knowledge of the LaMoure County Clerk of Court's office is that on my daily visits to that office, the clerk and her half-time assistant are extremely busy. There is so much work to be done. It is not like they are sitting around wondering what to do next.

Further, elimination of clerk of courts in smaller counties, I believe, will have the effect of discouraging young lawyers from locating in those counties. We are looking for a young attorney at this time, and are extremely concerned that the passage of any of these bills would make it impossible to locate someone who would otherwise be interested.

Thanks for hearing me out. I hope you will be opposed to these bills.

Thank you

Sincerely,



Theodore Kessel, Jr.
LaMoure County State's Attorney

TK:sp

**Testimony of Fred Strege Before the House Judiciary Committee
January 19, 1999
Re Clerk of Court Takeover (House Bill 1275)**

I have practiced law in North Dakota for 22 years and I was a member of the Consensus Committee that designed the current bill under consideration. **I disagree with one provision of the bill which is unfair and coercive.**

I disagree with the structure of Chapter 27-05.2 (beginning on page 28 of the bill draft) in that it does not allow all counties to utilize the contract option.

Under subsection 3, counties determined by the Supreme Court to require at least two full-time employees to provide adequate clerk of court services only have the option to provide services themselves, solely at the counties' cost, or allow the state to take over and pay for clerk services. **These counties have no contract option.**

This is particularly disturbing for counties like Richland County. Richland County has about five full time equivalent employees. Under the court services study, Richland County was determined to need only three FTE employees. The Richland County Clerk of Court office budget is about \$150,000. The Richland County Commissioners will be forced to choose between spending less money on the clerk budget (state takeover and reimbursement) and losing two employees, (less clerk service).

The choice is not a fair one. The bill draft coerces counties to give up local control in exchange for dollars.

With the contract option, Richland County could choose to provide services by contract, and receive a fair share reimbursement for three FTE employees, while also funding the two extra employees itself, without state reimbursement.

Our committee agreed upon one bedrock principle and that was that all decisions should be made from the bottom up. We agreed that the state should not be able to force its will upon counties. The way this bill is structured, those counties with no contract option may not be truly "forced", but they are certainly coerced and pushed into accepting a state takeover.

I am sorry I could not appear before the committee in person or present more written testimony. A close relative passed away and I just cannot do more at this time. I am enclosing the following information with this document and I urge you to review and consider its contents before you vote on any final bill draft:

1. Summary and Presentation made by me to the Interim Judiciary Committee.
2. Diagram labeled "Comparison of Bills".
3. Various newspaper articles.

4. Various excerpts from our Consensus Committee Report.

Although unavailable to attend the hearing, I am available for phone calls at any time. My office phone number is 701-642-2668 and my office e-mail is "sands@means.net".

Summarizing, I believe House Bill 1275 should be amended so that all counties have the contract option available to them. My second alternative would be to define the bill such that counties below five FTE's would be allowed to choose the contract option.

Fred Strege
Box 38
Wahpeton, ND 58075

SUMMARY OF PRESENTATION

1. ***Decisions should be made from the "bottom up".***
2. ***Old bill — all counties had a choice.***
3. ***New bill — some counties effectively have no choice.***
4. ***Take or leave it option in the new bill is unfair, coercive and abandons the "bottom up" principle.***
5. ***The take it or leave it option forces counties to SELL THEIR SOUL!***
6. ***Extra judicial administration time is a phantom concern and should give way to fundamental fairness.***
7. ***The present system is working just fine.***
8. ***Needs: Preserve what we have — allow flexibility — the State pays for judicial services***
New bill doesn't meet the people's needs.
The old bill does!
9. ***New bill is a tough sell — the old bill isn't.***

Clerk of Court Bills Discussion
Submitted to the Interim Judiciary Committee
November 12, 1998
By Fred Strege, Consensus Committee Member

The central premise that every Consensus Committee member agreed upon, right from the very first meeting, was that counties should be masters of their own destiny. We always repeated, and universally agreed, that "**decisions should be made from the bottom up, not from the top down**". The current bill draft abandoned that premise at the 11th hour.

The bill draft that we worked with for 4½ meetings called for a division of counties into two categories. Counties under 1 FTE had two choices: they could opt out of the system or they could contract to provide services. Counties at 1 FTE or more had three choices: they could opt out, they could contract or they could become part of the state system. In each instance the counties could choose their own destiny. If the county authorities wanted to provide more or better services than the state budget allowed or the state bureaucracy believed was needed, the county could contract to provide those services -- the county contract always gave the counties a choice.

The new bill draft which came about after lunch on November 5, in the last two hours of discussion during our final meeting, now calls for a division of counties into three categories. One might assume that, maybe, these additional categories might yield additional flexibility. Not so. Now counties under 1 FTE still have the same opt out or county contract option. Counties between 1 and 2 FTE's have the same two options as before: state takeover or contract option. But the counties over 2 FTE now have a take it or leave it option of state takeover or opt out. **THEY LOST THE CONTRACT OPTION!**

The take it or leave it option is unfair, it discriminates, it is coercive and it runs counter to the "bottom up decision making" principle this committee adopted as its bedrock principle.

The take it or leave it counties spend the most money on judicial services. What county commissioner in their right mind will spend this money if they don't have to? What county commissioner will opt to spend this money when they could save the money for roads and bridges? The sad part of this is that the county commissioners must eat the whole hog or none at all. They have no choice to contract to provide services, with significant reimbursement from the state. If the county believes the state is short changing the county on services, that's too bad because the county, under the state takeover system, has to give up all control. Unlike the contract counties, these counties can't pay for the extra services the state won't provide.

**IN ORDER TO CUT THE COUNTY BUDGET, THE COUNTIES MUST
SELL THEIR SOUL! THAT'S WRONG!**

This all or nothing approach was created in the name of judicial administration. There is a point of view that, with all those contracts out there, judges will spend too much time in administration. Guess what? Administration time is going to go up no matter what. The only way to avoid the extra administration time is for the Legislature to scrap the Consensus Committee's plan altogether. Adopting the bill in the previous form or the new form both yield increased administration time. **Administration time concerns should not outweigh fundamental fairness.**

I don't want to see the judiciary work any harder. But, when I compare the judiciary spending a few more hours to get this system going with the unfairness of the take it or leave it approach, I'll opt for fairness every time.

The Consensus Committee attempts to treat the "larger" counties differently. Please don't get confused. There are only four large counties and we all know where they are. Our state has four large counties and then it has the rest of us. Don't lump Valley City and Wahpeton in with the big guys. If there is any wisdom at all in creating a third, large super county category, create one that defines the big four and allow the rest of us to make our own decisions and be masters of our own fate. If we can't afford to provide the service, we won't. But don't force us to sell our soul and be force fed what the State budget and the State bureaucracy allows.

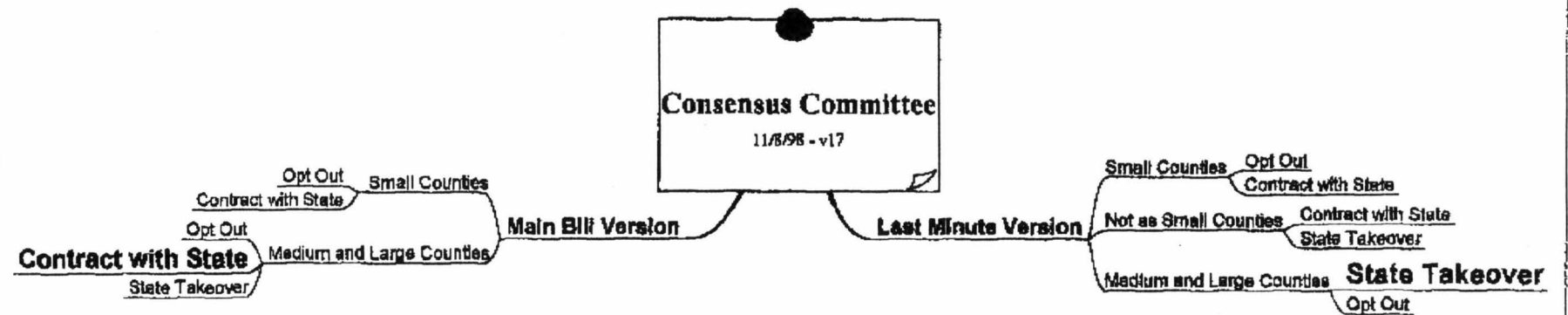
Please remember that everyone on our committee and everyone who gave comment to our committee, without exception, agreed or told us that the clerk system, as it exists right now, is functioning just fine. Nobody, not one person, feels it needs to change. Likewise, because the State took judicial revenue from the counties, everyone also believes that the state should pay for judicial clerk services.

What we need is something that preserves what we have, allows the counties flexibility to provide services and requires the State to pay for some or all of those services. The new bill draft fails to meet these goals. ***The old bill draft satisfied them all.***

Please don't make the counties make an all or nothing choice. The new bill draft will engender bitterness and it will be a tough sell. The old bill draft, the one we worked with the most, is logical, is flexible and it can be passed without bickering.

Thank you for allowing me to serve on the Consensus Council Committee and thank you for allowing me to present this information.

Comparison of Bills



Why Shouldn't Every County Have the Contract Option?

THE DICKINSON PRESS

OPINION

Publisher & General Manager
Peter Rogers
Managing Editor
Tom Mast

Court proposal short on fairness

Legislation that would affect the future of North Dakota's court clerks, which has been called the "most contentious" issue to face the judicial system in 20 years, wins that title for good reason.

It is unfair.

The proposal, to be considered by the Legislature, goes to the heart of every one of the state's 53 county courthouses and could change the decades-old tradition of local service.

Pointing to the declining population in rural areas, some believe it would be more efficient and effective for county-employed clerks to become state employees.

Local property taxes would be saved, and a cohesive system that would add the clerks into the system of state-employed judges would be created, they argue.

But the legislation does not treat every county - and therefore every resident - equally.

The bill creates classes of counties, based on estimated staffing needs. Some counties would have the options of allowing a state takeover or keeping service as is and paying for clerks with county funds. But other counties would also have a third option of signing a contract with the state and receiving reimbursement for the costs. If a county felt the contract didn't meet the needs of local patrons, the county could contract for service elsewhere.

Twelve counties, including Stark and Morton, for example, would only have the two options of local funding or a state takeover.

And the less populated counties,

Richard Volesky



The Dickinson Press

such as Adams, Billings, Bowman, Dunn, Golden Valley, Hettinger and Slope, could choose between local funding and the contract option.

McKenzie County would have those two options, but it also could choose a state takeover.

There is no reason why every county cannot be provided all three options.

While it's been argued that giving all counties the contract option would result in the state spending too much time on administration, it can also be said that state administration with this bill will increase regardless.

Court clerks are quick to disagree with suggested staffing levels in their courthouses. In Stark County, there may be the mandate of two fewer positions, Clerk of Court Paulette Reule believes. And in Dunn County, Register of Deeds Pamela Tamayo Stenehjem wonders if the clerks' office can operate effectively with only a 1/4-time position, rather than the current 1 1/2-position court clerk staff.

Tamayo Stenehjem points out that Dunn County's 1,100 traffic

tickets per year were not taken into account by a state-sponsored study conducted by a Denver consulting firm. The study has been ditched in favor of the current bill.

Clearly, the staffing needs of each courthouse should be hammered out further if this "most contentious" issue, as N.D. Supreme Court Chief Justice Gerald Vandewalle called it, is to be resolved.

Claims that county taxpayers would save property taxes if clerks become state employees may be misleading.

While it's true that not having to pay clerk salaries would remove pressure on county budgets, chances are taxpayers in the end won't see lower taxes. Road-oriented county commissioners would probably use the savings to buy gravel piles.

Intertwined with the issue are the prospect of future changes to the court system, the concept of regional trial centers or regional courthouses, and maybe even the creation of super-counties and the consolidation of county governments.

Also, there's the question of whether or not having residents travel to use a regional building would really save money.

Such issues were studied by Iowa, where court consolidation became a public issue in 1993.

The situation in Iowa's 99 counties is strikingly similar to North Dakota. The rural population is shifting to urban areas. There is a clerk office in every county, but since 1987, the clerks have been

state employees.

A study was launched to see if Iowa could create a more efficient, cost-effective court system with consolidation. However, according to a report by an Iowa State University economics professor and a Washington, D.C. attorney, consolidation would not always result in savings.

Depending on the court structure, consolidation savings are not equally shared by the state, local governments and rural citizens, the study found. In addition, income and employment would likely shift from rural to regional areas.

Rural citizens may have had less-than-equal access to justice, the study added. While some costs would be saved, citizens would have to travel more. The study did not examine Iowa's smallest counties.

However, that study brings up an important point about North Dakota's proposed changes: Will reduced staff in smaller counties actually mean a net savings for the state and its residents?

Ironically, Chief Justice Gerald Vandewalle said the current system comes with few problems, and the committee that drafted the bill expressed a similar sentiment. So perhaps the Legislature is trying to fix something that isn't broken.

A fix of some sort does appear to be on the way. But in a system where equality is the mainstay, it just seems logical that change should be accompanied by much greater fairness.

Local courts in state could face tough choices

By RICHARD VOLESKY

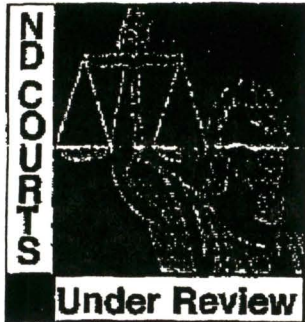
The Dickinson Press

Legislation that may convert all county court clerks in North Dakota into state employees will force some counties to "sell their souls," a Wahpeton attorney says.

The bill, which will appear in the Legislature next month, is supported by those who say it's needed to create an efficient system, especially considering the declining population of many counties. Opponents fear a disruption in services, and that the problem of rural decline would eventually be aggravated.

The bill would in one way or another affect every North Dakotan, either as county or state taxpayers or as users of the court system.

The bill was drafted by a com-



mittee seeking to build a proposal with an issue that has been a lightning rod in the judicial system. Attorney Fred Strege of Wahpeton was a member of the committee.

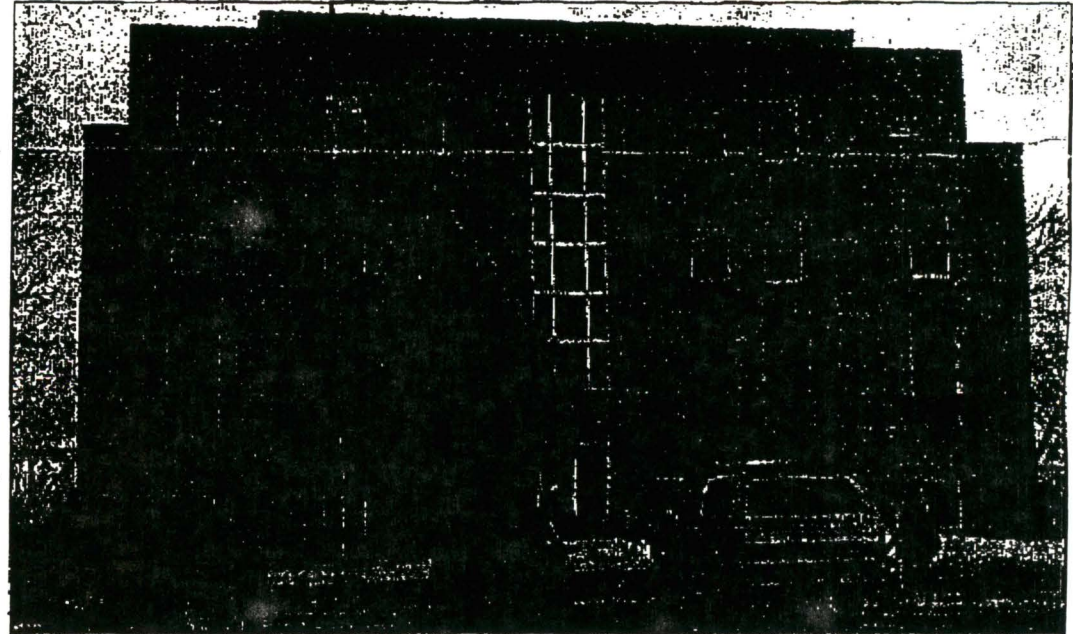
"If we can't afford to provide the service, we won't," Strege said. "But don't force us to sell our soul and be force fed what the state budget and the state bureaucracy allows."

He is unhappy with how the proposed bill categorizes the counties and "squeezes" medium-sized counties such as Richland County, his home county. Here in southwestern North Dakota, Stark County would be in the same boat as Richland County.

For example, Stark County would have the take-it-or-leave-it choices of a state takeover or of paying for clerks with county funds.

"I just think it's grossly unfair," Strege said.

Some counties would also have a third option of contracting for court services, with the state reimbursing the county for its costs. Counties which didn't like the state's staffing guidelines could



Press File Photo by Richard Volesky

Patrons enter the Hettinger County Courthouse in Mott. Declining population in that rural county, which now has about 3,400 people, and the state's other counties has led to a proposed law that could turn county court clerks into state employees, officials say.

contract additional services from elsewhere.

In southwestern North Dakota, the counties of Adams, Billings, Bowman, Dunn, Golden Valley, Hettinger and Slope would have the options of paying for clerk services out of their pockets or contracting with the state.

McKenzie County could choose among local funding, contracting, or a state takeover.

Strege further explained that he believes the current system is working fine, but the bill is being

drafted because some people believe it would be better for court clerks to be state employees.

District judges and the court administrators who are state employees work daily with clerks who are on county payrolls.

"I think it would make the system more compatible," said Sen. Gary Nelson, R-Casselton. "I think it's reasonable that we take over the clerks of court ... It would be more effective and efficient."

Each county's elected clerk of

court position is scheduled to become an appointed job on Dec. 31, 2002. That's because of legislation previously approved by the Legislature.

Some attribute the proposed changes to the decline of rural counties.

"It's just a realization like with school redistricting," said State Court Administrator Keith Nelson of Bismarek. "Some counties can't afford it (court services)."

See **COURTS** on Page 2



Press Photo by Richard Volesky

Stark County deputy court clerks Sheila Hartz (left) and Bev Gabbert review a file at the Stark County Courthouse.

COURTS *from Page 1*

Getting to the point of the current proposal was essentially set in motion years ago.

In 1995, the lion's share of court fines and fees started going to the state's general fund, not to county treasuries. Counties have complained of the lost revenue — money which once helped pay for court clerks.

There is ongoing concern that changes in the court system will not stop with the current bill. Regionalized courts with trials held only large cities could follow. The end result would be decreased

activity in the small towns, some argue.

The proposed bill would also change the duties of the court clerks. Birth and death certificates, passports, marriage licenses and marriage ceremonies and other duties would no longer be handled by the clerks.

Rather, those duties would be transferred to register of deeds offices or someone else that a county commission designates.

(Future installments on this issue are planned.)

Court clerks say state bill could end local control

This is the second installment in a series concerning proposed legislation that may impact court services in all North Dakota counties.

By RICHARD VOLESKY

The Dickinson Press

Loss of local control and the eventual closing of courthouse offices are among the possible results of a proposed North Dakota law, court clerks fear.

Legislation that would impact the clerks' offices is expected to reach the Legislature next month.

The bill's current draft creates three options for the state's 53 county commissions. The commissions would decide if their county clerks should become a part of the state's court system, if they should contract for services or if they should keep the current arrangement in which the county covers the costs.

Some counties would have all three options, while others would only be given the choice of a state takeover or local funding. "I'd prefer if it stayed locally controlled,"

said Golden Valley County Clerk of Court Cindy Meek.

"I have a fear that if the state takes over and assumes the smaller offices, they'll eventually be closed," Meek said.

The committee that drafted the bill recommended that there not be a mandate to eliminate court clerks, and the bill doesn't ask that offices be closed. However, clerks wonder if that will be the outcome of bills introduced in legislative sessions in years to come.

"The system is now running smoothly," Meek added. "There aren't any major problems."

Dunn County Clerk of Court Pamela Tamayo Stenehjem foresees a two-fold issue that could result in less local control.

As of Dec. 31, 2002, because of previously approved legislation, clerks of court will no longer be elected officials, unless county voters ask for an election that determines otherwise.

The democratic process of elections will not be left intact since the clerks would no longer be serving at the discretion of the voters, Tamayo Stenehjem explained.

Now, with the proposed law, "if the state

See **CLERKS** on Page 2

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available: North Branch drive-up,
The General Store,
Kum & Go Convenience Store



PHOTO BY JEFFREY...

CLERKS *from Page 1*

fills clerk positions, the new workers may not necessarily be from this county and they would be serving the Supreme Court," she said. "Someone sitting in Bismarck is not going to have any idea what's going on in each county or what things are unique to each county."

Clerks wonder if some counties would see reduced court clerk hours. Offices in the counties of Dunn, Billings, Golden Valley, Hettinger and Slope should operate with 1/4-time positions, according to a study by a Denver consulting firm, which was hired by the state.

Tamayo Stenchjem, who is also vice-president of the North Dakota Clerks of Court Association, said the clerks share a common belief that a potential outcome is the creation of trial centers. In such a scenario, trials and record-keeping services would be provided mostly at regional offices.

"To think that it would be less costly for people to travel for services is asinine," Tamayo Stenchjem said.

Claims that some counties can't afford court clerks is not true, said Slope County Clerk of Court Sue Juntunen. Slope County, North Dakota's least populated county, handles about 45 criminal and civil cases a year.

"Our county has funded the office for years and has maintained that office," Juntunen said. "I think I'd prefer that clerks stayed as county employees." It's an issue of local control, she said.

Hettinger County Clerk of Court Robin Ulrich said she hasn't yet formed an opinion on the issue. However, as a county employee, she'd be more likely to "know where I stand."

Bowman County Clerk of Court Annetta Anderson and Ginger

Dangerud of Adams County also share concerns about local control and service.

"I always have thought it's better to keep a county's business local," Anderson said. Counties should be reimbursed for their costs, she added.

Dangerud said, "Our big concern is if it (court services) moves out of the counties to the Dickinsons and Bismarcks of the state."

Another section of the proposed law transfers court clerk duties such as handling marriage licenses and death certificates to the register of deeds office or to someone else that a county appoints.

However, in all of the region's counties, except Stark County, the clerk of court and register of deeds offices are already combined. As of Jan. 1, 1999, because of a change to state law, clerk of court titles in most smaller counties will be replaced with the title of register of deeds.

"I don't see what they expect to gain by transferring the duties," said Billings County Clerk of Court Donna Adams.

The bill is essentially a step toward reversing economic development and a step toward regional trial centers, Adams said.

"The rural people of North Dakota shouldn't be treated as second rate citizens," Adams said. "They're out taking the rural people's right to judicial services."

Adams predicts that the residents of smaller counties may see a loss of one-on-one service, if the proposed changes move forward.

Stark County Clerk of Court Paulette Reule wasn't available for comment. However, she previously expressed concerns about whether the state's staffing guidelines would match Stark County's actual needs.



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Legislator says bill means lower property taxes

Some wonder if 'trial centers' are on way

This is the final installment in a series concerning proposed legislation that may impact court services in all North Dakota counties.

By RICHARD YOLESKY

The Dickinson Press

A proposed law affecting county court clerks will result in less property taxes, the bill's supporters say, but at least one lawmaker wonders if money will actually be saved.

Counties wouldn't have to levy

taxes for county clerks since they would become state employees with the proposal. However, just how the state would find the money to pay for the change is uncertain.

Most area lawmakers contacted about the bill were unfamiliar with the document since they haven't yet studied it. The bill's introduction is expected within a few weeks.

But those closer to the bill - members of the Interim Judiciary Committee - have begun to form opinions on the subject.

"I'm very concerned about the counties under 6,000 (population)," said Rep. Shirley Meyer, D-Watford City.

"I think there's a trend of losing services in the rural areas. I think there has to be a lot more thought on this," Meyer said. "It needs to be reviewed in great detail before a vote."

The bill provides options to counties such as having the state take over the payroll of court clerks, or keeping the current arrangement in which counties cover the clerk costs.

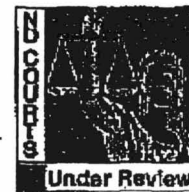
The third option for some of the counties involves contracting for services from the state, with counties being reimbursed for the cost. The state would have a say in clerk staffing.

Some have said the process leading to this bill actually started about 10 years ago. Changes to laws over the years led to county judges giving way to state-employed district judges, local court revenues going to the state, and clerks of court becoming appointed, not elected officials.

The last step may be trial centers in which most court activities occur in regional cities, some have said. A consulting firm once

recommended that 23 counties consolidate clerk services and not have full-scale operations.

"I don't think some realize how detrimental it would be..." Meyer said of the consolidation idea. After the cost of new buildings for the regional storage of records are considered, "I don't see any cost savings at all," she said.



Among the recommendations for court consolidation were using technology and computers at rural sites so that residents could access services. However, Meyer doubts that would work since all citizens are not accustomed to such technology.

For now, the study which came up with the court consolidation idea has been put aside in favor of the current bill, which has a less dramatic effect.

Rep. Duane DeKrey, R-Pettibone, said how the bill categorizes counties needs more work. The categories determine how many

See **LEGISLATOR** on Page 2

Fire ravages

Six die in



Teen driver proposal aims for responsibility

LEGISLATOR *from Page 1*

of the three options - a state takeover, contracting or local funding - a county may consider.

Other than that issue, "I think it's a pretty good bill," DeKrey said. "I support it personally because it brings state dollars back to the counties. I don't know how we can go wrong with that."

"I think there's a lot of misinformation out there," DeKrey said. "The rural clerks have been against it from the start." The committee that drafted the bill recommended that court records stay in their original counties and that original clerks should be retained.

A funding note for the bill has not yet been developed. However, North Dakota Supreme Court Chief Justice Gerald VandeWalle said a rough estimate has an \$11 million price tag. That's for an entire two-year state funding cycle involving an unspecified number of court clerks.

There are currently 154 full-time and 50 part-time clerk positions in the state.

The bill, if approved, sets up a timeline that says the state would start incurring costs starting July 1, 2001.

In that case, only six months of the state's two-year budget cycle would be affected. The state's coming budget would then need about \$3 million for the clerks, including start-up costs, VandeWalle said.

Court clerks and lawmakers alike, however, wonder if the state can find the additional money, especially considering the strained agricultural and oil industries.

Mark Johnson, executive director of the North Dakota Association of Counties, said his organization supports the bill.

"Our position has been that if all of the groups involved support it, then we would support it," Johnson said. The bill was developed by legislators, attorneys, court clerks and others, who were all a part of committee seeking a compromise on the divisive issue.

"The strongest part of the bill is the county's continuation of the services ... It provides for local determination," Johnson said.

When asked about the future of courts and the trial center idea, Johnson said, "That's something demographics are going to dictate."

Elements of Agreement and Implementation Plan of the Clerk of Court Consensus Process

The following elements of possible agreement will assist the participants in balancing and integrating important goals and in assessing the adequacy of any legislative proposal relating to clerk of court services in North Dakota following the Clerk of Court Consensus Process. These principles have guided the drafting of implementing legislation and describe the joint intentions of the participants.

Some elements regarding implementation are intended for referral to the North Dakota Judicial System, the North Dakota Association of Counties/North Dakota County Commissioners Association, and the Legislative Assembly for administrative and cooperative action that is separate from legislation.

It is the understanding of the participants in the Consensus Process that those participants do not support the conclusions or the proposals of the study by the National Center for State Courts entitled, "North Dakota Clerk of Court Consolidation Study" (April, 1998) and concur in and support this proposal as a substitute for consideration by the North Dakota Supreme Court and the North Dakota Legislative Assembly.

General Principles

1. **State Services:** Court services of clerks of court are state services of the judicial system and state funding should be provided for state services.
2. **Judicial System Management:** Court services of clerks of court should be administratively and budgetarily responsible to the judicial system.
3. **Separated Services:** Court services should be separated from non-court services of clerks of court. (See "Recommended Court Services and Non-court Services of the Clerk of Court in the North Dakota Judicial System")
4. **State Standards:** The judicial system should set standards and procedures for the kinds and levels of court services of clerks of court.
5. **Flexibility:** Counties should have flexibility to provide the court services of clerks of court in the counties.
6. **Judicial Administration:** Court services of clerks of court should be administratively manageable for judges.
7. **Combined Offices:** There should be no change in the currently designated combined offices of Registers of Deeds/Clerks of Court (NDCC 11-10-02).
8. **Elections:** There should be no state-mandated elections for clerks of court following the election in November, 1998. The end of term of office of these clerks is on December 30, 2002. Thereafter, whether clerks providing non-court services are elected or appointed is a matter for county decision. Whether other positions provide non-court services of current clerks of court is a matter for county determination.

County Flexibility and Discretion

9. **Large Counties:** Counties of a certain large size [Two to five or more Full Time Equivalent (FTE) employees for court services of clerk of court services as determined by the Supreme Court] should have two options of state-funded court

services of clerks of court with state employees or provision of these services at county expense.

10. **Middle Counties:** Counties of a certain middle size [Not less than one Full Time Equivalent (FTE) employee for court services of clerk of court services as determined by the Supreme Court nor more than two to five FTE employees for court services of clerk of court services as determined by the Supreme Court] should have three options: state-funded court services of clerks of court with state employees, or contracts for these services with the judicial system, or provision of these services at county expense. (There was a diversity of views among the participants regarding whether the middle county group should be smaller or larger at the expense of the large county group in seeking a balance between offering maximum county choice flexibility for counties and providing simple judicial administration within judicial districts.)
11. **Small Counties:** Counties of a certain small size [Less than one FTE for court services of clerk of court services as determined by the Supreme Court] should have two options to provide court services of clerks of court pursuant to contracts with the judicial system or to provide these services at county expense.
12. **Clerk Option:** In counties in which there are elected clerks of court, the clerk of court should be consulted by the county commission regarding the option decision to state-funding as state employees during the clerk's term of office.
13. **Service Flexibility:** All counties should have flexibility in providing the court services of clerks of court in their county or jointly among cooperating counties. There should be no state mandate for cooperation among counties. All cooperative efforts among counties to provide court services of clerks of court should be voluntary.
14. **Impacts on Funding:** Counties should have flexibility to reassign court services of clerks of court within county government, within judicial system service and procedure standards, without negative impact on state funding contracts with the judicial system.
15. **Supreme Court Veto:** The Supreme Court should have no veto over the decisions of counties to exercise any county option for agreements or state employee services. The Supreme Court may revise the FTE requirements that may affect future county options. The Supreme Court should have attrition and voluntary employee transfer options to assist in effective administration of court services of clerk of court services.

Funding

16. **Adequate Funding:** State funding should be adequate to provide appropriate court services of clerks of court in all counties.
17. **All Counties Coverage:** State funding should address the needs for court services of clerk of court services of all counties, but can meet those needs through different mechanisms.
18. **Budgeting Notice:** The state funding cycle should accommodate early and firm notice to the judicial system and county budgeting officials by exercising appropriate county options in the even-year for the next biennium.
19. **State Employment Option:** State funding should be available for state employment of clerks of court for some larger counties.

20. **Failure to Meet Standards:** The judicial system should have a procedure for providing necessary court services for a county in the event of failure to complete an appropriate contract or a county's inability to meet contract standards.
21. **Self-funded Court Services:** Counties may choose not to enter into contracts with the judicial system, in which case, court services of the clerk of court should be provided by the county at county expense, consistent with standards set by the Supreme Court.
22. **Contract Amount:** The contract amount should be set on the basis of the equivalent of units of 600 filings per FTE plus a "small office credit," where appropriate, to be determined by the State Court Administrator in consultation with those affected. (See "North Dakota Clerks of Court Staffing Proposals by District.")
23. **Judicial System Support Positions:** There is a recognition of the need for additional positions, including floater substitute clerk positions (to meet clerk absences due to contingencies, such as employee absences due to illness), and fiscal and technology positions in the State Court Administrator's office.
24. **Technology Cost:** State funding should provide necessary technological equipment for court services of clerks of court.

Clarification of Clerk of Court Services

25. **Court Services Separated:** Court services and non-court services should be identified and separated.
26. **Court Services Only:** State funding should be available only for court services of clerks of court. State funding should not be available for non-court services of clerks of court.
27. **Non-court Services:** Non-court services of clerks of court should be transferred to the counties [or other appropriate agency]. There should be no state mandate for elimination of non-court services of clerks of court in any county. Non-court service functions should be carefully allocated to counties or other appropriate agencies during the transition period. Counties should have the discretion to allocate these non-court services among officials within county government.

Allocation of Court Facilities Funding Responsibilities

28. **Court Facilities:** A state court facilities plan for funding for facility services for court service functions of courts and clerks of court should be considered in the 2001 session of the Legislative Assembly pursuant to a joint proposal by the judicial system and the North Dakota Association of Counties following a concurrent study, resolution of the 1999 session of the Legislative Assembly (See NDCC 27-01-01.1 and 11-10-20).
29. **Clerk Facilities:** State funding should be available for 100 percent of the future facilities, furnishings, and equipment for court services of clerks of court.
30. **Technology:** State funding should provide 100 percent of necessary technological equipment for court services of clerks of court. Current technological equipment of the clerks of court who become state employees should be transferred to the judicial system by the county.

Personnel

31. **All Counties:** Court service function personnel should be available in each county in a manner determined by the counties, subject to standards set by the Supreme

Court. There should be no state mandate to eliminate clerks of court or the non-court services of clerks of court.

32. **Staff Retention:** Current clerk of court staff should be retained (by state employment or made possible by state funding contracts) subject to attrition of current employees and flexible planning by counties. [Recommendation to the North Dakota Association of Counties and North Dakota County Commissioners Association]
33. **Compensation:** Equitable compensation of clerks of court should be addressed. Clerks of court as state employees should be compensated equitably. Contracts with counties should recognize compensation equity within county government in determining contract amounts. [Recommendation to the North Dakota Association of Counties and North Dakota County Commissioners Association]
34. **Office Separation:** There should be no requirement of physical separation of the state or county court services of clerk of court personnel from those county employees providing non-court services. (Recommendation to the Judicial System)
35. **Supervision:** Court clerks who are state employees (providing court services of clerks of court) may supervise county employees (providing non-court services of clerks of court) at the option of the county. (Recommendation to the Judicial System)

Court Records

36. **Technology:** Court records services should be addressed through technology to provide public access and copy distribution services.
37. **Venue:** Court records should be held in the county of origin and subject to uniform standards until appropriate technology that is accessible to users (including abstractors and landmen) eases records copying and transfers.
38. **Confidential Documents:** The judicial system should review the existing standards and procedures to protect confidential documents of the courts.

Implementation Transition

39. **Schedule:** A period of approximately 18 months should be provided for all county option decisions and administrative implementation for all participating counties before the last 6 months of the first biennium.
40. **First Biennium:** During the first biennium of the legislation, the contracts will be for a duration of six months (January 1 - June 30, 2001).
41. **Preparations for Implementation:** The preparations for the implementation of county options made before April 1, 2000 for contracts, state employment, and service standards and procedures would be completed on December 30, 2000. Contracts must be completed by July 1, 2000.
42. **Second Biennium:** During the first full biennium of the legislation, the contracts will be for a duration of 24 months (July 1, 2001 - June 30, 2003). The county options for this first full biennium of the legislation shall be exercised before April 1, 2000.
43. **Subsequent Biennia:** After the first full biennium of the legislation, the counties that have contracts or had exercised the self-funding option may exercise appropriate new options for the succeeding biennium periods before April 1 of the even-numbered year of each biennium for the succeeding biennium beginning July 1 of the odd-numbered year.

Criteria and Tests for Determining an Effective Product:

1. Court costs should be reduced and court efficiencies should be increased as a result.
2. Property taxpayer burden should be reduced by state funding for court services of clerks of court.
3. Court services of clerks of court should be accessible to the public.

Additional Products:

Recommendations to the Legislative Assembly

1. Bill Draft
2. Concurrent Study Resolution regarding state contributions to funding of court facilities for the 2001 Legislative Assembly
3. Concurrent Study Resolution regarding monitoring of the implementation process for the 2001 Legislative Assembly
4. Preservation of non-court services in counties
5. No change in filing or storage of court records in the county of origin.

Recommendations to the North Dakota Association of Counties and North Dakota County Commissioners Association:

1. **Clerk Services:** Cooperate with the judicial system for the transition in the separation of non-court and court services of clerks of court.
2. **Transition Cooperation:** Cooperate with the judicial system for a smooth transition.
3. **Facilities:** Cooperate with the judicial system in developing a joint proposal or separate proposals for a state plan including funding assistance for court facilities for the 2001 Legislative Assembly.
4. **Staff Retention:** Encourage counties to retain current clerk employees, subject to attrition of current employees and flexible planning by counties.
5. **Compensation:** Encourage equitable compensation of clerks of court. Contracts with counties should recognize compensation equity in determining contract amounts.

Recommendations to the North Dakota Judicial System:

1. **Confidential Records:** Review rules and procedures to protect confidential court documents.
2. **Standards and Procedures:** Prepare standards and procedures and review the Clerk of Court Manual for court services of clerks for reference in preparing contracts with counties.
3. **List Determination:** The list of FTEs required to provide courts services of clerks of court in each county determined by the Supreme Court presented by the State Court Administrator should be identified well in advance of April 1 of the even-numbered year for the next biennium to assist county planning and informed exercise of their options. (The list of FTEs required to provide court services of clerks of court in each county determined by the Supreme Court and presented by the State Court Administrator was confirmed with the understanding that those counties designated as .9 FTE would be rounded to 1.0 FTE, those counties designated as .7 FTE would not be rounded to 1.0 FTE, and those counties

- designated as .8 FTE would be considered by the State court Administrator to be rounded to 1.0 FTE based on local court conditions.)
4. **Early Standard Development:** The standards and procedures development process should be initiated as soon as possible to assist the transition.
 5. **Transition Process:** Cooperate with the North Dakota Association of Counties and North Dakota County Commissioners Association in the transition process
 6. **Facilities Planning:** Cooperate with North Dakota Association of Counties and North Dakota County Commissioners Association in developing a joint proposal or separate proposals for a state plan including funding assistance for court facilities for the 2001 Legislative Assembly.
 7. **Contract Contingency Procedure:** Develop a deliberate contingency procedure for the eventuality of failure to negotiate an appropriate contract or failure of a county to meet contract requirements.
 8. **Employee Supervision:** Recognize that state court clerk employees (providing court services of clerks of court) may supervise county employees (providing non-court services of clerks of court) at the option of the county.
 9. **Employee Separation:** There should be no requirement of physical separation of the state or county court service of clerk of court personnel from those county employees providing non-court services that were previously provided by clerks of court.
 10. **County Records Retention:** The court records and the filing of documents for court records should remain in the county of filing, with copies made available within the judicial system and the public as technology permits.
 11. **Conflict Prevention and Mitigation:** There should be consultation mechanisms for development of standards and procedures, planning the transition, and discussion of views regarding compliance within the judicial system.

Words for Careful Use:

- "Unification": The process of moving toward singular accountability within the judicial system, including through adherence to uniform standards, structures and procedures, but need not include state employment.
- "Consolidation": The combination of the offices of Register of Deeds and Clerk of Court. The combination of clerk of court offices among several counties whether by state mandate or by agreement among the counties.
- "Clerk of court services": The current services of clerks of court that include court services and non-court services.
- "Court services": The services of clerks of court that directly serve the judicial system and its services to the public.
- "Non-court services": The services of clerks of court that do not directly serve the judicial system and its services to the public.
- "Combined clerk": The office that combines the office of the Register of Deeds with the functions of Clerk of Court.
- "Judicial services": The services provided by judges.
- "Clerks of court": The Clerk of Court and designated staff employees of the clerk of court.
- "County": The board of county commissioners.

**Clerk of Court Consensus Process
Allocations of Statutory Options by County**

Category I:

Counties with five or more FTEs

These six counties have two options (local funding or state employment):

Burleigh, Cass, Grand Forks, Stark, Stutsman, and Ward

Category of Counties with two or more and less than five FTEs

These six counties have two options (local funding or state employment):

Barnes, Morton, Ramsey, Richland, Walsh, Williams

Note: If the Legislative Assembly redefines counties with two or more and less than five FTEs with three options (local funding or contracts or state employment), these six additional counties would have three options in Category II.

Category II:

Counties with at least one and less than two FTEs

These eleven counties have three options (local funding or contracts or state employment):

Benson, Bottineau, McKenzie, McLean, Mercer, Montrail, Pembina, Pierce, Ransom, Rolette, and Trail

Category III:

Counties with less than one FTE

These thirty counties have two options (local funding or contracts):

Adams, Billings, Bowman, Burke, Cavalier, Dickey, Divide, Dunn, Eddy, Emmons, Foster, Golden Valley, Grant, Griggs, Hettinger, Kidder, LaMoure, Logan, McHenry, McIntosh, Nelson, Oliver, Renville, Sargent, Sheridan, Sioux, Slope, Steele, Towner, and Wells

For FTE allocations by county and judicial district, see "ND Clerks of Court; Staffing Proposals by District" from the Office of the State Court Administrator.

ND CLERKS OF COURT
STAFFING PROPOSALS BY DISTRICT

County	Criminal	Civil & Juvenile	Total Crim/Civil Filings	1997 Filings/600 population	FTE's	Support Staff	Proposed Staff
EC							
Cass *	5295	7228	12,523	20.87	21.4	1	22.4
Steele	171	73	244	0.41	0.4	0	0.4
Trails	474	267	741	1.24	1.2	0	1.2
Totals			13,608	22.61	23.0	1	24.0
NEC							
Grand Forks **	4270	3812	8,182	13.84	14.6	1	15.8
Giggs	78	45	121	0.20	0.2	0	0.2
Nelson	164	70	234	0.39	0.4	0	0.4
Totals			8,182	14.23	16.2	1	16.2
NE							
Benson	268	242	510	0.85	0.8	0	1.0 +
Bottineau	388	378	767	1.28	1.3	0	1.3
Cavaler	185	266	451	0.75	0.8	0	0.8
McHenry	255	195	390	0.65	0.7	0	0.7
Pennington	497	436	933	1.56	1.6	0	1.6
Pierce	471	254	725	1.21	1.2	0	1.2
Ramsey	978	920	1,898	3.17	3.2	1	4.2
Renville	46	103	151	0.25	0.3	0	0.3
Rolette	474	557	1,031	1.72	1.7	0	1.7
Towner	155	223	378	0.63	0.6	0	0.8
Walsh	1238	652	2,090	3.48	3.5	0	3.5
Totals			9,325	16.64	16.6	1	16.7
NW							
Burke	105	98	203	0.34	0.3	0	0.3
Divide	70	135	205	0.34	0.3	0	0.3
McKenzie	305	268	571	0.95	1.0	0	1.0
Mountain	292	264	556	0.93	0.9	0	1.0 +
Ward	1795	4151	5,946	9.91	9.9	2	11.9
Williams	1440	1105	2,545	4.24	4.2	0	4.2
Totals			10,028	16.71	16.7	2	18.8
SC							
Burleigh	2448	4357	6,805	11.34	11.3	2	13.3
Emmons	183	196	379	0.63	0.6	0	0.6
Graet	71	87	158	0.28	0.3	0	0.3
Kidder	86	152	248	0.41	0.4	0	0.4
Logan	32	78	110	0.18	0.2	0	0.2
McIntosh	86	115	201	0.34	0.3	0	0.3
McLean	466	361	827	1.38	1.4	0	1.4
Mercer	355	301	656	1.09	1.1	0	1.1
Morton	1331	1355	2,686	4.48	4.5	0	4.5
Other	27	63	90	0.15	0.2	0	0.2
Sheridan	17	68	85	0.14	0.1	0	0.1
Sisoux	26	45	71	0.12	0.1	0	0.1
Totals			12,079	20.63	20.6	2	22.9
SE							
Barnes	657	1032	1,689	2.82	2.8	0	2.8
Dickey	209	242	451	0.75	0.8	0	0.8
Eddy	131	102	233	0.39	0.4	0	0.4
Foster	219	146	365	0.61	0.6	0	0.6
Lamoure	128	140	268	0.45	0.4	0	0.4
Ransom	261	257	528	0.88	0.9	0	1.0 +
Richland	629	1024	1,653	3.08	3.1	0	3.1
Sargent	303	171	474	0.79	0.8	0	0.8
Sully	1270	1578	2,848	4.75	4.7	1	5.7
Wells	114	176	290	0.48	0.5	0	0.5
Totals			8,789	15.00	15.0	1	16.1
SW							
Adams	161	190	351	0.59	0.6	0	0.6
Billings	60	37	97	0.16	0.2	0	0.2
Bowman	184	186	370	0.62	0.6	0	0.6
Dunn	229	143	372	0.62	0.6	0	0.6
Golden Valley	154	76	230	0.38	0.4	0	0.4
Hettinger	84	91	175	0.29	0.3	0	0.3
Slope	32	29	61	0.10	0.1	0	0.1
Stark	1475	1204	2,679	4.47	4.5	2	6.5
Totals			4,335	7.23	7.2	2	9.2
UNALLOCATED							
Supervisory/Filers	0	0	0	0.0	4.0	0	4.0
Support Staff					4.0	0	4.0
Totals			0	0	8.0	0	8.0
GRAND TOTALS			66,165	111.74	121.2	10.0	131.6

* Includes .5 additional FTE due to heavy administrative traffic caseload.
 ** Includes 1 additional FTE based on 1995 filings.
 + Includes small office credit. FTE increased from .9 to 1.0

**TESTIMONY TO THE
HOUSE JUDICIARY COMMITTEE**
Prepared January 18, 1999 by the
North Dakota County Commissioners Association
Alon Wieland, Cass County Commissioner - NDCCA Legislative Committee

CONCERNING HOUSE BILL NO. 1275

Chairman DeKrey, and members of the Judiciary Committee, on behalf of the county commissioners of North Dakota, I wish to express our support for the compromise that House Bill 1275 represents. The Past President of our Association, Ward County Commissioner, Hjalmer Carlson, had the honor and burden of representing our members on the Consensus Council committee that helped develop this bill, and I believe that his time was well spent.

Counties were reluctant supporters of court unification in 1991, and we felt that the revenue shift in 1995 was untimely and unfortunate. We have strongly urged the Legislature for a more permanent resolution to the issues left undecided in these previous sessions. It is obvious that from large to small counties, we have different needs and different desires for this resolution. Though it may not be perfect, HB1275 does recognize these differences and provides each county board with input into its own future and some options in the ultimate configuration of this important local office.

I realize that you have had this bill explained, therefore I will not discuss the options and staffing sizes available to each county in detail. I simply want to point out that right now we have a situation of 53 totally county-funded offices that conduct both judicial and non-judicial duties. HB1275 clearly allows each county the opportunity to continue in this manner if it so chooses.

The bill however, also provides a mechanism for each county to either receive funding or transfer most of the costs of this office, if that is in the best interests of its citizens. Each county board can look at the long-term delivery of these services and the fiscal burden that the services place on the property tax, when making their decision. Each county can make their own decision. I believe that House Bill 1275 provides county flexibility as well as reasonable and acceptable options. The North Dakota County Commissioners Association therefore respectfully requests your Committee's favorable consideration.

Mr. Chairman, Committee members, I am Robert Indvik, Clerk of District court, Bottineau County.

I appear today in opposition to House Bill 1275.

I believe that to ensure the continued effective and efficient delivery of court services to our citizens, the Office of Clerk of District Court should remain a County Office. While this structure of delivering court services has been in place for over a century, status quo is not what the Office of Clerk of District Court has been about, at least not during the 12 years I have served as a Clerk of District Court. The make up of today's Clerk of District Court office is actually a reflection of quid pro quo. Legislators that have served for any length of time are well aware of the numerous legislative enactments that have impacted the Office of Clerk of District Court. Legislation dealing with child support issues, income withholding, court unification, state automated child support program, reduction in the amount of judges, transfer of fees to the state, etc. have all altered or added duties to this office. .

When a proposal of any kind is to be considered, one should consider what problems now exist that the proposal will address. To my knowledge there are no problems, real or perceived, that this bill will address. As a matter of fact this bill will cause problems. Especially in the area of increased costs to the persons who will expected to pay for this proposal. The rapport between the clerks' offices, the courts, the attorneys, judicial system employees and most importantly the public is very admirable. The level of this rapport is the result of timely, efficient and effective delivery of court services by an elected Clerk of Court who responds to their constituents.

Finding no problems that this bill addresses one should look at the proposal to determine the if there will be greater efficiencies and effectiveness created by the proposal, again there are none. If fact quite the opposite is true. The shuffling of duties from one entity to another is merely a poor attempt at reinventing the wheel. The system, process and infrastructure are well established for delivering those services with employees already in place who are very well versed in the administration of those services.

This now brings one to consider cost. The current structure with 177 full time equivalent employees delivering all of the services HB 1275 addresses has a cost of about \$11,400,000.00 per biennium. The proposal that is before us has a cost to the taxpayers and citizens that access these services in excess of \$14,000,000.00 per

biennium and this does not include the infrastructure, logistics costs of "shuffling" duties from one office to another as well as other costs that are sure to be incurred at least at the county level and quite probably at the state level. As I understand the proposal of the State Court Administrator's Office, the state will fund 125 full time equivalent employees to perform court functions at a cost of over \$12,000,000.00 per biennium. This then leaves 50 full time equivalent employees, to perform the "shuffled" duties, to be funded by others at a conservative cost of \$2,000,000.00 per biennium. This \$2,000,000.00 figure only reflects the wages and benefits for those employees and does not include the costs of operating an office.

The bill proposes that there is a choice for the counties to make in this endeavor regarding the status of the Office of Clerk of District Court. Counties in which the State Court Administrators Office has determined the need for 2 FTEs or greater have only the choice of State funding or County funding. Only one county needs to make the expensive choice of state funding and that expensive choice will handcuff the remaining counties. If a county chooses to have the state assume the Office of Clerk of District Court then all other counties in the 2 FTE category and over will have no choice but to follow suit to avoid double taxing the citizens of their respective counties. If a County chooses to self fund the office of Clerk of District Court, that county will support their own Clerk of District Court office thru property taxes as well as fund the offices of Clerk of District Court of the state funded counties through income and sales taxes. Our County Commissioners, especially those with the largest Clerk of District Court budgets, will have the unenviable task of determining the lessor of two evils.

I find it interesting that the counties, in which the State Court Administrators office has determined that 2 or more FTE employees are necessary in the Clerk of District Court's office, have only the choice of self funding or having the state fund the office. This gives the distinct impression that the state, knowing it is unlikely that those counties, given the scenario above, will choose self funding, is only truly interested in the larger offices which will undoubtedly be to the detriment of the smaller offices. If there is to be a true choice for the counties in this endeavor, then all the counties should have the choice of self funding, state funding or contracting clerk of court services. These choices of course would hinge on the merits of the bill exceeding the tremendous cost of implementation of this bill.

This bill addresses no problems, creates no efficiencies, there are no gains in effectiveness and the cost to our citizens is horrendous. This bill is an attempt to

make a change only for the sake of change, to create bureaucracy where bureaucracy is not wanted. It is a proposal that does not adhere to the basic principles of prudent governance. Our citizens deserve better than this bill can deliver.

"This great cement of society" as Alexander Hamilton referred to the court system, will suffer many fractures across the State of North Dakota if this legislation is enacted.

SUMMARY OF HOUSE BILL NO. 1275

House Bill No. 1275 establishes the statutory framework for state-funding of clerk of district court services. The bill has four components. The *funding component* of the bill provides for state-funding of clerk of district court services, either through funding provided to counties or through clerks of district court and some associated staff becoming judicial system employees. The *implementation component* of the bill amends secondary statutes to fully implement the change in funding status for clerks of court. The majority of these amendments make changes to statutes currently applying to clerks of court as elected, county officials. The *court services component* of the bill provides for the separation of court and non-court services responsibilities of clerks of court which are currently defined by statute. There are numerous amendments to statutes that require clerks of court to fulfill a host of responsibilities that are not related to the operation of the court system. The *technical amendments component* amends a series of statutes to change statutory cross-references and otherwise technically implement other amendments made in the bill. These components are summarized below.

Funding Component

Sections 50, 51, and 52 - primarily section 50 - set out the central parts of House Bill No. 1275. Section 50 creates a new chapter of the North Dakota Century Code, chapter 27-05.2, which establishes the methods of providing for state-funding of clerk of district court services.

New section 27-05.2-02, in subsections 1 through 7, creates the state-funding framework.

Subsection 1 states the general proposition that the state, i.e., the supreme court, must provide clerk of district court services in each county of the state. That may be accomplished either through funding provided to a county to provide those services with county employees or by a clerk of court and certain designated staff becoming judicial system employees. The supreme court is required to develop standards and procedures to ensure that adequate clerk of court services are provided. *Clerk of district court services* are defined as those services that directly serve the judicial system and the provision of judicial services to the public. After January 1, 2003 (the date after which the office of elected clerk of court would no longer exist), a county employee designated to provide clerk services would serve as ex officio clerk of district court.

Subsection 2 establishes the single exception to state-funding of clerk of court services. A county may elect to provide clerk of district court services at the county's own expense. The board of county commissioners must forward a resolution to the supreme court stating this election. Clerk of court services must be provided in a manner consistent with supreme court standards and procedures. If the county is unable to do so, the supreme court must then provide those services in any manner considered appropriate.

Subsection 3 describes the first of three categories of possible state-funding of clerk of court services. In a county in which the supreme court has determined that at least two full-time employees are necessary to provide clerk of court services, the elected clerk of district court and certain designated staff must become judicial system employees if the board of county commissioners, after discussion with the clerk of court, makes that election. The clerk, upon becoming a state employee, would receive the same salary received as a county employee and would remain an employee of the judicial system until the clerk resigns, retires, or the term to which the clerk was elected expires, whichever occurred first. After that time, the clerk must be appointed in the manner provided by supreme court rule. *If a board of county commissioners does not consent* to the clerk and designated staff becoming judicial employees, then the county must provide clerk of district court services at its own expense. Subsection 3 thus provides *two options* for certain counties: judicial employee status for the clerk of court and designated staff or clerk of district court services provided at county expense.

Subsection 4 describes the second of three categories of state-funding of clerk of court services. In a county in which the supreme court has determined that one or more, but less than two, full-time employees are necessary to provide clerk of court services, the elected clerk and certain designated staff may become judicial system employees, the county may elect to provide clerk of court services at its own expense, or the supreme court may provide funding to the county to provide clerk of court services with county employees. Subsection 4 thus provides *three options* for certain counties.

Subsection 5 describes the third of three categories of state-funding of clerk of court services. In a county in which the supreme court has determined that less than one full-time employee is necessary to provide clerk of court services, the supreme court may provide funding to the county to provide clerk of court services with county employees. However, the county may instead elect to provide clerk of court services at its own expense. Subsection 5 thus provides *two options* for certain counties

Subsection 6 describes the method by which the supreme court may enter into an agreement with one or more counties to provide state-funding for the provision of clerk of district court services. Funding for personnel under the agreement must be equal to the amount, based on county compensation levels, necessary for the number of full-time employees needed to provide clerk of court services. Funding must also be available to defray the cost of any technology related equipment considered necessary for the delivery of clerk of court services. If a county fails to fulfill the terms of the agreement or is unable to provide clerk of court services in a manner consistent with supreme court standards and procedures, the supreme court must provide clerk of court services in any manner considered appropriate.

Subsection 7 establishes the schedule by which state-funding options are implemented. State-funding of clerk of court services, either through judicial system employee status or through a funding agreement, would be available beginning *January 1, 2001*. *Before April 1, 2000*, each board of county commissioners must have made an election concerning clerk of court services:

judicial system employee status for the clerk of court and designated staff, a funding agreement with the supreme court, or provision of clerk of court services at the county's own expense. If the board elects to enter into an agreement, the agreement must be executed by July 1, 2000 or the county must provide clerk of court services at its own expense. After the initial election, a board of county commissioners must notify the supreme court before April 1, 2002 and before April 1 of each succeeding even-numbered year concerning whether the county will continue the existing arrangement or make a different election. If an agreement is to be entered into, the agreement must be executed by July 1 of the year that election is made or the county must provide clerk of court services at its own expense.

New sections 27-05.2-03 through 27-05.2-07 (pp. 32-35) create new sections effective January 1, 2001 to govern certain clerk of court responsibilities. Section 27-05.2-03 restates verbatim section 11-17-04, which would be repealed effective January 1, 2001. Section 27-05.2-04 restates current section 11-17-05, which would be repealed effective January 1, 2001, but adds language to govern recordkeeping by a clerk of court who becomes a judicial system employee. Section 27-05.2-05 restates current section 11-17-07, which would be repealed effective January 1, 2001. Section 27-05.2-06 creates a new, general statute governing record maintenance and disposal and would replace current sections 11-17-08, 11-17-09, and 11-17-10. Retention and disposal of court records are currently addressed by supreme court rule and procedure. Section 27-05.2-07 restates current section 11-17-06, which would be repealed effective January 1, 2001, but adds language to restrict its application to a clerk who is not a judicial system employee.

Section 51 of House Bill No. 1275 (pp. 35-36) would amend newly created section 27-05.2-04 effective January 1, 2003, to clarify the statute's application to an individual providing clerk services in accordance with a funding agreement or in an own-expense county. *Section 52 of the bill* likewise amends newly created section 27-05.2-07 effective January 1, 2003, to clarify its application to an ex officio clerk, that is, an individual providing clerk of court services who is not a judicial system employee.

Implementation Component

House Bill No. 1275 amends a number of statutes to fully implement the transition to state-funding of clerk of court services.

Section 6 of the bill amends section 11-10-02 governing the number and election of county officers to delete references to section 11-17-11, the present statute providing a mechanism for transfer of funding for clerks of district court to the state. Section 11-17-11 is repealed effective August 1, 1999. *Section 7* amends section 11-10-02 again, effective January 1, 2003, to remove the clerk of district court as a elected county official.

Sections 8 and 9 of the bill amend section 11-10-06 governing the bonds of county officers. Section 8 amends the statute effective August 1, 1999, to delete references to section 11-17-11.

Section 9 amends the statute again, effective January 1, 2003, to reflect the deletion of the clerk of court as an elected official. *Sections 10, 11, 12, and 13* make similar amendments to sections 11-10-10 and 11-10-11 governing salaries of county officers and appointment and salaries of deputies and clerks.

Sections 19, 20, 49, 73, 74, and 75 of the bill amend various statutes to reflect the application of the statutes to a clerk who is not a judicial system employee and to an ex officio clerk, that is, an individual designated by the board of county commissioners to provide clerk of court services under a funding agreement or at the county's own expense.

Court Services Component

House Bill No. 1275 amends numerous statutes to separate court and non-court related services currently provided by clerks of district court. These amendments would take effect January 1, 2001, and are intended to reflect that state-funding for clerk of district court services is to be available only for those services that directly serve the judicial system in the provision of judicial services to the public. The numerous functions and responsibilities set out in the affected statutes would be transferred to the register of deeds or another official designated by the board of county commissioners. These amendments are set out at *sections 5,14,15,16,17,18, 23,24,25,26,27,28,29,30,31,32,33,34,36,37, 38, 39, 40, 41, 42, 44, 45, 46, 47, 48, 55, 59, 60, 61, 62, 63, 64, 66, 67, 68, 70, 71, 72, 76, 77, 78, 79, and 80.*

Technical Amendments Component

House Bill No. 1275 amends a number of statutes to reflect essentially technical changes. The majority of these amendments reflect the repeal effective January 1, 2001, of the filing fee statute - section 11-17-04 - and its resurrection effective January 1, 2001, as section 27-05.2-03. These various amendments are set out at *sections 2,3,4,21,22,35,43,53,54,56,57,58,65, and 69.*

**TESTIMONY TO THE
SENATE JUDICIARY COMMITTEE
Prepared March 1, 1999 by the
North Dakota Association of Counties
William Kretschmar, Lobbyist**

CONCERNING HOUSE BILL NO. 1275

Thank you Chairman Stenehjem, and members of the Judiciary Committee, I have been asked to represent the North Dakota Association of Counties on this very important issue, because of my past involvement and strong interest in its development. It is my hope to convey the Association's support for the compromise that House Bill 1275 represents.

Since the first consideration of court unification in the 1980's, the role and ultimate placement of the office of Clerk of District Court has been an integral part of the discussion. When the court was reorganized into a single trial level and the county judges became district judges, it was recognized that the Clerks' office would ultimately need to be addressed, however the fiscal impact of moving all court employees to the State in one effort made an immediate change impossible.

The Governor's proposal and the Legislature's enactment of legislation to shift the revenue from court fees and bond forfeitures from the counties to the State in 1995, was really the decision that placed the Clerks on the table before us today. This \$5 million revenue shift caused county commissioners to urge either revenue replacement or relief from court costs. The legislative intent attached to the Judiciary Budget in 1997 made it quite clear that an ultimate solution was expected.

As many members of this Committee are well aware, this solution did not come easily. The efforts of the State Court, outside consultants, and the Interim Judiciary Committee seemed to polarize the parties. At the request of the Interim Committee and with funding from both the Association of Counties and the Supreme Court, the North Dakota Consensus Council convened a study group of Clerks, Judges, Legislators, a State's Attorney, a Sheriff, a County Commissioner, and a trial lawyer. HB1275 was the final product of this consensus process.

The North Dakota Association of Counties was committed to seeing a solution developed that would 1) provide counties with the maximum flexibility to determine their own future and retain the level of service they desire, and 2) the option to access either additional state funding or relief of judicial costs. We believe this proposal meets those criteria.

Obviously this is a major piece of legislation, but the bulk of the bill simply addresses those statutory duties of the Clerks of Court that were identified by the consensus process as being "non-judicial" duties. Most of the bill simply provides added flexibility for the county boards to ensure that these duties are accounted for in the future. The heart of the bill is really the three options available to counties to address the delivery of the "judicial" services.

I want to summarize these three options and relate them to the size of the counties to which they apply. Attached to this testimony is a table that will relate to each of the options. The numbers in the table represent the estimated number of Full-Time Equivalents necessary to perform the "judicial" duties in that particular county. These numbers were generated by a caseload study conducted by the State Court

Administrator's Office, and are not necessarily the number of employees in each office.

To hopefully simplify this discussion, I am going to term the three options available for clerk of court services under this bill as; "transfer", "contract", and "continue". They can be defined as follows:

Transfer – this option, if selected by the county commission, would move the required number of FTEs to state employment within the judiciary. Once this option was selected, the decision would remain in place for the future. The county commission would be responsible to ensure that the statutory "non-judicial" duties were assigned to other county offices.

Contract – this option, if selected by the county commission, would require the Judiciary to contract with the county for the required number of FTEs to fulfill the "judicial" duties within the county. This option could be reconsidered and renegotiated annually. The county could retain its current configuration for the clerk's office and maintain the mix of "judicial" and "non-judicial" duties if desired, or parcel them out differently depending upon the county's individual needs.

Continue – this option, if selected by the county commission, is simply maintaining the Office of Clerk of District Court as it now exists, funded entirely by the county. This decision could also be reconsidered annually and, as appropriate, the other options could be implemented.

The basic compromise between the counties and the State Court is in the availability of these three options to counties of various sizes. To avoid

the Court's concern of multiple contracts involving large numbers of staff, not all counties can access all options. Based on the number of required FTEs, the options are available in the following manner:

Counties requiring 3 or more FTEs (11 counties) to fulfill the "judicial" duties of the office have the "transfer" and the "continue" options available.

Counties requiring 1 to 3 FTEs (9-12 counties) to fulfill the "judicial" duties of the office have all three options available.

Counties requiring less than 1 FTE (30-33 counties) to fulfill the "judicial" duties of the office have the "contract" and the "continue" options available.

The variation in the number of counties that fall into each group is due to comments by the State Court Administrator about the need to carefully examine those "borderline" counties that have only slightly less than one FTE.

Obviously the Association of Counties urged the maximum flexibility for county boards, and the broadest definition of "judicial" duties. House Bill 1275 is a reasonable accommodation for the Association's position, and has therefore voted to support the bill as presented, and urges this Committee's favorable recommendation.

**Proposed Required Staffing Levels
for State-Funded Judicial Duties in the
Clerk of District Court Offices
(From State Court Administrators Caseload Analysis)**

COUNTY	Staff in FTEs	COUNTY	Staff in FTEs
Cass	22.4	McHenry	0.7
Grand Forks	15.6	Adams	0.6
Burleigh	13.3	Bowman	0.6
Ward	11.9	Dunn	0.6
Stark	6.5	Emmons	0.6
Stutsman	5.7	Foster	0.6
Morton	4.5	Towner	0.6
Ramsey	4.2	Wells	0.5
Williams	4.2	Eddy	0.4
Walsh	3.5	Golden Valley	0.4
Richland	3.1	Kidder	0.4
Barnes	2.8	LaMoure	0.4
Rolette	1.7	Nelson	0.4
Pembina	1.6	Steele	0.4
McLean	1.4	Burke	0.3
Bottineau	1.3	Dix	0.3
Pierce	1.2	Crow	0.3
Trail	1.2	McIntosh	0.3
Mercer	1.1	McPherson	0.3
McKenzie	1.0	Lincoln	0.3
Benson	0.9	Langbehn	0.2
Mountrail	0.9	Griggs	0.2
Ransom	0.9	Logan	0.2
Cavalier	0.8	Oliver	0.2
Dickey	0.7	Sheldon	0.1
Sargent	0.6	Slope	0.1
		Stutsman	0.1

**TESTIMONY TO THE
SENATE JUDICIARY COMMITTEE**

March 3, 1999

**North Dakota County Commissioners Association
Dan Kalil, NDCCA President – Williams County Commissioner**

HOUSE BILL NO. 1275

Chairman Stenehjelm, and members of the Judiciary Committee, on behalf of the county commissioners of North Dakota, I wish to express our support for the compromise that House Bill 1275 represents. My predecessor as President of our Association, Ward County Commissioner, Hjalmer Carlson, had the opportunity to represent our members on the Consensus Council committee that helped develop this bill, and I believe that his time was well spent.

Counties were reluctant supporters of court unification in 1991, and we felt that the revenue shift in 1995 was untimely and unfortunate. We have strongly urged the Legislature for a more permanent resolution to the issues left undecided in these previous sessions. It is obvious that from large to small counties, we have different needs and different desires for this resolution. Though it may not be perfect, HB1275 does recognize these differences and provides each county board with input into its own future and some options in the ultimate configuration of this important local office.

I realize that you have had this bill explained, therefore I will not discuss the options and staffing sizes available to each county in detail. I simply want to point out that right now we have a situation of 53 totally county-funded offices that conduct both judicial and non-judicial duties. HB1275 clearly allows each county the opportunity to continue in this manner if it so chooses.

The bill however, also provides a mechanism for each county to either receive funding or transfer most of the costs of this office, if that is in the best interests of its citizens. Attached to my testimony is our estimate of what these funding

options could mean to each county, based on the fiscal note, the staffing analysis, and estimates prepared during the interim. Each county board can look at the long-term delivery of these services and the fiscal burden that the services place on the property tax, when making their decision. Each county can make their own decision. I believe that House Bill 1275 provides county flexibility as well as reasonable and acceptable options. It represents a unique opportunity for county commissioners to take a more active and responsible role in the delivery court services in their county.

I know that you, as members of this Committee, have probably received more communication, and possibly more conflicting information, on this issue, than possibly any other this Session. As President of my Association, I have received much of the same. For this reason, I once again took the issue to our Legislative Committee during the Crossover Break. Our Legislative Committee draws its members from throughout the State and last Tuesday commissioners from the following counties were in attendance:

Burke	Williams	Benson
Ramsey	Dunn	Walsh
Burleigh	McKenzie	McLean
Stutsman	Renville	Bottineau

After thorough discussion it was moved and seconded that the North Dakota County Commissioners Association again go on record in support of this compromise proposal. This motion passed on a unanimous vote. Please note that while commissioners from some counties are not supportive of this measure, their representatives on this Committee and commissioners from many counties, large and small, support this legislation. Thus, we accept the responsibility to do all we can to maintain court services in every county, at the level we deem appropriate. Therefore the North Dakota County Commissioners Association respectfully requests your Committee's favorable consideration of House Bill 1275.

TESTIMONY IN FAVOR OF HOUSE BILL 1275

Alan Erickson, Renville County Commissioner

Chairman Stenehjem, and members of the Judiciary Committee, I am Alan Erickson, a Renville County Commissioner and a member of the ND County Commissioners Association Legislative Committee. I wish to express our support for the House Bill 1275. This bill is a good compromise for retaining services and clerks of court in rural counties.

Many people fear loss of services in rural areas and have looked upon this bill only negatively. House Bill 1275 however, has many positive points that are in the best interests of all 53 counties and the services they provide through the office of the clerk of court. This bill allows control to remain at the local level and it allows each county to decide what is best for their communities.

North Dakota has both small and large counties; this bill takes that into consideration and provides options for counties of all sizes. Along with these important options, this bill includes monetary support. Whether it is through funding agreements or staff transfer, this bill is designed with the best interested of county government in mind.

House Bill 1275 may not be the solution that everyone would desire, but I believe that it is the best option available to counties at the present time. I served in the House of Representatives in 1991 and was a member of the Judiciary Committee that recommended the State taking over the Judges. I believe that if this bill is not passed, there will be no funding from the State for Clerks of Court, and the clerks could be taken over by the Judicial system or even a bill introduced next session to get rid of the clerks of court.

I believe this bill to be the best compromise for the counties, so I urge you to give it a Do Pass recommendation.

**SENATE JUDICIARY COMMITTEE
TESTIMONY OF FRED STREGE
MARCH 3, 1999
HB 1275**

My name is Fred Strege. I am an attorney from Wahpeton, North Dakota. I have practiced law since 1977 and I am licensed in North Dakota and Minnesota. I am past president of the Southeast District Bar Association and I have served as a member of the North Dakota Bar Association Board of Governors. I was a member of the Consensus Council committee that drafted HB 1275. I am currently a member of the Administration Structure Subcommittee, which is a study subcommittee of the Court Services Administration Committee appointed by the Supreme Court. We are currently considering a vast overhaul of judicial administration in the state.

I come to this committee as a concerned user of the judicial system.

House Bill 1275 is a good bill. However, it needs a small amendment so that the bill is fair to all counties. As the bill presently reads, six counties are needlessly sacrificed.

Without detailing the bill's operation in detail, let me just remind the committee members that the bill creates three categories and gives each category of counties various options. I catalogue the options as follows:

1. **Opt Out Option** -- counties can opt out of the system and provide judicial clerk services at their own expense
2. **State Takeover Option** -- counties will turn over judicial clerk employees to the state and the state will pay their salaries
3. **Contract Option** — counties will provide judicial clerk services and then be reimbursed by the state for providing those services.

Which option is available is dependent on the number of county employees that state administrators believe are necessary to provide judicial services. Based on the current bill language, the categories and available options break down as follows:

1. Small counties (less than 1 FTE)
 - a. Contract Option
 - b. Opt Out
2. Medium counties (1 or more and less than 2 FTEs)
 - a. Contract Option
 - b. Opt Out
 - c. State Takeover

3. Large counties (2 or more FTEs)
 - a. Opt Out
 - b. State Takeover

These are the only options and these options are mutually exclusive. A county may not partially opt out and partially allow a state takeover. The only middle of the road procedure available is the contract option. **IF THE COUNTY DOES NOT HAVE THE CONTRACT OPTION AVAILABLE, THE COUNTY MUST EITHER OPT OUT OR ALLOW STATE TAKEOVER — IT'S ONE OR THE OTHER AND NOT A LITTLE OF EITHER!**

The reason I emphasize this last point is because I believe there is misinformation floating among the Legislators. I've seen a memo from a Legislator that leads the reader to believe that counties that are taken over by the state may supplement state employees with their own county paid employees to provide what the county believes to be adequate clerk service. That procedure is not available under this bill draft. If a county opts for state takeover, what the state provides and the state budgets, the county must accept, and that's the end of the story — the county is stuck with what the state dictates.

You'll recall that the judicial world was turned upside down by the National Court Center Study that recommended that all clerk office employees should become state employees and that many clerk offices should be shut down or consolidated. HB 1275 was a compromise effort that sought to inject local input and bottom up decision making through use of the contract option. Those counties that receive the contract option have a large say in the amount of clerk services that are provided in their county. Contract option counties can supplement, with their own county funds, the amount of state money that is used to provide judicial clerk services.

I do not quarrel with the intent of the bill. **I disagree with how the different county categories were created.** The categories are based on case filings and a certain amount of case filings creates a need for one clerk office employee. I think the standard is one full time employee for every 600 case filings. If the large category encompasses counties with five or more FTEs, the only counties in the large group are: Burleigh, Cass, Grand Forks, Stark, Stutsman and Ward.

When the floor is dropped from five to two or more FTE's as the bill presently reads, the following counties are added to the large county category: Barnes, Morton, Ramsey, Richland, Walsh and Williams.

These six counties lose the contract option.

The large category standard of two FTEs in HB 1275 was not the unanimous recommendation of the Consensus Council Committee. We were split right down the middle as to whether the large county category floor should be five or two FTE's. Some argued we should push as many counties into the large county designation as we could. Others argued that we should preserve the contract option for as many counties as we could. The compromise was that our committee agreed to disagree by not deciding whether two or five would be the appropriate floor to the large county category, thereby leaving that decision to you folks.

My home county is Richland County. I believe that Richland County is more like the Medium category counties of Pembina, Trail, Ransom and Rollette counties than it is like Burleigh or Cass counties. I also think that Barnes, Morton, Ramsey, Walsh and Williams county officials would feel the same way. We have more in common with the Medium category counties than we do with the Large county categories. Our interests, our economies and our way of doing business and making decisions are similar. We have a hard time competing with the large counties and we always feel like we are about to be overrun by large county budgets, politics, populations and business. We want to have a say in how much judicial service is provided or is not provided in our counties. We want to provide service and receive a fair reimbursement from the state. If our choice is only to opt out and pay for services ourselves or to allow state takeover to get the state dollars, we can't afford to do anything but to allow state takeover. That isn't a fair choice.

This inequity can be rectified by amending the large and middle county category classifications. This could be done quite easily by using the following words (I quote from the bill itself starting with section 3 on page 29):

- “3. In a county in which the supreme court determines that at least **five** ~~two~~ full-time employees are necessary . . .
4. In a county in which the supreme court determines that one or more, but less than **five**, ~~two~~ full-time employees are necessary. . . .”

A fair amendment would only take a change of two words. This amendment would not place six counties between a rock and a hard place.

With the change I suggest, HB 1275 is a fair compromise that gives the counties some input and some money to run the judicial system. I urge you to amend and pass HB 1275.

COUNTY CATEGORIZATION

Large Counties

(2 or more FTEs)

Opt Out

State Takeover

Medium Counties

(1 or more but less than 2 FTE's)

Contract Option

Opt Out

State Takeover

Small Counties

(Less than 1 FTE)

Opt Out

Contract Option

COUNTY CATEGORIZATION

Large Counties

(2 or more FTEs — Opt Out or State Takeover)

Burleigh, Cass, Grand Forks, Stark,
Stutsman and Ward
(5 or more)

Barnes, Morton, Ramsey, Richland,
Walsh and Williams
(2 but less than 5)

Medium Counties

(1 or more but less than 2 FTE's — Contract Option, Opt Out or State
Takeover)

Benson, Bottineau, McKenzie,
McLean, Mercer, Montrail, Pembina,
Pierce, Ransom, Rolette and Trail

Small Counties

(Less than 1 FTE — Opt Out or Contract Option)

All Other Counties

TESTIMONY ON HB 1275

My name 'is Bonnie Johnson and I serve as the Cass County Coordinator. In that capacity, I am here today to speak on behalf of the Cass County Board of County Commissioners in favor of HB 1275.

This bill creates options for both large and small counties. No clerks will be eliminated as counties have complete control to retain their clerk as long as they choose.

When the legislature moved the court revenues from the county to the state during the last two legislative sessions, we understood the personnel costs were expected to follow in this session. Upon full implementation, HB 1275 would provide \$800,000 per year in property tax relief to Cass County.

I note in the Tuesday edition of *The Forum* that Governor Schafer has suggested delaying plans to implement this proposal as one of the ways to balance the State budget. The State cannot and should not balance its budget on county property taxes. Without the revenues we once had, Cass County taxpayers cannot continue this level of funding for the clerk's office.

I urge you to vote "YES" on this bill. Thank you.

Mr. Chairman, Committee members, I am Robert Indvik, Clerk of District court, Bottineau County.

I appear today in opposition to House Bill 1275.

The current structure of delivering court services to our citizens is the most efficient and effective process of providing those services while maintaining a local "ownership" in a system that has been a part of County Government for over 100 years.

While this structure of delivering court services has been in place for over a century, status quo does not define the Office of Clerk of District Court, at least not during the 12 years I have served as a Clerk of District Court. The make up of today's Clerk of District Court office is actually a reflection of quid pro quo. Legislators that have served for any length of time are well aware of the numerous legislative enactments that have impacted the Office of Clerk of District Court. Legislation dealing with child support issues, income withholding, court unification, state automated child support program, reduction in the amount of judges, transfer of fees to the state, etc. have all altered or added duties to this office.

When a proposal of any kind is to be considered, shouldn't one consider what problems now exist that the proposal will address. To my knowledge there are no problems, real or perceived, that this bill will address. The rapport between the clerks' offices, the courts, the attorneys, judicial system employees and most importantly the public is very admirable. The level of this rapport is the result of timely, efficient and effective delivery of court services by elected Clerks of Court who responds to their constituents.

Finding no problems that this bill addresses one should look at the proposal to determine if there will be greater efficiencies and effectiveness created by the proposal, again there are none. In fact quite the opposite is true. The shuffling of duties from one entity to another is merely a poor attempt at reinventing the wheel. The system, process and infrastructure are well established for delivery of those duties with employees already in place who are very well versed in the administration of those services. The Clerks of District Court through the Clerk of Court Association has strived for reasonable uniformity across the state in office practices and delivery of clerk of court services. This bill destroys much of that

uniformity. As I read the bill a person could have a marriage solemnized or obtain a marriage license from the Register of Deeds' office in Stark County, the Auditor's office in Cass County, the 911 Coordinator's office in Burleigh County, or the custodian's office in Grand Forks County. This scenario will be played out many times over regarding the 40 some pages of duties this bill "shuffles" around. The contention that this bill unifies rings hollow regarding the duties clerks of court now perform.

This now brings one to consider cost. The current structure with 177 full time equivalent employees delivering all of the services HB 1275 addresses has a cost of about \$11,400,000.00 per biennium. The proposal that is before us has a cost to the taxpayers and the citizens that access these services in excess of \$14,000,000.00 per biennium and this does not include the infrastructure, logistics costs of "shuffling" duties from one office to another as well as other costs that are sure to be incurred at least at the county level and quite probably at the state level. House Bill 1121 is a prime example of an added cost to this proposal. When the Department of Human Services assumed the authority to receive and disburse child support payments, the state disbursement unit was also to assume some enforcement duties regarding child support. At least that was the legislation enacted in the 1997 legislative session. The Department of Human Services is now asking this legislative session to enact legislation keeping those duties as clerk of district court duties. House Bill 1121 passed the House 94 to 0. Those duties as well as other duties were not considered in determining clerk of district court staffing levels. As I understand the staffing proposal, the state will fund 131 full time equivalent employees, of which 125 fte's will perform court functions at a cost of over \$12,000,000.00 per biennium. This then leaves 50 full time equivalent employees, to perform the "shuffled" duties, to be funded by others at a conservative cost of \$2,000,000.00 per biennium. This \$2,000,000.00 figure only reflects the wages and benefits for those employees and does not include the costs of operating an office. The \$14,000,000.00 plus that this proposal will cost is unjustifiable, irregardless of what the state revenue estimates indicate.

The bill proposes that there is a choice for the counties to make in this endeavor regarding the status of the Office of Clerk of District Court. Counties in which the State Court Administrators Office has determined the need for 2 FTEs or greater have only the choice of State funding or County funding. Only one county needs to make the expensive choice of state funding and that expensive choice will handcuff

the remaining counties. If a county chooses to have the state assume the Office of Clerk of District Court then all other counties in the 2 FTE category and over will have no choice but to follow suit to avoid double taxing the citizens of their respective counties. If a County chooses to self fund the office of Clerk of District Court, the citizens of that county will support their own Clerk of District Court office thru property taxes as well as fund the offices of Clerk of District Court of the state funded counties through increased income and sales tax revenue expenditure.

I find it interesting that the counties, in which the State Court Administrators office has determined that 2 or more FTE employees are necessary in the Clerk of District Court's office, have only the choice of self funding or having the state fund the office. This gives the distinct impression that the state, knowing it is unlikely that those counties, given the scenario above, will choose self funding, is only truly interested in the larger offices which will undoubtedly be to the detriment of the smaller offices. If there is to be a true choice for the counties in this endeavor, then all the counties should have the choice of self funding, state funding or contracting clerk of court services. These choices of course would hinge on the merits of the bill exceeding the tremendous cost of implementation of this bill.

There is some real confusion regarding implementation of this bill. One prime scenario is the example given by Representative Kim Koppelman, Vice Chairman of the House Judiciary Committee, in an E-mail to some fellow representatives and reiterated in an e-mail to me. A copy of that E-mail is attached to this testimony. Representative Koppelman in his example states, a county that currently has 5 FTE's and state court administrator's office determines 2.8 FTE's are necessary to carry out strictly court functions, that county will be reimbursed by the state for those 2.8 FTE's and still staff that clerk's office with 5 FTE's if the county chooses to do so. That example is absolutely incorrect. A county, that the State Court Administrators office has determined 2 or more FTE's are necessary to carry out strictly court duties, has only the choice of State assumption of the clerk's office or the county can continue to self fund the clerk's office. If the state funds that office, the county has nothing to say about the staffing or administration of that office. If the county self funds, the state will pay nothing to that county.

This bill addresses no problems, creates no efficiencies, there are no gains in effectiveness and the cost to our citizens is horrendous. This bill is an attempt to make a change only for the sake of change, to create bureaucracy where

bureaucracy is not wanted. It is a proposal that does not adhere to the basic principles of prudent governance. Our citizens deserve better than this bill will deliver.

"This great cement of society" as Alexander Hamilton referred to the court system, will suffer many fractures across the State of North Dakota if this legislation is enacted.

I urge a do not pass on HB 1275.

Thank you.

Kim A. Koppelman

02/05/99 10:23 AM

To: Ray H. Wilkenhiser/NDLC/NoDak@NoDak, Myron J. Koppang/NDLC/NoDak@NoDak, Michael D. Brandenburg/NDLC/NoDak@NoDak
 cc: Duane L. DeKray/NDLC/NoDak@NoDak (bcc: William R. Devlin/NDLC/NoDak)
 Subject: clerks of court

Thanks for asking for additional information on the clerks of court bills.

I encourage you to carefully study the handout from the Association of Counties, which should be on your desks today. It outlines the situation well, both factually and fiscally.

Remember that HB 1275 renders a great deal more money to counties than HB 1458. Remember also that HB 1275 is permissive. It doesn't force counties to become part of the state system, but allows them to.

Some concerns have also been raised about the perceived "cuts" in clerks of court staffing some have implied HB 1275 would cause. This is not true. The FTE's provided in HB 1275 are the number of FTE's the state would fund in respective county clerk of court offices, not the number of employees those offices would have. That, again, would be up to the counties.

For example, if a county currently has 5 employees in the clerk of court office and HB 1275 grants that county 2.8 FTE's, that doesn't mean a reduction in staff. It simply means that the state would reimburse that county for 2.8 FTE's, because that is the amount of judicial services work rendered by that county's clerk of court office. The county could retain its five employees, if it wished, and would be reimbursed for 2.8 of them. Remember, now the counties are paying the entire cost of those employees!

I'm adding below, thoughts from the Judiciary Committee's portion of the Majority Report over the last two weeks, which deals with these two bills. Hopefully this information will be helpful.

-Kim

After considerable debate and reconsideration, the House Judiciary Committee narrowly recommended passage of what has commonly become known as "the clerk of courts bill." House bill 1275, which was re-referred to the Appropriations Committee, would provide for state funding for District Courts in each North Dakota County. Under the court unification process begun several years ago, County Courts have given way to District Courts. Fees now go to the state, but this bill would disperse funds back to the counties, for judicial functions clerks of court perform. The bill is the outgrowth of a lengthy interim study, which included broad representation. Although admittedly "not perfect", it has been endorsed as the best solution by the North Dakota Association of Counties and the state's County Commissioners.

The committee urged a "Do Not Pass" on HB 1458, which is an alternative to HB 1275, dealing with clerks of court. It would allow court fees to stay in counties, but would mean far fewer dollars to counties than HB 1275, an analysis by the ND Association of Counties revealed.

CURRENT SYSTEM AND FUNDING AT COUNTY LEVELS

	FULL TIME EMPLOYEES	COST IN MILLIONS PER BIENNIUM
	177	\$11.4
PROPOSED FUNDING UNDER H.B.1275		
STATE SHARE	133	\$12.8
COUNTY SHARE	44	\$2.85
	—	—
TOTAL COST	177	\$15.65

AN ADDITIONAL **\$4.25 MILLION** FOR THE SAME LEVEL OF SERVICE

AMEND H.B.1275

LEAVE SYSTEM AS IS

RESTORE A PORTION OF THE FEES THE COUNTIES RETAIN

1996 FIGURES (FOR EXAMPLE ONLY)

CIVIL FILINGS	32,000	@	\$50	=	\$1,600,000
CRIMINAL FILINGS	31,000	@	\$50*	=	\$1,550,000
					—————
TOTAL					\$3,150,000

*Court costs no longer assessed by the Courts

My name is Karin Fischer; I am clerk of court in LaMoure County. Today I'm here to ask you not to pass HB 1275. This bill does not offer any improvements on the current delivery of Clerk of Court services, in fact, it makes a simple system very complicated.

Counties have been financially pressured since the judge unification and the state's assumption of increasing amounts of court-collected dollars. The experience of rural counties in this recent unification move has been only negative. Counties were promised continuing judicial services which, technically, they continue to receive.

Unification has a very unpleasant taste in the mouth of rural commissions. The experience of rural counties in the judge unification has been extremely negative. Civil filing fees increased from \$30 to \$80, filing an answer is \$50, where there was no fee previously; filing a motion now costs \$30. In exchange for these increased fees, judge presence was drastically reduced. Citizen costs skyrocketed, judicial service was greatly reduced, but "technically" judicial presence has been maintained in each county. At the same time, case filings are steadily increasing. If clerk of court unification experiences were to equate to judge unification experiences, county residents would be terribly shortchanged. Many boards of commissioners have written letters opposing this bill and many others have passed resolutions in opposition.

HB 1275 does not ensure a clerk of court in every county. The language in this bill only guarantees a clerk of court "until the clerk retires, resigns, or the term for which the clerk was initially elected expires, whichever occurs earlier." (p.29, lines 22-24) "District Court Services" are outlined in this bill as being provided by clerks of district court, deputies and assistants who are employees of the judicial system or through service agreements. (p. 28) Staffing numbers prepared for the fiscal note attached to this bill would indicate that there is no intention of maintaining A Clerk of Court in each county. Future appropriations will determine the level of funding to contract counties, and probably will determine the level of staffing or services in the assumed counties. The language in HB 1275 uses "may" rather than "shall" and leaves plenty of room for doubt for the future of these offices.

Further, the provision of "clerk of court services" is based on legislative appropriations. (p.28, lines 13-14) As recent revenue projections have indicated a significant shortfall, this would significantly restrict budgets during a critical transition period. Governor Schafer has indicated that he does not want to add employees to the state payroll; and has also indicated that he does not support this bill, and would encourage taking the \$3.2 million appropriation for this bill to take care of already existing programs.

As a member of the consensus council committee that met to make a recommendation to the interim judiciary committee, I would also like to make it

known to you that a consensus on this piece of legislation was never met. There were two votes taken in that committee- the first was to agree that a consensus would consist of 9 out of 12 members agreeing; the second was to discard all of the National Center for State Court's Study except for the division of judicial and non-judicial functions. In fact, at every meeting, serious concerns were raised as to removing decision-making from the counties, furthering consolidation efforts, not demonstrating cost savings or efficiencies, and the list goes on and on. A vote was not taken at the end, because a consensus could not be reached.

Clerks of court do not support this bill. A recent survey of clerks of court is attached for your review. On this bill, one was in favor, five were undecided and forty-seven were opposed. Clerks enjoy their position as a county official and take pride in providing judicial services for their county citizens. It would make more sense to restore some funding to counties through restored filing fees and court costs and administrative fees. Give Clerks of Court increased responsibilities and put everyone "on the same page" technologically. All clerks are now on a statewide computer system for child support cases, so there is no longer a technology barrier preventing this means of unification.

This is a large state with a diverse population. Citizen needs are very different in Cass and LaMoure Counties. Counties are in the best position to determine their needs and are the most flexible in meeting those needs. Dismantling the services in the Clerk of Court's office and removing some of them entirely from county government is not progressive. It would be tragic to look back and find that a huge mistake was made at this time because of a rush to change for the sake of change.

CLERK OF COURT SURVEY

Do you support HB 1275?

- 1 Yes
- 47 No
- 5 Undecided

Do you support HB 1458?

- 42 Yes
- 4 No
- 6 Undecided
- 1 No response

As outlined in HB 1275, is your county considered:

- 34 Category 1 (Less than 1 FTE)
- 7 Category 2 (1 to 2 FTE's)
- 12 Category 3 (2 or more FTE's)

RESOLUTION IN OPPOSITION TO HB1275

WHEREAS the LaMoure County Board of Commissioners has reviewed HB1275; and

WHEREAS the bill does not appear to enhance delivery of court services in this county, and does not increase efficiency or demonstrate cost savings, and would promote future consolidation; and

WHEREAS LaMoure County does not support the removal of the office of the Clerk of District Court from various county governments in the state; and

WHEREAS we believe the Clerk of District Court should remain a part of county government, and funding should be restored by retaining a portion of fees collected through the clerk's office

NOW, THEREFORE it is hereby resolved that the LaMoure County Board of Commissioners opposes HB 1275.

Curtis Smedshammer- Chair

Orville Ogren

Richard Aberle

Dean Haberman

Jerel Skattum

Passed 2-17-99

Copies: Association of Counties
Senate Judiciary Committee- Wayne Stenehjem, chair
Senate Appropriations Committee- David Nething, chair
Governor Ed Schaffer
Rep. John Dorso
Sen. Gary Nelson

Reps. Michael Brandenburg
Pam Gulleson
Robert Huether
Howard Grumbo
Deb Lundgren
Ray Wikenheiser
Senators: Jerry Kelsh
Pete Naaden
Joel C. Heitkamp

I appear today opposed to HB1275.

The court system in North Dakota has done a slow change in the last few years. The change has been done very cautiously so that mistakes were kept to a minimum realizing that the impact on our citizens had to be positive. I think it has been a successful endeavor to date. It has now reached a point where there is nothing more that needs fixing, only a little tweeking here and there.

Those that have given their sanction to 1275 have hung their hats on the theory that there was a mandate to "complete the plan". The fact is there is nothing compelling further action. Any action taken now requires new law.

It appears from reading the testimony concerning the bill that those who favored it had a sharp blade held to their throat and would bleed it they did not come out pro 1275. For example the counties were told "play ball or no funds for your system". Even the Chief Justice had little taste for it.

My Sheriff tells me 1275 may require him to haul prisoners 150 miles, round trip, to see a judge. Due process should be done quickly.

I am also assuming that some members of the court system will hesitate to travel to outlying county courtrooms because of weather, the time element, and a heavy calendar. - All good reasons. - Of course they will say that they can get more done in the bright new regional court chambers which are also across the street from the new EPA approved jail - which is "escape proof".

Now there is the matter of the people at Hannah, North Dakota who now have to travel 25 miles one way to get any type of legal things done or some information. A trip to get the same thing done as a result of HB1275 can be a 200 mile round trip. I could run this thought by you a hundred more times using the names of different towns.

The truth is Justice is going to get more expensive for the average citizen with a legal concern. The very poor who often need court services most are going to be hurt worst of all with HB1275.

I would imagine that the lawyers that are in county seat towns will find their practices will be more lucrative in the regional centers, so HB1275 will export lawyers to regional centers.

In short, don't take away our County Clerks of Court. THE SYSTEM IS NOT BROKEN AND DOES NOT NEED FIXING.

When this bill 1275 does not pass it frees up over 3 million dollars for the last quarter of the 1999-2001 biennium and over 11 million for the 2001-2003 biennium. I won't say any more about money.

Mr. Chairman, your Committee has a lot of work to do to give HB1275 a fitting burial for a long time.

Thank you for letting me speak.

Harvey Sand
Senator, District 10

Good Morning Mr. Chairman and Committee Members,

My name is Linda Rohrbach and I am the Register of Deeds ex officio Clerk of Court for McIntosh County. McIntosh County has been fighting all aspects of state funding for the Clerk of Court, and believe HB1275 is the beginning of a slow death, not only for the Clerks Office but for all of County Government. HB1275 is "a wolf in sheeps clothing" a dressed up version of the National Center for Courts study and the goal of this study was to draw all court functions towards the urban areas, leaving the small rural counties by the wayside. If the Clerks become State employees and/or are state funded, such as HB1275 indicates, it will be accomplishing the same affect as the National Center for Courts study, which, if you recall, was totally rejected by the Judiciary Committee. HB1275 indicates that counties **can** or **may** fund their own clerks - **as long as they deem necessary**. Seemingly this seems to give the counties a choice, but the state has ways of fazing out their small inconveniences. In our county we had court 1 day a month (plus days for trials or special hearings). As of Jan. 1, 1999 we are now cut back to ½ day a month, usually starting at 10:00AM - and we "must" be finished by 11:30 AM so that the Judge can get to another court 60 miles away by 1:00PM. It's a continuous struggle to keep Court services in McIntosh County - Cases are rescheduled and continued and usually in Bismarck or Mandan. Our files are gone more than they are in our office, our postage and long distance bills have increased significantly and we have stacks of documents to be signed on court day. Is this what our so called "Unified Judicial System" will become?

As you can see by these examples the state could quite easily deem Clerks services

“unnecessary”. HB1275 states that the Supreme Court **“may”** fund the small counties - and if a county is unable or not willing to provide **“adequate”** clerk services the court shall provide for those services in **“any”** manner it considers appropriate. To me that spells **“URBAN”** court for **“Rural”** counties.

I would like to quote a statement that your own minority leader has made - Senator Mathern said “Our rural economy still is the major sector of our income and with the rural crises we have to do some things, if we don’t, its only a matter of time that the prosperity that Bismarck and Fargo has is just fool’s gold”. I couldn’t agree more - we need to keep services (**all services**) in these rural areas where the major sector of North Dakota’s income is - or it will be the demise of us all.

Public access to the justice system occurs through direct encounters with the Clerks of Court - Clerks have an enormous responsibilities of both assuring the integrity and efficiency of the courts, and of maintaining public confidence in the judicial system. Justice needs to be seen as well as done, and the passing of HB1275 will eventually remove that right from the public in rural counties. We need to maintain our citizens confidence in our courts and that means keeping courts readily accessible to all.

Rural counties have not been coming to the State begging for funds for our clerks, I believe that scene belongs to our urban counterparts. With all due respect, where were the urban

counties when the bill which removed all the filing fees from the counties to the state, was passed?? If this bill is such a **"Godsend"** to all counties, why then are we not hearing from Urban Clerks urging the passage of HB1275?? Taking a close look at the survey asking clerks their opinion, only one of the Fifty Three clerks in North Dakota supports HB1275. The vast majority of these Clerks wish to continue serving their constituent who have elected them as a public servant, not as a state employee.

Governor Schafer himself has put this matter on a list of spending reductions. I commend the Governor for seeing HB1275 for what it is - a completely unnecessary expenditure for the State of North Dakota. This bill addresses no problems, creates no efficiencies, there are no gains in effectiveness, and we can see there is absolutely no monetary savings - and with that I strongly urge you to recommend a **"DO NOT PASS"**.

RESOLUTION IN OPPOSITION TO HB1275

WHEREAS, the McIntosh County Board of Commissioners has reviewed HB1275; and

WHEREAS, the bill does not appear to enhance delivery of court services in this county, and does not increase efficiency or demonstrate cost savings, and would promote future consolidation; and

WHEREAS, HB1275 will, directly or indirectly, reduce citizen access to the judicial branch of government in rural North Dakota; and

WHEREAS, we believe the Clerk of District Court should remain a part of county government, and funding should be restored by retaining a portion of fees collected through the clerk's office; and

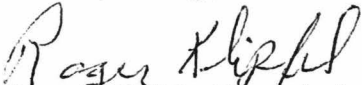
WHEREAS, HB1275 appears to be a "back door" effect to force consolidation of county services; and

WHEREAS, the current relationship between Clerks of Courts, court personnel, officers of the court, and the public is currently very good and has generally resulted in timely, efficient and effective delivery of court services by the elected Clerks of Court: and

IT IS HEREBY RESOLVED this 26th day of February, 1999, that the McIntosh County Commissioners unanimously oppose HB1275 and urge that such proposed legislation be defeated.



Ron J. Meidinger - Chairman



Roger Klipfel - Commissioner



William Wald - Commissioner

Stark County, North Dakota

OFFICE OF THE AUDITOR

P.O. BOX 130

DICKINSON, NORTH DAKOTA 58602-0130

BOARD OF COMMISSIONERS
GEORGE L. BERGER
LEO JAHNER
PHILLIP MESSER JR.
CHET WILLER
BOB ZENT

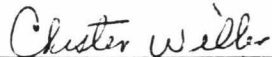
AUDITOR
EILEEN LEISS

DEPUTY AUDITOR
LEONA NOVOTNY

March 2, 1999

To Whom It May Concern:

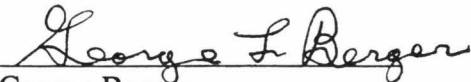
At the meeting on March 2, 1999 the Stark County Commissioners voted to go on record as opposing House Bill 1275.



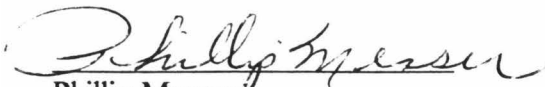
Chester Willer



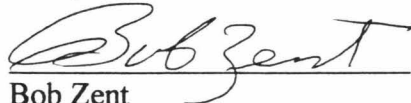
Leo Jahner



George Berger



Phillip Messer



Bob Zent

Testimony HB 1275

Mr. Chairman and Members of the Committee

I am Bob Zent, Commissioner from Stark County. My address is at Dickinson.

I am apposed to this bill for many of the same reasons expressed by other opponents.

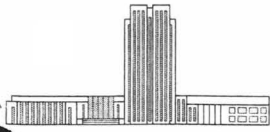
Counties are currently providing Clerk services as provided by ND law per various Chapters of the North Dakota Century Code. If the Supreme Court wishes to provide those services, fine. It is NOT appropriate for them to propose to say they are going to do so by taking over the County Clerks of Court after picking and choosing which services they are going to perform and which services they are not going to perform.

Changing the law to redefining the duties and services of the Clerk of Court to something less than it currently is and then proposing to say that they are going to take over ALL of the duties of clerk of court is just the kind of maneuver that I would attribute to lawyers!

Would anyone care to go out to a fine looking eating establishment and consider themselves as having been properly served if the restaurant suddenly defined their services to exclude washing the dishes? I would not.

The increased cost of this proposed take over to the taxpayers of North Dakota, combined with the reduction in services in the clerks offices, combined further with the shifting of duties to another office (the Register of Deeds) does not make sense. As Counties, we have already provided staff and assets for accomplishing this task. I visualize increased building and office costs by splitting and shifting these duties while also maintaining the existing building and office space for the new DISTRICT CLERKS OF COURT!

I ask for the defeat of this bill with the recommendation to the drafters to recraft an idea that will actually be an improvement for the Citizens of North Dakota and not just be a concentration of power. And if a measurable improvement can not be made then leave the present system alone.



NORTH DAKOTA HOUSE OF REPRESENTATIVES



Representative Kim Koppelman
District 13
513 First Avenue NW
West Fargo, ND 58078-1101

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360

COMMITTEES:
Judiciary,
Vice Chairman
Political Subdivisions

MEMO

To: Members of the Senate Judiciary Committee **3-8-99**
From: Rep. Kim Koppelman **Re.:** HB 1275/Robert Indvik testimony

Mr. Chairman and members of the Senate Judiciary Committee;

It has come to my attention that Mr. Robert Indvik, clerk of district court in Bottineau County, made reference to me and to statements I had made concerning HB 1275, in his testimony before your committee on this bill last week. I feel that it is important to respond.

Mr. Indvik alleges great confusion on this bill, implies that misinformation on it abounds, and apparently cites me as the prime example. Certainly there has been both confusion and disagreement on this bill. I have attempted, however, to be accurate and factual in my statements on it.

I signed on to HB 1275 at the request of Rep. Duane DeKrey, chairman of the House Judiciary Committee and a sponsor of the bill. Although I recognize that there are difficulties with this legislation, I also recognize the plight of counties, which no longer receive court fees, but must bear the expense of clerks of court. This bill, though certainly not perfect, attempts to return some dollars to those counties.


Specifically, in paragraph 3 on page 3 of his written testimony, Mr. Indvik refers to an e mail I sent to several legislators who had requested my assistance in gathering more information on this bill. Despite Mr. Indvik's charges, I don't believe that I was inaccurate in that communication.

As the implementation of HB 1275 has been explained to me by the Association of Counties, the bill's sponsors and others, I believe that the scenario I've set forth would be the case; at least I would hope so. It is not unprecedented for salaries to be partially funded by the state and partially funded by counties. An example would be Extension Service employees.

In any event, Mr. Indvik raised his concerns with me directly and we corresponded by e mail. We obviously have a different interpretation of the implications of this legislation. It is unfortunate, however, that he apparently chose to ignore that dialogue and refer only to my initial e mail on it. I have enclosed a portion of the additional communication for your reference.

HB 1275 is a difficult piece of legislation for many, but if properly implemented, I believe it could be constructive. I understand that your committee may be considering amendments to improve it, including some that may address the difficult situation it places middle tier counties in. I encourage you to do your best to improve the bill and certainly trust your judgment and expertise to deal with it as you deem best.

Respectfully Yours;


Rep. Kim Koppelman

From: Robert M. Indvik/ISD/NoDak@Hub on 02/08/99 11:12 AM
To: Kim A. Koppelman/NDLC/NoDak@NoDak
cc: Gerald O. Sveen/NDLC/NoDak@NoDak, Glen A. Froseth/NDLC/NoDak@NoDak
Subject: RE: HB 1275

Representative Koppelman,

As I read HB 1275, all counties have the theoretical option of self funding the office of Clerk of District Court. Subsection 3 found on page 29 of the bill delineates the only other option for counties in which 2 or more FTE's are necessary. That option is to have the state fund those employees designated by the supreme court. If the state funded option is evoked, the county will have nothing to say about the administration or delivery of clerk of court services.

If you do not believe this to be true, ask the state court administrator who will administer the office of Clerk of District Court if the state funds the office.

To suggest that a county would maintain or increase the number of employees now found in a clerk's office, if the state option is used, I find incredulous. Why would a county increase the costs of delivering clerk of court services, if the state is responsible for those services, when HB 1275 already increases those costs by more than \$2,500,000.00 over what is now being spent on delivery of those services.

Respectfully,

Robert Indvik
Clerk of District Court
Bottineau County

>-----

>From: Koppelman, Kim A.[SMTP:kkoppelm@state.nd.us]

>Sent: Monday, February 08, 1999 9:59 AM

>To: Indvik, Robert M.

>Subject: Re: HB 1275

>

>Mr. Indvik;

>

>Thanks for your e mail and the reiterations of the concerns you expressed in your testimony before the House Judiciary Committee. I found that testimony sincere and compelling at that time and certainly understand your concerns. I do believe, however, that you are mistaken regarding the FTE issue.

>

>Although much of the opposition to HB 1275 has focused on this issue, unless I am mistaken, I believe those concerns to be unfounded. I have been assured that, if a county chooses the state option and then chooses to have more employees in its Clerk of Court office, nothing in the bill would prohibit that.

>

>The chairman of the Judiciary Committee specifically spoke to this issue, in carrying the bill on the House floor and made the same point as I had in my e-mail. I re-read the portion of the bill that deals with this issue, after receiving your e mail and see nothing in the bill which prohibits a county from employing more people in its Clerk of Court office.

>

>Certainly, we all could be mistaken, however I hope that's not the case.
>The people who have spoken to this issue served on the interim Judiciary
>Committee and the Consensus Council, which drafted HB 1275 and I tend to
>trust their judgment and integrity.

>
>If there is something in the legislation which needs correction, to ensure
>that this interpretation is correct, I would certainly support it.


>
>Again, thank you for your interest and your efforts on this legislation.

>
>Respectfully,

>
>Rep. Kim Koppelman
>Vice Chairman
>House Judiciary Committee
>

Kim A. Koppelman

02/08/99 04:54 PM

To: Robert M. Indvik/ISD/NoDak@Hub
cc:
Subject: RE: HB 1275 

Mr. Indvik;

With all due respect, I think that's exactly what my original example stated. The actual text follows:

"Some concerns have also been raised about the perceived "cuts" in clerk of court staffing some have implied HB 1275 would cause. This is not true. The FTE's provided in HB 1275 are the number of FTE's the state would fund in respective county clerk of court offices, not the number of employees those offices would have. That, again, would be up to the counties.

For example, if a county currently has 5 employees in the clerk of court office and HB 1275 grants that county 2.8 FTE's, that doesn't mean a reduction in staff. It simply means that the state would reimburse that county for 2.8 FTE's, because that is the amount of judicial services work rendered by that county's clerk of court office. The county could retain its five employees, if it wished, and would be reimbursed for 2.8 of them. Remember, now the counties are paying the entire cost of those employees!"

I share your concern for the taxpayer, as I trust do most of those whom they elect to represent them in the Legislature.

Again, thanks for your thoughts and input.

Respectfully Yours;

Rep. Kim Koppelman
Vice Chairman
House Judiciary Committee

From: Robert M. Indvik/ISD/NoDak@Hub on 02/08/99 01:38 PM

From: Robert M. Indvik/ISD/NoDak@Hub on 02/08/99 01:38 PM
To: Kim A. Koppelman/NDLC/NoDak@NoDak
cc: Duane L. DeKrey/NDLC/NoDak@NoDak
Subject: RE: HB 1275

Rep. Koppelman,

This is not what your original example stated about the county being reimbursed for 2.8 fe's and that the county would maintain the clerk of court office at current staffing levels.

You are correct in stating that the state option is for judicial services only and the county's will certainly have to fund employees to handle the defined non judicial functions. Therein lies one of the major problems with this proposal. The current structure for delivering these services is about \$11,400,000.00. HB 1275 causes that cost to our citizens to increase to over \$14,000,000.00 and delivery of those services will not be enhanced.

When I discuss costs and impact,I am concerned about our taxpayers not entities.

Respectfully,

Robert Indvik
Clerk of District Court
Bottineau County

>-----

>From: Koppelman, Kim A.[SMTP:kkoppelm@state.nd.us]

>Sent: Monday, February 08, 1999 12:07 PM

>To: Indvik, Robert M.

>Cc: DeKrey, Duane L.

>Subject: RE: HB 1275

>

>Mr. Indvik;

>

>As I understand it, the number of FTE's funded by the state in each county

>which exercises the state option, under the bill, are for judicial services.

>It has been pointed out that clerks of court carry out functions beyond

>those which could be strictly so defined, a fact to which I'm sure you can

>attest. Accordingly, counties could certainly continue to employ people (or

>to pay portions of an FTE's salary) to perform those services.

>

>In addition, if I'm not mistaken, all of employee costs are currently born

>by the counties. I still can't see how a county's paying a smaller share of

>that amount constitutes an additional expense, on the part of the county.

>

WRITTEN TESTIMONY
IN SUPPORT OF

HB 1275
3/22/99
ND County Commissioners

**TESTIMONY TO THE
SENATE APPROPRIATIONS COMMITTEE
March 22, 1999
North Dakota County Commissioners Association**

HOUSE BILL NO. 1275

On behalf of the county commissioners of North Dakota, this testimony has been prepared to demonstrate support for the compromise that House Bill 1275 represents.

Counties were reluctant supporters of court unification in 1991, and we felt that the revenue shift in 1995 was untimely and unfortunate. We have strongly urged the Legislature for a more permanent resolution to the issues left undecided in these previous sessions. It is obvious that from large to small counties, we have different needs and different desires for this resolution. Though it may not be perfect, HB1275 does recognize these differences and provides each county board with input into its own future and some options in the ultimate configuration of this important local office. A timeline of some of these developments has been attached for your information. (Attachment 1).

We realize that you wish to focus primarily on the funding aspects of the bill and therefore I will not discuss the options and staffing sizes available to each county in detail. (These are summarized in Attachment 2). I simply want to point out that right now we have a situation of 53 totally county-funded offices that conduct both judicial and non-judicial duties. HB1275 clearly allows each county the opportunity to continue in this manner if it so chooses. However, it also provides a mechanism for each county to either receive funding or transfer most of the costs of this office, if that is in the best interests of its citizens. Attached to my testimony is our estimate of what these funding options could mean to each county, based on the fiscal note, the staffing analysis, and estimates prepared during the interim. (Attachment 3).

Each county board can look at the long-term delivery of these services and the fiscal burden that the services place on the property tax, when making their decision. Each county can make their own decision. I believe that House Bill 1275 provides county flexibility as well as reasonable and acceptable options. It represents a unique opportunity for county commissioners to take a more active and responsible role in the delivery court services in their county.

I know that you, as members of this Committee, have probably received more communication, and possibly more conflicting information, on this issue, than possibly any other this Session. Members of our Association have received much of the same. For this reason, we once again took the issue to our Legislative Committee during the Crossover Break. Our Legislative Committee draws its members from throughout the State and on February 23, 1999 commissioners from twelve large, medium and small counties unanimously went on record in support of this compromise proposal. Thus, we accept the responsibility to do all we can to maintain court services in every county, at the level we deem appropriate. As a final item for your information, we have included Attachment 4, which lists the points of the Legislation that we feel are most important.

In conclusion, the North Dakota County Commissioners Association respectfully requests your Committee's favorable consideration of House Bill 1275.

TIMELINE OF COURT UNIFICATION

- 1989-91 Interim A study of court unification examined the issues of state assumption of county judges and county clerks of court, staffing levels, rural chambers, and other issues. It was determined that state assumption of the county judges and clerks could not happen at the same time due to the cost.
- 1991 Session The court unification legislation set a timeline for state assumption of the county judges and the ultimate reduction in the number of judges. The administrative fees, filing fees, and bond forfeitures were knowingly left with the counties, recognizing their continued costs of courtroom space, clerks of court, prosecution, and other court related expenditures. Counties estimated these costs at about \$58 million per biennium.
- 1993 Session Minor adjustments were made to the statutes passed as part of the court unification legislation from the prior session, but no suggestion was made to reduce county revenues. The population threshold for rural chamber sites was raised from \$7,500 to \$10,000.
- 1995 Session In a surprise to counties, and most legislators, the Governor's budget included a \$5 million shift of court revenues from the counties to the State. OMB argued that the State needed the funds as it would assume all of the county judge costs for the first full biennium. The \$5 million was the estimate of the counties' revenue from court administrative fees, court costs, and bond forfeitures. Upon strong objection by counties, the Legislature increased court filing fees and split the increased revenue between the State and the Counties, with counties getting an estimated \$1.8 million to partially offset the \$5 million loss. Judges were also granted greater authority in changing venue. An interim study was also passed to encourage the further examination of bringing clerks into the state system.
- 1997 Session The counties began the 97 Session asking the Legislature to restore the lost court revenue or reduce the counties' court expenditures. At the close of the Session, the Judiciary Budget was amended to immediately shift some of the "new" (1995) county filing fee revenue to the State and also set a date (April 1, 1999) for all remaining county filing fee revenue (The original \$20 per filing) to transfer to the State. With this funding shift was an intent statement that the Judiciary budget for a state-funded clerk of court system. With the growth in some of the shifted revenues, it is estimated that county revenues would have reached almost \$10 million per biennium, if all fees, costs, and forfeitures were still retained.
- 1997-99 Interim The study that resulted from the 1997 legislation included a consultant's report commissioned by the Supreme Court that suggested a fairly rapid and dramatic reduction in clerk's offices in more rural counties. The lack of support for this proposal prompted the interim committee to initiate a Consensus Council process that resulted in HB1275. This bill represents a compromise and insures maximum local control.

**Proposed Required Staffing Levels
for State-Funded Judicial Duties in the
Clerk of District Court Offices
(From State Court Administrators Caseload Analysis)**

COUNTY	Staff in FTEs		COUNTY	Staff in FTEs
Cass	22.4		McHenry	0.7
Grand Forks	15.6		Adams	0.6
Burleigh	13.3		Bowman	0.6
Ward	11.9	Transfer & Self-Funding Options	Dunn	0.6
Stark	6.5		Emmons	0.6
Stutsman	5.7		Foster	0.6
Morton	4.5		Towner	0.6
Ramsey	4.2		Wells	0.5
Williams	4.2	Transfer & Self-Funding Options - And Contract With HB1382 Amendments	Eddy	0.4
Walsh	3.5		Golden Valley	0.4
Richland	3.1		Kidder	0.4
Barnes	2.8		LaMoure	0.4
Rolette	1.7		Nelson	0.4
Pembina	1.6		Steele	0.4
McLean	1.4	Transfer, Contract, & Self-Funding Options	Burke	0.3
Bottineau	1.3		Divide	0.3
Pierce	1.2		Grant	0.3
Trail	1.2		Hettinger	0.3
Mercer	1.1		McIntosh	0.3
McKenzie	1.0		Renville	0.3
Benson	0.9		Billings	0.2
Mountrail	0.9	Contract, & Self-Funding Options	Griggs	0.2
Ransom	0.9		Logan	0.2
Cavalier	0.8		Oliver	0.2
Dickey	0.8		Sheridan	0.1
Sargent	0.8		Sioux	0.1
			Slope	0.1

ESTIMATED FUNDING EFFECTS OF HB 1275

Based on Fiscal Notes, Caseloads, Estimated Staffing, & Supporting Data

COUNTY	FTE's to be		
	paid/contracted by State	Estimated Funding Budgeted	
		99-01 Biennium	01-03 Biennium
Adams	0.6	11,265	45,062
Barnes	2.8	52,572	210,289
Benson	0.9	16,898	67,593
Billings	0.2	3,755	15,021
Bottineau	1.3	24,409	97,634
Bowman	0.6	11,265	45,062
Burke	0.3	5,633	22,531
Burleigh	13.3	249,718	998,871
Cass	22.4	420,577	1,682,310
Cavalier	0.8	15,021	60,082
Dickey	0.8	15,021	60,082
Divide	0.3	5,633	22,531
Dunn	0.6	11,265	45,062
Eddy	0.4	7,510	30,041
Emmons	0.6	11,265	45,062
Foster	0.6	11,265	45,062
Golden Valley	0.4	7,510	30,041
Grand Forks	15.6	292,902	1,171,609
Grant	0.3	5,633	22,531
Griggs	0.2	3,755	15,021
Hettinger	0.3	5,633	22,531
Kidder	0.4	7,510	30,041
LaMoure	0.4	7,510	30,041
Logan	0.2	3,755	15,021
McHenry	0.7	13,143	52,572
McIntosh	0.3	5,633	22,531
McKenzie	1.0	18,776	75,103
McLean	1.4	26,286	105,144
Mercer	1.1	20,653	82,613
Morton	4.5	84,491	337,964
Mountrail	0.9	16,898	67,593
Nelson	0.4	7,510	30,041
Oliver	0.2	3,755	15,021
Pembina	1.6	30,041	120,165
Pierce	1.2	22,531	90,124
Ramsey	4.2	78,858	315,433
Ransom	0.9	16,898	67,593
Renville	0.3	5,633	22,531
Richland	3.1	58,205	232,820
Rolette	1.7	31,919	127,675
Sargent	0.8	15,021	60,082
Sheridan	0.1	1,878	7,510
Sioux	0.1	1,878	7,510
Slope	0.1	1,878	7,510
Stark	6.5	122,043	488,170
Steele	0.4	7,510	30,041
Stutsman	5.7	107,022	428,088
Towner	0.6	11,265	45,062
Traill	1.2	22,531	90,124
Walsh	3.5	65,715	262,861
Ward	11.9	223,432	893,727
Wells	0.5	9,388	37,552
Williams	4.2	78,858	315,433
County Direct(Salaries/Contacts)		2,316,931	9,267,724
Other Equip/Indirect/Supervisory		710,069	3,565,276
Fiscal Note Total		3,027,000	12,833,000

POSITIVE PROVISIONS CONTAINED IN HOUSE BILL 1275 THE "CLERK OF COURT BILL"

House Bill 1275 provides a good compromise on the unification issue and gives counties individual options to consider what is best for their communities. If this bill passes, it would complete the court unification process, and provide needed property tax relief to the citizens of North Dakota. This compromise was crafted with input from judicial, legislative, county clerk, and county commissioner participants. A basic outline of the options provided by this bill is as follows:

- House Bill 1275 creates options for large, medium, and small counties. It takes into consideration the different situations encountered by individual counties.
- First, as drafted, the 11 largest counties in North Dakota would be given the option to have full state assumption of all clerk duties, if they so choose, otherwise they can retain them at county expense.
- The 9 counties in the middle have the same options as the larger counties, however they can also choose to contract with the State to deliver judicial services with county staff. Amendments to HB1382 would expand this third option to include 6 of the larger counties as well.
- The 34 remaining smaller counties would be allowed to keep a clerk of court for as long as they deem necessary. To help support this effort, these counties could sign a contract with the state and receive some funding for the office, or fund totally with county dollars.
- The intent statement (Sec. 50) ensures that adequate and proper judicial services will continue to be provided in each county.
- Through smaller county contracts and larger county staff assumption, this bill provides up to \$3 million in property tax relief for the last quarter of the coming biennium and up to \$12 million in relief in the next biennium. A county-by-county estimate is attached to the back of this page.
- In conclusion, while this bill does remove the elected status of the clerks of court, it will not eliminate clerks of court. Counties will have complete control to retain their clerk of court for as long as they chose. This bill is a positive compromise for continuing the unification process, but maintaining in every county the proper, and desired, level of clerk staff.

3/23/99
 HB 1275
 Fee Schedule
 Requested By Sen. Holmberg

ANALYSIS OF COURT REVENUES BY TYPE

Total Remitted to State Treasurer First 18 months of the Biennium		Revenue for 97-99 Biennium based on Current Law * (April 1, 1999 Change)	Projected to 1999-01 Biennium No Change No Increase	
2,152,190	Bail Bond Forfeitures (29-27-02.1)	2,869,587	2,869,587	Forfeitures retained by county before 1995
4,164,819	Net Fines/Forfeitures (15-44-02)	5,553,092	5,553,092	Forfeitures (but not fines) retained by county before 1995
1,203,609	Court Admin. Fees (11-17-04)	1,604,812	1,604,812	Fees retained by county before 1995
155,461	District Court Costs (29-26-22)	207,281	207,281	Costs retained by county before 1995
491,641	Indigent Civil Legal (29-07-01.1)	655,521	655,521	
65,672	Motion Filing (11-17-04)	87,563	87,563	
156,555	Displaced Homemaker (11-17-04)*	208,740	208,740	
835,611	Civil Filing Fees (State) (11-17-04)	1,179,686	1,609,325	All regular filing fees retained by county before 1995 however the filing fee amounts were lower
9,225,558		12,366,282	12,795,921	
371,383	Civil Filing Fees County**	429,639	-	

* Based on remittance to state for the first 18 months of the biennium
 ** County amount calculated from the relative amount retained on non-divorce filings

HB 1275 #1
3/22/99
Brad Cruff

Senate Appropriations Committee

Testimony presented by Brad Cruff, Barnes County Commissioner
On behalf of the Barnes County Commission, March 22, 1999

CURRENT SYSTEM FUNDED BY COUNTIES

FULL TIME EMPLOYEES	COST PER BIENNIUM
177	\$11.4 million

PROPOSED SYSTEM AND FUNDING UNDER H.B. 1275

	FULL TIME EMPLOYEES	COST PER BIENNIUM
STATE EMPLOYEES	133 (ESSENTIAL)	\$12.8 million
COUNTY EMPLOYEES	44 (NON-ESSENTIAL)	\$2.83 million
TOTALS	177	\$15.63 million

\$4.23 MILLION MORE FOR THE SAME LEVEL OF SERVICE

NET TAX RELIEF TO COUNTIES (\$11.4 million less \$2.83 million = **\$8.57 million**)

COST BENEFIT RATIO = \$.55 saved per \$1.00 spent