

**2023 SENATE JUDICIARY**

**SB 2277**

# 2023 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee  
Peace Garden Room, State Capitol

**SB 2277**  
1/23/2023

A BILL relating to clerks of district court and to provide an appropriation.

**11:28 AM Madam Chair Larsen** called the hearing to order.

**Madam Chair Larsen, Senators Myrdal, Luick, Estenson, Braunberger, Sickler and Paulson present.**

## **Discussion Topics:**

- Staffing levels
- Redaction of filling units
- Current structures
- Clerk transfers
- Loss of service
- County vs State clerks
- Misinformation
- Guaranteed Employment
- Efficiency
- Chief justice meetings
- History
- Compromise
- Issues
- Benefits
- Costs
- Deputy clerks
- Distribution of work
- Variation of service

**11:29 AM Senator Myrdal** introduced **SB 2277**. No written testimony.

**11:32 AM Sara Behrens, Staff Attorney, State Court Administrators Office**, testified in support and written. #15407

**11:37 AM Sally Holewa, State Court Administrator**, testified in support and written. #15521

**12:10 PM Travis Finck, Executive Director for the ND Commission on Legal Counsel for Indigents**, testified in support and written. #15421

**12:12 PM Aaron Birst ND Association of Counties**, gave oral testimony in opposition to the bill.

**12:13 PM Carol Fey, McIntosh County Recorder and Clerk of Court**, testified opposed to the bill and provided written. #14770, #14831.

**12:18 PM Danielle Petersen, County Recorder and Clerk of District Court for Renville County**, testified opposed to the bill and provided written. #15244.

**12:22 PM Madisen Rodgers, Clerk of Court Mountrail County**, testified opposed to the bill and provided written. #14804.

**12:25 PM Steve Hunt, Traill County Sheriff**, spoke opposed to the bill.

**12:27 PM Dey Muckle, Golden Valley Sheriff**, spoke opposed to the bill.

**Additional Written Testimony:**

**Juliana Hammerstrom** provided written testimony #15021.

**Wade Enget** Provided written testimony #15392.

**Alison Toepke** provided written testimony #15445.

**12:28 PM Madam Chair Larson** adjourned the meeting on **SB 2277**

*Patricia Wilkens, Committee Clerk*

# 2023 SENATE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Peace Garden Room, State Capitol

SB 2277  
2/1/2023

A bill relating to clerks of district court; relating to clerks of court; and to provide an appropriation.
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11:27 AM Chairman Larson opened the meeting.

Present are Chairman Larson and Senators Myrdal, Luick, Estenson, Sickler, Braunberger and Paulson.

**Discussion Topics:**

- State employees
- Contract employees
- County employees
- Employee compensation

11:27 AM John Jensen, Chief Justice for the North Dakota Supreme Court provided testimony including written testimony #18102.

11:58 AM Aaron Birst, North Dakota, Association of Counties, testified opposed to the bill and provided written testimony #18647.

12:06 PM Senator Myrdal offered an amendment which is in written testimony #18526.

12:07 PM Sally Holewa, State Court Administrator, spoke in favor of the bill.

**Additional written testimony:**

Karin Boom provided written testimony #18255.

Rachel Keohane provided written testimony #18273.

Mickie McNulty provided written testimony #18387.

12:10 PM Chairman Larson closed the public hearing.

12:11 PM Senator Myrdal moved to adopt the proposed amendment LC 23.0953.01001. Senator Luick seconded the motion.



12:11 PM Roll call vote was taken.

<b>Senators</b>	<b>Vote</b>
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Jonathan Sickler	Y
Senator Ryan Braunberger	Y
Senator Judy Estenson	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Motion passes 7-0-0.

12:12 PM Senator Myrdal made a motion to Do Pass the bill as amended. Senator Luick seconded the motion.

12:12 PM Roll call vote was taken.

<b>Senators</b>	<b>Vote</b>
Senator Diane Larson	Y
Senator Bob Paulson	N
Senator Jonathan Sickler	Y
Senator Ryan Braunberger	Y
Senator Judy Estenson	N
Senator Larry Luick	Y
Senator Janne Myrdal	Y

The motion passes 5-2-0.

Senator Braunberger will carry the bill.

This bill does not affect work force development.

12:19 PM Chairman Larson closed the meeting.

*Rick Schuchard, Committee Clerk*

January 27, 2023

PROPOSED AMENDMENTS TO SENATE BILL NO. 2277

Page 9, line 4, overstrike "funding for the provision" and insert immediately thereafter  
"employment"

Page 9, line 4, overstrike "clerk" and insert immediately thereafter "clerks"

Page 9, line 4, overstrike "services"

Page 9, line 4, remove "must"

Page 9, line 4, overstrike "be provided" and insert immediately thereafter "must commence"

Page 9, line 23, replace "funding" with "employment"

Page 11, line 3, replace "\$12,267,050" with "\$13,799,866"

Renumber accordingly

*MR*  
*191*  
*2-1-2023*

**REPORT OF STANDING COMMITTEE**

**SB 2277: Judiciary Committee (Sen. Larson, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2277 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 9, line 4, overstrike "funding for the provision" and insert immediately thereafter "employment"

Page 9, line 4, overstrike "clerk" and insert immediately thereafter "clerks"

Page 9, line 4, overstrike "services"

Page 9, line 4, remove "must"

Page 9, line 4, overstrike "be provided" and insert immediately thereafter "must commence"

Page 9, line 23, replace "funding" with "employment"

Page 11, line 3, replace "\$12,267,050" with "\$13,799,866"

Renumber accordingly

**2023 SENATE APPROPRIATIONS**

**SB 2277**

# 2023 SENATE STANDING COMMITTEE MINUTES

## Appropriations Committee Roughrider Room, State Capitol

SB 2277  
2/13/2023

A BILL for an Act relating to clerks of court; and to provide an appropriation.

3:26 PM Chairman Bekkedahl opened the hearing on SB 2277.

Members present : Senators Bekkedahl, Krebsbach, Burckhard, Davison, Dever, Dwyer, Kreun, Meyer, Roers, Schaible, Sorvaag, Wanzek, Rust, and Mathern.

Members absent: Senators Erbele and Vedaa

### Discussion Topics:

- State Clerks of Court
- Transfer of roles

3:32 PM Senator Myrdahl introduced the bill, no written testimony

3:36 PM Sally Holewa, State Court Administrator, testified verbally, no written testimony

3:58 PM Senator Davison moved DO PASS.  
Senator Kreun seconded the motion.

Senators	Vote
Senator Brad Bekkedahl	Y
Senator Karen K. Krebsbach	Y
Senator Randy A. Burckhard	N
Senator Kyle Davison	Y
Senator Dick Dever	Y
Senator Michael Dwyer	Y
Senator Robert Erbele	N
Senator Curt Kreun	Y
Senator Tim Mathern	N
Senator Scott Meyer	Y
Senator Jim P. Roers	N
Senator David S. Rust	N
Senator Donald Schaible	N
Senator Ronald Sorvaag	Y
Senator Shawn Vedaa	N
Senator Terry M. Wanzek	N

Motion failed 8-8-0

**Additional written testimony:** #20676

4:02 PM Chairman Bekkedahl closed the hearing.

*Kathleen Hall, Committee Clerk*

# 2023 SENATE STANDING COMMITTEE MINUTES

## Appropriations Committee Roughrider Room, State Capitol

SB 2277  
2/15/2023

Relating to clerks of district court; to repeal section of the North Dakota Century Code, relating to clerks of court; and to provide an appropriation.

**8:06 AM Chairman Bekkedahl** opened the meeting on SB 2238.

Members present: **Senators Bekkedahl, Krebsbach, Burckhard, Davison, Dever, Dwyer, Erbele, Kreun, Meyer, Roers, Schaible, Sorvaag, Vedaa, Wanzek, Rust, and Mathern.**

### Discussion Topics:

- Committee action

**8:09 AM Senator Davison** motioned Do Pass

**8:09 AM Senator Kruen** seconded.

Senators	Vote
Senator Brad Bekkedahl	Y
Senator Karen K. Krebsbach	Y
Senator Randy A. Burckhard	Y
Senator Kyle Davison	Y
Senator Dick Dever	Y
Senator Michael Dwyer	N
Senator Robert Erbele	N
Senator Curt Kreun	Y
Senator Tim Mathern	N
Senator Scott Meyer	Y
Senator Jim P. Roers	Y
Senator Donald Schaible	N
Senator Ronald Sorvaag	Y
Senator Shawn Vedaa	N
Senator Terry M. Wanzek	N
Senator David Rust	N

Motion passed 9-7-0

**8:09 AM Senator Braunberger** will carry.

**8:11 AM Chairman Bekkedahl** adjourned meeting.

*Nathan Liesen on behalf of Kathleen Hall, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**SB 2277, as engrossed: Appropriations Committee (Sen. Bekkedahl, Chairman)** recommends **DO PASS** (9 YEAS, 7 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2277 was placed on the Eleventh order on the calendar. This bill does not affect workforce development.

**TESTIMONY**

**SB 2277**



Judiciary Committee

Chairwoman Larson and Committee members, please find attached 16 county resolutions, for you to consider, against the proposed bill SB 2277.

Thank you,

Carol Fey

McIntosh County Recorder/Clerk

**DICKEY COUNTY  
COMMISSION RESOLUTION**

Commissioner Jerry Walsh introduced the following resolution and moved for its adoption;

**A RESOLUTION OPPOSING LEGISLATION MAKING THE  
DICKEY COUNTY CLERK OF COURTS' OFFICE A STATE OFFICE**

WHEREAS, there is legislation being proposed pertaining to the transition of contract county clerk services to state funding and other legislative priorities;

WHEREAS, such legislation would make the Dickey County Clerk of Courts' Office a state agency and the employees thereof state employees, which would take away local control and governance of such office and employees;

WHEREAS, the Board of Commissioners for Dickey County, North Dakota, is desirous of keeping the Dickey County Clerk of Courts' Office as a county office;

NOW THEREFORE IT IS HEREBY RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS for Dickey County, North Dakota that the following resolution be adopted as follows:

- 1.) That the Board of County Commissioners of Dickey County directly opposes the passage of legislation pertaining to the transition of contract county clerk services to state funding and other legislative priorities; and
- 2) That the Board of County Commissioners of Dickey County resolves to keep the Dickey County Clerk of Courts' office a county office.

The motion for adoption of the foregoing Resolution was duly seconded by Commissioner Marke Roberts. On roll call vote the following Commissioners voted in favor of the motion: Marke Roberts, Joel Hamar, Dean Simek, Jerry Walsh, and John Hokana.

The majority having voted in favor of the motion and the motion carried the resolution was duly adopted on November 1, 2022.

APPROVED:

  
\_\_\_\_\_  
John Hokana, Chairman

ATTEST:

  
\_\_\_\_\_  
Wanda Sheppard, Auditor

1<sup>st</sup> Reading: November 1, 2022

MCINTOSH COUNTY  
COMMISSION RESOLUTION

Commissioner Neil Meidinger introduced the following resolution and moved for its adoption:

A RESOLUTION OPPOSING LEGISLATION MAKING THE  
MCINTOSH COUNTY CLERK OF COURTS' OFFICE A STATE OFFICE

WHEREAS, there is legislation being proposed pertaining to the transition of contract county clerk services to state funding and other legislative priorities;

WHEREAS, such legislation would make the McIntosh County Clerk of Courts' office a state agency and the employees thereof state employee, which would take away local control and governance of such office and employees;

WHEREAS, the Board of Commissioners for McIntosh County, North Dakota, is desirous of keeping the McIntosh County Clerk of Courts' office as a county office.

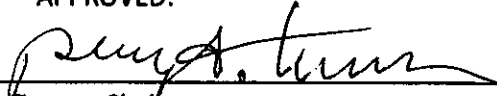
NOW THEREFORE IT IS HEREBY RESOLVED by the Board of County Commissioners for McIntosh County, North Dakota, that the following resolution be adopted as follows:

- a) That the Board of County Commissioners of McIntosh County directly opposes the passage of legislation pertaining to the transition of contract county clerk services to state funding and other legislative priorities; and
- b) That the Board of County Commissioners of McIntosh County resolves to keep the McIntosh County Clerk of Courts' office a county office.


The motion for adoption of the foregoing Resolution was duly seconded by Commissioner Jim Heinrich. On roll call vote the following Commissioners voted in favor of the motion: Perry Turner, Neil Meidinger and Jim Heinrich

The majority having voted in favor of the motion and the motion carried; the Resolution was duly adopted on December 12, 2022.

APPROVED:

  
Perry Turner, Chairman

ATTEST:

  
Gina Ketterling, Auditor Deputy  
Rebecca Andrew

1<sup>st</sup> Reading: 12.12.22

**RESOLUTION NO. 2022-04**  
**Resolution opposing Legislation making Foster County Clerk of Courts' Office a State Office**

WHEREAS, there is legislation being proposed pertaining to the transition of contract county clerk services to state funding and other legislative priorities;

WHEREAS, such legislation would make the Foster County Clerk of Courts' Office a state agency and the employees thereof state employees, which would take away local control and governance of such office and employees;

WHEREAS, the Board of County Commissioners for Foster County, North Dakota, is desirous of keeping the Foster County Clerk of Courts' Office as a county office.

RESOLVED, that the Foster County Board of Commissioners hereby declares the following resolution be adopted as follows:

That the Board of Foster County Commissioners directly opposed the passage of legislation pertaining to the transition of contract county clerk services to state funding and other legislative priorities; and

That the Board of Foster County Commissioners resolves to keep the Foster County Clerk of Courts' office a county office.

Dated at Carrington, ND this 15<sup>th</sup> day of November 2022.

FOSTER COUNTY, NORTH DAKOTA

By:   
Patrick Copenhaver, Board Chairman

Attest:   
Ellen Roundy, Interim County Auditor

LAMOURE COUNTY  
COMMISSION RESOLUTION

Commissioner Jason Weigel introduced the following resolution and moved for its adoption;

A RESOLUTION OPPOSING LEGISLATION MAKING THE LAMOURE COUNTY  
CLERK OF COURTS' OFFICE A STATE OFFICE

Whereas, there is legislation being proposed pertaining to the transition of contract county clerk services to state funding and other legislative priorities;

Whereas, such legislation would make the LaMoure County Clerk of Courts' Office a state agency and the employees thereof state employees, which would take away local control and governance of such office and employees;

Whereas, the Board of Commissioners for LaMoure County, North Dakota, is desirous of keeping the LaMoure County Clerk of Courts' Office as a county office;

NOW THEREFORE IT IS HEREBY RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS for LaMoure County, North Dakota, that the following resolution be adopted as follows:

- 1.) That the Board of County Commissioners of LaMoure County directly opposes the passage of legislation pertaining to the transition of contract county clerk services to state funding and other legislative priorities; and
- 2.) That the Board of County Commissioners of LaMoure County resolves to keep the LaMoure County Clerk of Courts' Office a county office.

The motion for adoption of the foregoing Resolution was duly seconded by Commissioner Bruce Klein. On roll call vote the following Commissioners voted in favor of the motion: Jason Weigel, Keith Heidinger, Joe Muller, Bruce Klein, Bob Haeth

The majority having voted in favor of the motion and the motion carried the resolution was duly adopted on Dec 6, 2022.

APPROVED:



ATTEST:



1<sup>st</sup> Reading: \_\_\_\_\_

**Towner County  
Commissioner Resolution**

Commissioner Lagein introduced the following resolution and moved for its adoption:

**A Resolution Opposing Legislation Making the  
Towner County Clerk of Courts' Office a State Office**

WHEREAS, there is legislation being proposed pertaining to the transition of contract county clerk services to state funding and other legislation priorities;

WHEREAS, such legislation would make the Towner County Clerk of Courts' office a state agency and the employees thereof state employees, which would take away local control and governance of such office and employees;

WHEREAS, the Board of Commissioners of Towner County, North Dakota, is desirous of keeping the Towner County Clerk of Courts' office as a county office.

NOW THEREFORE IT IS HEREBY RESOLVED by the Board of County Commissioners for Towner County, North Dakota, that the following resolution be adopted as follows:

- a.) That the Board of County Commissioners of Towner County directly opposes the passage of legislation pertaining to the transition of contract county clerk services to state funding and other legislative priorities; and
- b.) That the Board of County Commissioners of Towner County resolves to keep the Towner County Clerk of Courts' office a county office.

The motion for adoption of the foregoing Resolution was duly seconded by Commissioner Hallaway. On roll call vote the following Commissioners voted in favor of the motion: Lagein, Odermann, Hallaway, Berg, Teubner

The majority having voted in favor of the motion and the motion carried. The Resolution was duly adopted on January 3, 2023.

APPROVED:

Matthew Odermann

~~Douglas Berg~~, Chairman  
Matt Odermann,

ATTEST:

Joni M. Morlock  
Joni Morlock, County Auditor

**LOGAN COUNTY  
COMMISSION RESOLUTION**

Commissioner John Wald introduced the following Resolution and moved for its adoption:

**A RESOLUTION OPPOSING LEGISLATION MAKING THE  
LOGAN COUNTY CLERK OF COURT'S OFFICE A STATE OFFICE**

WHEREAS, there is legislation being proposed pertaining to the transition of contract county clerk services to state funding and other legislative priorities;

WHEREAS, such legislation would make the Logan County Clerk of Court's Office a state agency and the employees thereof state employees, which would take away local regulation/jurisdiction and governance of such office and employees;

WHEREAS, the Board of Commissioners for Logan County, North Dakota, is desirous of keeping the Logan County Clerk of Court's Office as a county office;

NOW THEREFORE, IT IS HEREBY RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS for Logan County, North Dakota that the following Resolution be adopted as follows:

1. That the Board of County Commissioners of Logan County directly opposes the passage of legislation pertaining to the transition of contract county clerk services to state funding and other legislative priorities; and
2. That the Board of County Commissioners of Logan County resolves to keep the Logan County Clerk of Court's Office a county office.


The motion for adoption of the foregoing Resolution was duly seconded by Commissioner Charles Johs. On roll call vote, the following Commissioners voted in favor of the motion: John Wald, Charles Johs and Blanche Schumacher.

The majority having voted in favor of the motion, the motion carried and the Resolution was duly adopted on November 14, 2022.

APPROVED:

  
\_\_\_\_\_  
Blanche Schumacher, Chairperson

ATTEST:

  
\_\_\_\_\_  
Brenda Fischer, Auditor

RESOLUTION NO. 2023-12  
A RESOLUTION OPPOSING LEGISLATION MAKING THE BILLINGS COUNTY CLERK  
OF COURT OFFICE A STATE OFFICE

WHEREAS, there is legislation being proposed pertaining to the transition of contract county clerk services to state funding and other legislative priorities;

WHEREAS, such legislation would make the Billings County Clerk of Court office a state agency and the employees thereof state employed, which would remove local control and governance of such office and employees;

WHEREAS, the Board of Commissioners for Billings County, North Dakota desires to keep the Billings County Clerk of Court office as a county office.

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners for Billings County, North Dakota, that the following resolution be adopted as follows:

That the Board of County Commissioners of Billings County directly opposes the passage of legislation pertaining to the transition of contract county clerk services to state funding and other legislative priorities; and

That the Board of County Commissioners of Billings County resolves to keep the Billings County Clerk of Court office a county office.

Dated at Medora, ND, this 3<sup>rd</sup> day of January, 2023.

BILLINGS COUNTY, NORTH DAKOTA

By: \_\_\_\_\_

Lester Iverson, Board Chairman

Attest: \_\_\_\_\_

Marcia Lamb, County Auditor/Treasurer



## RESOLUTION

### Resolution Opposing Legislation making Bottineau County Clerk of Courts' Office a State Office

WHEREAS, there is legislation being proposed pertaining to the transition of county clerk services to be controlled by the State;

WHEREAS, such legislation would make the Bottineau County Clerk of Courts' Office a state agency and the employees there of state employees, which would take away local control and governance of such office and employees;

WHEREAS, The Board of County Commissioners for Bottineau County, North Dakota, desires to keep the Bottineau County Clerk of Courts' Office as a county office;

RESOLVED, that the Bottineau County Board of Commissioners hereby declares the following resolution be adopted as follows:

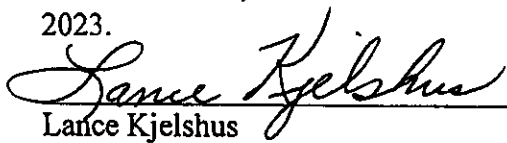
That the Board of Bottineau County Commissioners directly opposed the passage of legislation pertaining to the transition of contract county clerk services to state funding and other legislative priorities; and

That the Board of Bottineau County Commissioners resolves to keep the Bottineau County Clerk of Courts' office a county office for the following reasons:

1. Local control allows for faster response to issues and better flexibility;
2. Having the Clerk of Court office, a county office has been working well since the State took over Court;
3. There would be concerns regarding staffing in rural counties;
4. A better option might be to allow counties to opt in if they choose to.
5. Potential for losing services included but not limited to passports, marriage licenses and school records for citizens.

This resolution was properly proposed by and read by Commissioner Jeff Beyer, who moved for its adoption. This Motion was seconded by Commissioner Benjamin Tonneson, voting aye, Commissioner Rodney Hiatt, voting aye Commissioner Lance Kjelshus, voting aye and Commissioner Nathaniel Buynak, voting aye.

WHEREUPON, said motion was declared and adopted this day of 3rd, Jan. - 23  
2023.

  
Lance Kjelshus  
Chairman, Bottineau County Commission

**SARGENT COUNTY COMMISSION RESOLUTION**

Commissioner Lyle Bopp introduced the following resolution and moved for its adoption:

**A RESOLUTION OPPOSING LEGISLATION MAKING THE  
SARGENT COUNTY CLERK OF COURTS' OFFICE A STATE OFFICE**

WHEREAS, there is legislation being proposed pertaining to the transition of contract county clerk services to state funding and other legislative priorities; and

WHEREAS, such legislation would make the Sargent County Clerk of Courts' Office a state agency and the employees thereof state employees, which would take away local control and governance of such office and employees; and

WHEREAS, the Board of Commissioner of Sargent County, North Dakota, is desirous of keeping the Sargent County Clerk of Courts' Office as a county office; and

WHEREAS, Sargent County has experienced loss of vital services in Sargent County when the State of North Dakota takes control of county services, and

WHEREAS, the loss of services in Sargent County creates a hardship on the elderly, low income, and disabled individuals,

NOW THEREFORE IT IS HEREBY RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS FOR SARGENT COUNTY, NORTH DAKOTA, that the following resolution be adopted as follows:

- 1) That the Board of County Commissioners of Sargent County directly opposes the passage of legislation pertaining to the transition of contract county clerk services to state funding and other legislative priorities; and
- 2) That the Board of County Commissioners of Sargent County resolves to keep the Sargent County Clerk of Courts' office a county office.

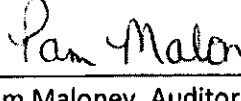
The motion for adoption of the foregoing Resolution was duly seconded by Commissioner Scott Johnson. On roll call vote, the following Commissioners voted in favor of the motion: Lyle Bopp, Mark Breker, Scott Johnson and Richard Ruch.

The majority having voted in favor of the motion and the motion carried the resolution was duly adopted on November 15, 2022.

Approved:

  
\_\_\_\_\_  
Jason Arth, Chairman

ATTEST:

  
\_\_\_\_\_  
Pam Maloney, Auditor

**RESOLUTION**  
**A RESOLUTION OPPOSING LEGISLATION MAKING THE**  
**GOLDEN VALLEY COUNTY CLERK OF COURTS OFFICE A STATE OFFICE**

WHEREAS, there is legislation being proposed pertaining to the transition of contract County Clerk services to State funding and other legislative priorities;

WHEREAS, such legislation would make the Golden Valley County Clerk of Courts Office a State Agency and the employees thereof State employees, which would take away local control and governance of such office and employees;

WHEREAS, the Board of Commissioners for Golden Valley County, North Dakota, is desirous of keeping the Golden Valley County Clerk of Courts Office as a County Office.

NOW THEREFORE IT IS HEREBY RESOLVED by the Board of Commissioners for Golden Valley County, North Dakota, that the following resolution be adopted as follows:

- 1.) That the Board of County Commissioners of Golden Valley County directly opposes the passage of legislation pertaining to the transition of contract County Clerk services to State funding and other legislative priorities; and
- 2.) That the Board of County Commissioners of Golden Valley County resolves to keep the Golden Valley County Clerk of Courts Office a County Office.

The majority having voted in favor of the motion and the motion having carried, the resolution was duly adopted on January 11, 2023.

APPROVED:

  
\_\_\_\_\_  
Adam Smith, Chairman

ATTEST:

  
\_\_\_\_\_  
Tamra Sperry, Auditor

# MOUNTRAIL COUNTY COMMISSION RESOLUTION

## RESOLUTION OPPOSING LEGISLATION MAKING MOUNTRAIL COUNTY CLERK OF COURT'S OFFICE A STATE OFFICE

WHEREAS, there is legislation being proposed pertaining to the transition of contract county clerk services to state funding and other legislative priorities; and

WHEREAS, such legislation would make the Mountrail County Clerk of Court's Office a state agency and the employees thereof state employees, which would take away local control and governance of such office and employees; and

WHEREAS, the Board of Commissioners of Mountrail County, North Dakota is desirous of keeping the Mountrail County Clerk of Court's Office as a county office; and

WHEREAS, Mountrail County has experienced loss of vital services in Mountrail County when the State of North Dakota takes control of county services; and

WHEREAS, the loss of services in Mountrail County to the general public and creates a hardship on the elderly, low income, and disabled individuals,


NOW THEREFORE IT IS HEREBY RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS FOR MOUNTRAIL COUNTY, NORTH DAKOTA, that the following resolution be adopted as follows:

1. That the Board of County Commissioners of Mountrail County directly opposes the passage of legislation pertaining to the transition of contract county clerk services to state funding and other legislative priorities; and
2. That the Board of County Commissioners of Mountrail County resolves to keep the Mountrail County Clerk of Court's office a county office that is contracted with the State of North Dakota to providing Clerk of Court services.

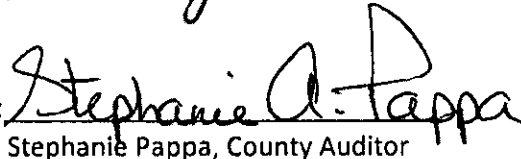
Dated at Stanley, North Dakota this 17<sup>th</sup> day of January, 2023.

MOUNTRAIL COUNTY

BY:

  
Rudy Ruland, Board Chairman

ATTEST:

  
Stephanie Pappa, County Auditor

**DUNN COUNTY RESOLUTION NO. 2023-01**

Commissioner Tracey Dolezal introduced the following resolution and moved for its adoption:

**A RESOLUTION OPPOSING LEGISLATION MAKING THE  
DUNN COUNTY CLERK OF COURTS OFFICE A STATE OFFICE**

WHEREAS, there is legislation being proposed pertaining to the transition of contract county services to state funding and other legislative priorities;

WHEREAS, such legislation would make the Dunn County Clerk of Courts Office a state agency and the employees thereof state employees, which would take away local control and governance of such office and employees; and

WHEREAS, the Board of Commissioners for Dunn County, North Dakota, desires to keep the Dunn County Clerk of Courts Office as a county office.

NOW THEREFORE IT IS HEREBY RESOLVED by the Board of County Commissioners for Dunn County, North Dakota, that the following resolution be adopted as follows:

- 1) That the Board of County Commissioners of Dunn County directly oppose the passage of legislation pertaining to the transition of contract county clerk services to state funding and other legislative priorities; and
- 2) That the Board of County Commissioners of Dunn County resolves to keep the Dunn County Clerk of Courts Office as a county office.


The motion for adoption of the foregoing Resolution was duly seconded by Commissioner Bob Kleeman. On roll call vote, the following commissioners voted in favor of the motion: Tracey Dolezal, Larry Lundberg, Bob Kleeman, and Craig Pelton.

The majority having voted in favor of the motion and the motion carried; the Resolution was duly adopted on January 18, 2023.

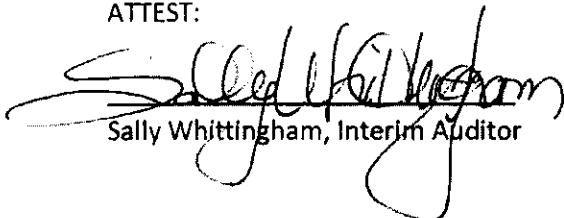
Dated at Manning, ND this 18<sup>th</sup> day of January, 2023.

DUNN COUNTY, NORTH DAKOTA

APPROVED:

  
Larry Lundberg, Chairman

ATTEST:

  
Sally Whittingham, Interim Auditor

**RESOLUTION**

**A RESOLUTION OPPOSING LEGISLATION MAKING THE  
TRAILL COUNTY CLERK OF COURT'S OFFICE A STATE OFFICE**

WHEREAS, there is legislation being proposed pertaining to the transition of County Clerks of Court to State employees and state funding and otherwise being under the control of the State of North Dakota;

WHEREAS, such legislation would make the Traill County Clerk of Court's Office a state office and the employees thereof state employees, which would remove local control, election, supervision and governance of such office and employees from Traill County;

WHEREAS, the Board of Commissioners for Traill County, North Dakota, is desirous of keeping the Traill County Clerk of Court's Office as a county office consistent with existing State law;


NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS for Traill County, North Dakota, that the following resolution is adopted:

- 1.) That the Board of County Commissioners of Traill County directly opposes the passage of legislation pertaining to the transition of county clerk of court services/offices to state offices/employees and other legislative priorities; and
- 2) That the Board of County Commissioners of Traill County resolves to keep the Traill County Clerk of Court's office a county office.


The majority having voted in favor of the motion and the motion having carried, the resolution was duly adopted on December 20, 2022.



APPROVED:

  
\_\_\_\_\_  
Ken Nesvig, Chairman

ATTEST:

  
\_\_\_\_\_  
Glenda Haugen, Auditor

**RESOLUTION**

**A RESOLUTION OPPOSING LEGISLATION MAKING THE  
STEELE COUNTY CLERK OF COURT'S OFFICE A STATE OFFICE**

WHEREAS, there is legislation being proposed pertaining to the transition of County Clerks of Court to State employees and state funding and otherwise being under the control of the State of North Dakota;

WHEREAS, such legislation would make the Steele County Clerk of Court's Office a state office and the employees thereof state employees, which would remove local control, appointment, supervision and governance of such office and employees from Steele County;

WHEREAS, the Board of Commissioners for Steele County, North Dakota, is desirous of keeping the Steele County Clerk of Court's Office as a county office consistent with existing State law;

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS for Steele County, North Dakota, that the following resolution is adopted:


- 1.) That the Board of County Commissioners of Steele County directly opposes the passage of legislation pertaining to the transition of county clerk of court services/offices to state offices/employees and other legislative priorities; and
- 2) That the Board of County Commissioners of Steele County resolves to keep the Steele County Clerk of Court's office a county office.

The majority having voted in favor of the motion and the motion having carried, the resolution was duly adopted on December 20, 2022.

APPROVED:

  
Brandon Krueger, Chairman

ATTEST:

  
Emily Wigen, Auditor

**RESOLUTION**

Commissioner Neil Olerud introduced the following resolution and moved for its adoption;

**A RESOLUTION OPPOSING LEGISLATION MAKING THE  
RANSOM COUNTY CLERK OF COURTS' OFFICE A STATE OFFICE**

WHEREAS, there is legislation being proposed pertaining to the transition of contract county clerk services to state funding and other legislative priorities;

WHEREAS, such legislation would make the Ransom County Clerk of Courts' Office a state agency and the employees thereof state employees, which would take away local control and governance of such office and employees;

WHEREAS, the Board of Commissioners for Ransom County, North Dakota, is desirous of keeping the Ransom County Clerk of Courts' Office as a county office;

NOW THEREFORE IT IS HEREBY RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS for Ransom County, North Dakota that the following resolution be adopted as follows:

- 1.) That the Board of County Commissioners of Ransom County directly opposes the passage of legislation pertaining to the transition of contract county clerk services to state funding and other legislative priorities; and
- 2.) That the Board of County Commissioners of Ransom County resolves to keep the Ransom County Clerk of Courts' office a county office.

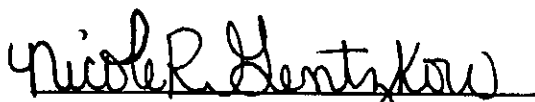
The motion for adoption of the foregoing Resolution was duly seconded by Commissioner Connie Gilbert. On roll call vote the following Commissioners voted in favor the motion: Connie Gilbert, Neil Olerud, Andrew Beerman, Greg Schwab, and Joe Mathern.

The majority having voted in favor of the motion and the motion carried the resolution was duly adopted on November 15, 2022.

APPROVED:

  
\_\_\_\_\_  
Joe Mathern, Chairman

ATTEST:

  
\_\_\_\_\_  
Nicole Gentzkow, Auditor

1<sup>st</sup> Reading: November 15, 2022



## RESOLUTION

Commissioner David Schultz made the motion that the following resolution be adopted;

### A RESOLUTION OPPOSING LEGISLATION MAKING THE KIDDER COUNTY CLERK OF COURTS' OFFICE A STATE OFFICE

WHEREAS, there is legislation being proposed pertaining to the transition of contract county clerk services to state funding and other legislative priorities;

WHEREAS, such legislation would make the Kidder County Clerk of Courts' Office a state agency and the employees thereof state employees, which would take away local control and governance of such office and employees;

WHEREAS, the Board of Commissioners for Kidder County, North Dakota, is desirous of keeping the Kidder County Clerk of Courts' Office as a county office;

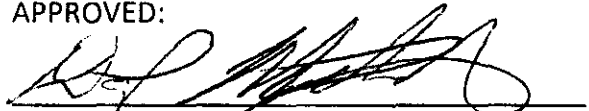
NOW THEREFORE IT IS HEREBY RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS for Kidder County, North Dakota that the following resolution be adopted as follows:

- 1.) That the Board of County Commissioners of Kidder County directly opposes the passage of legislation pertaining to the transition of contract county clerk services to state funding and other legislative priorities; and
- 2) That the Board of County Commissioners of Kidder County resolves to keep the Kidder County Clerk of Courts' office a county office.

The motion for adoption of the foregoing Resolution was duly seconded by Commissioner Timothy C. Dronen. On roll call vote the following Commissioners voted in favor of the motion: Dan P. Mittleider, Aye, Timothy C. Dronen, Aye, David Schultz, Aye.

The majority having voted in favor of the motion and the motion carried the resolution was duly adopted on November 11, 2022.

APPROVED:



Kidder County Commission, Chairman

ATTEST:

  
Jean Schoenhard, Auditor

1<sup>st</sup> Reading: November 11, 2022

**Madison Rodgers**  
Mountrail County Clerk of Court  
PO Box 69  
Stanley, ND 58784  
Phone: 701-628-2915

January 23, 2023

Good morning Chairwoman Larson and Members of the Judiciary Committee:

My name is Madison Rodgers and I am the Clerk of Court in Mountrail County, which is a contract county. I am here in opposition of SB 2277, which transitions contract county clerk of court offices to state employment.

This bill would be detrimental to clerk of court services in contract counties. When the State has taken over county services in the past, the county has lost control of those vital services to the public of the county. The elderly, low income and pro se litigants will be the ones who are the most negatively affected by this transition. Many from these demographics come to contract clerk of court offices every day with questions as to what to do regarding their situation and/or case. There are not always services readily available in rural counties to help them, so they look to our offices for answers. We cannot always give them the answers they want, but we can help in any way we can.

In Chief Justice Jensen's State of the Judiciary address, he said and I quote, "We also confirmed during the COVID-19 pandemic the ease with which we can move work around our judicial system. When State Office A is busy, State Office B can immediately take over part of the workload."<sup>1</sup> By moving the workload around, that would burden contract counties who may already be stretched to the limits, especially the contract counties offices that were dual offices like Clerk of Court and Recorder. When one county's work is being done by another county, especially when done in different districts and dealing with different judges, complications can ensue. Every judge likes to do things differently and I have been on the receiving end of the backlash when I have not done something a certain way the judge likes. This can make double the work for the home office when they have to fix the helping county's mistakes.

Chief Justice Jensen also said in his State of the Judiciary address and I quote, "In 2023, we can move the work to where the people are. Positions can, and will, remain local."<sup>2</sup> This is a contradictory statement. There are state clerk offices that employ staff that work remotely hundreds of miles away from their home office. How is that local? How will employing remote staff affect the public of the rural counties?

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<sup>1</sup> Chief Justice Jon Jensen, "State of the Judiciary Address", 68<sup>th</sup> Legislative Assembly, 3 Jan. 2023, Bismarck, North Dakota.

<sup>2</sup> Chief Justice Jon Jensen, "State of the Judiciary Address", 68<sup>th</sup> Legislative Assembly, 3 Jan. 2023, Bismarck, North Dakota.

There are many more reasons as to why I oppose this bill, many of them personal, but I only outlined the most important points. This bill would drastically affect the staff of the contract clerk offices and the public. Please give this bill a DO NOT PASS recommendation.

Along with my testimony, I am also submitting a Resolution from the Mountrail County Board of Commissioners opposing SB 2277.

I am available for any questions.

Thank you,

A handwritten signature in blue ink that reads "Madison Rodgers". The signature is written in a cursive, flowing style.

Madison Rodgers

Mountrail County Clerk of Court

# MOUNTRAIL COUNTY COMMISSION RESOLUTION

## RESOLUTION OPPOSING LEGISLATION MAKING MOUNTRAIL COUNTY CLERK OF COURT'S OFFICE A STATE OFFICE

WHEREAS, there is legislation being proposed pertaining to the transition of contract county clerk services to state funding and other legislative priorities; and

WHEREAS, such legislation would make the Mountrail County Clerk of Court's Office a state agency and the employees thereof state employees, which would take away local control and governance of such office and employees; and

WHEREAS, the Board of Commissioners of Mountrail County, North Dakota is desirous of keeping the Mountrail County Clerk of Court's Office as a county office; and

WHEREAS, Mountrail County has experienced loss of vital services in Mountrail County when the State of North Dakota takes control of county services; and

WHEREAS, the loss of services in Mountrail County to the general public and creates a hardship on the elderly, low income, and disabled individuals,

NOW THEREFORE IT IS HEREBY RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS FOR MOUNTRAIL COUNTY, NORTH DAKOTA, that the following resolution be adopted as follows:

1. That the Board of County Commissioners of Mountrail County directly opposes the passage of legislation pertaining to the transition of contract county clerk services to state funding and other legislative priorities; and
2. That the Board of County Commissioners of Mountrail County resolves to keep the Mountrail County Clerk of Court's office a county office that is contracted with the State of North Dakota to providing Clerk of Court services.

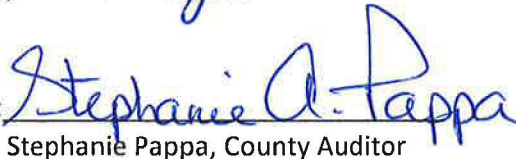
Dated at Stanley, North Dakota this 17<sup>th</sup> day of January, 2023.

MOUNTRAIL COUNTY

BY:

  
Rudy Ruland, Board Chairman

ATTEST:

  
Stephanie Pappa, County Auditor

Good Morning,

Chairwoman Larson and committee members, my name is Carol Fey, and I am the McIntosh County Recorder and Clerk of Court and my testimony today is against SB 2277.

McIntosh County is a contract county and the offices of County Recorder and Clerk of Court are combined. I am the elected official for these offices since 2007, and I have worked in the Clerk's office in McIntosh County for 42 years.

In those years, the Clerk's office has gone from using carbon paper to make copies and getting lots of envelopes with court documents, to e-mailing copies and never having a piece of mail for days. There are many more changes that I have experienced but the one thing that has not changed is personal contact with people. Personal contact garnishes better cooperation, respect and understanding. To me that is the essence of county government.

In 2014 Kidder, Logan and McIntosh counties were moved from the South Central to the Southeast Judicial District. Justice Jensen quoted "While practices and procedures of our state offices are consistent and uniform, the contract counties are not." That is a true statement, but not as you may perceive it. After moving to another judicial district it was my observation that practices and procedures are consistent and uniform in "**judicial districts**", not state wide, and these practices and procedures begin with the judges and district court administrator. I was many times puzzled how all these differences could be possible as every office has the same state program, Odyssey, and century code. If true unification is the goal, we may have to look at starting at the top.

McIntosh County is in Unit 2 which is comprised of 17 counties. I know and respect these clerks well enough to say that we all, go to clerk meetings, use the state Business Practice Decisions Manual when working with Odyssey, follow rules and century code, ask questions, and do what is asked of us. These are everyday things that I am sure every clerk in the state does.

When I hear that contract counties are not unified, have decreased efficiency, don't function as well, file documents differently, and have inconsistencies, it diminishes me as an employee. I am a human, not a robot or a computer, I have emotions, feelings, good days, bad days, and yes I make mistakes.

This plan sounds similar to the new Human Service Zones, have you talked to the employees in the offices, they are not happy with the change and one reason is not being able to work the cases of the local residents whom they have known for years, which goes back to the effectiveness of local county services.

Justice Jensen also stated "the judicial branch is committed to remaining in every county". In looking ahead five or even 10 years, I question if the dynamics of that office will stay the same, will it be open five days a week with two full time employees? Or if caseloads are down and there are no qualified candidates, for open positions, will they then move all the work to other

locations? Small communities are hit hard with lack of workers for our hospitals, Ag mechanics, lawyers and teachers, as it seems the younger generation does not want to live in a small town. So attracting potential employees with the education requirements of a state employee, is a concern. On the other hand, it has not been a problem, for me, to fill open positions with local residents.

I would like you to consider this, since larger state offices have an overload of cases, why would you want to remove eight clerks, which are the proposed eight new administrative clerk positions, who now are working cases, and put them in a strictly administrative job, when that money would be better spent adding more full time employees in the offices where they are most needed.

To me there appears to be a lot of unanswered questions as to exactly how this, newly visioned, court system will work, and to pass legislation without a better picture, is a bad business practice.

To date there are 18 contract counties who have passed resolutions opposing this legislation and I have attached McIntosh counties.

MCINTOSH COUNTY  
COMMISSION RESOLUTION

Commissioner Neil Meidinger introduced the following resolution and moved for its adoption:

A RESOLUTION OPPOSING LEGISLATION MAKING THE  
MCINTOSH COUNTY CLERK OF COURTS' OFFICE A STATE OFFICE

WHEREAS, there is legislation being proposed pertaining to the transition of contract county clerk services to state funding and other legislative priorities;

WHEREAS, such legislation would make the McIntosh County Clerk of Courts' office a state agency and the employees thereof state employee, which would take away local control and governance of such office and employees;

WHEREAS, the Board of Commissioners for McIntosh County, North Dakota, is desirous of keeping the McIntosh County Clerk of Courts' office as a county office.

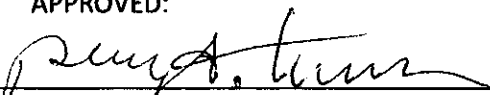
NOW THEREFORE IT IS HEREBY RESOLVED by the Board of County Commissioners for McIntosh County, North Dakota, that the following resolution be adopted as follows:

- a) That the Board of County Commissioners of McIntosh County directly opposes the passage of legislation pertaining to the transition of contract county clerk services to state funding and other legislative priorities; and
- b) That the Board of County Commissioners of McIntosh County resolves to keep the McIntosh County Clerk of Courts' office a county office.


The motion for adoption of the foregoing Resolution was duly seconded by Commissioner Jim Heinrich. On roll call vote the following Commissioners voted in favor of the motion: Perry Turner, Neil Meidinger and Jim Heinrich

The majority having voted in favor of the motion and the motion carried; the Resolution was duly adopted on December 12, 2022.

APPROVED:

  
Perry Turner, Chairman

ATTEST:

  
Gina Ketterling, Auditor Deputy  
Rebecca Andrew

1<sup>st</sup> Reading: 12.12.22

# Billings County Courthouse

Since 1886

**Juliana Hammerstrom**  
Clerk of Court

495 4<sup>th</sup> Street  
PO Box 138  
Medora, ND 58645  
701-623-4491

TESTIMONY ON SENATE BILL NO. 2277  
Senate Judiciary Committee  
January 23, 2023

Chairwoman Larson and members of the Senate Judiciary Committee:

My name is Juliana Hammerstrom, and I proudly serve as the Recorder/Clerk of Court for Billings County. Billings County is a contract county to the State of North Dakota. As written, I stand in opposition of SB 2277.

This bill seeks to transfer county clerks of court staff to state employment. If such a transition were to take place, it would dramatically change the responsibility and representation of county government in the North Dakota judicial system.

Senate Bill 2277 lacks transparency and the members of this committee should note there is little to no evidence why the transition of county clerks to state controlled employment should be made. A long standing, one sided argument from the State Judicial Administration that county clerks of court are inadequate lacks merit and is inconsiderate of county governments and the people who serve in them. The State Judicial Administration has also not provided a valid and transparent plan of execution for this proposal. Implementation without sufficient evidence, review, and planning is not responsible and county and state governments will be negatively impacted.

Negative impacts should be strongly considered. I believe this proposal would affect Billings County and our judicial system in the following ways:

1. **Loss of Services to the public:** Clerks of court from contract counties are most often from the areas they serve, and often elected officials. A good understanding of environment and community is essential to excellent service in public offices. I am concerned the state rollover will change assignments of local clerks and prohibit the ability in which we previously served. The state may attempt to consolidate rural offices and over time, may not budget for in-person offices. Combining caseloads of several jurisdictions for one clerk may also hinder services. Rural communities are often poorly considered and state authority has often ignored why and how rural counties must serve individuals independently from state policies and procedures.
2. **Loss of transparency and services to other county offices:** In Billings County, the Clerk of Court works very closely with the Sheriff's Office, State's Attorney's Office, The City of Medora Police Department, and the County Auditor's Office. The proposal does not give any information how these relationships will continue under state administration and how they will be managed moving forward which is greatly concerning.



3. Loss of jobs: Section 17 outlines that county clerk of court staff would be transferred to state employment but takes no consideration that this arrangement is not concrete. Again, it is not well planned and does not consider county clerks have not been given information regarding salaries, job titles, terms of employment, etc. to review. In Billings County, there is a full-time Deputy Clerk of Court position that the County Commission generously provides annual budgeting for. There is no mention that Deputy Clerks would be reassigned or offered employment in counties with smaller caseloads and no consideration that counties may be unable to reassign them.
4. Burdensome restructuring for County Commissions and County Employees: The state has not considered that many Recorder and Clerk of Court offices are combined. Recorders with combined offices could fall subject to wage decreases as their workloads would be different and may cause great hardship to continue in their service to the county. Boards of County Commissioners may be tasked with restructuring offices that may not include full time salaries or even job loss. Office space for separate offices may not be available in some jurisdictions, and county courthouse hours may differ from state offices, resulting in poor representation from state employed clerks. The bottom line is the State Judicial Administration has not considered the ramifications for county combined offices under the proposed transition and it is simply not feasible.
5. Loss of local control: The Billings County Board of Commissioners unanimously passed and signed Resolution 2023-12 on January 3, 2023, in opposition to legislation that would support a transfer of county clerks to state employment. It is attached for your review. The resolution clearly states legislation in support of state employed clerks of court offices would remove local control and governance of such office and employees. Senate Bill 2277 is a complete overreach of state governance and does not value the roles and responsibilities of county government. A bill such as this could be a precursor to additional State overreach in other county systems and offices. I am wary of state administrated systems that remove active authority and participation from the county.

In closing, I would like to reiterate that transferring county Clerks of Court to state employment is not desirous to me, nor the County in which I serve. It is difficult to outline positive impacts that would outweigh negative impacts and it is clear the State Judicial Administration has not considered the roles and responsibilities of county government and the people in which they serve.

Thank you for your attention today. I urge a DO NOT PASS recommendation on SB 2277, as written, and am available for questions.



Juliana Hammerstrom  
Billings County Recorder/ Clerk of Court

RESOLUTION NO. 2023-12  
A RESOLUTION OPPOSING LEGISLATION MAKING THE BILLINGS COUNTY CLERK  
OF COURT OFFICE A STATE OFFICE

WHEREAS, there is legislation being proposed pertaining to the transition of contract county clerk services to state funding and other legislative priorities;

WHEREAS, such legislation would make the Billings County Clerk of Court office a state agency and the employees thereof state employed, which would remove local control and governance of such office and employees;

WHEREAS, the Board of Commissioners for Billings County, North Dakota desires to keep the Billings County Clerk of Court office as a county office.

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners for Billings County, North Dakota, that the following resolution be adopted as follows:

That the Board of County Commissioners of Billings County directly opposes the passage of legislation pertaining to the transition of contract county clerk services to state funding and other legislative priorities; and

That the Board of County Commissioners of Billings County resolves to keep the Billings County Clerk of Court office a county office.

Dated at Medora, ND, this 3<sup>rd</sup> day of January, 2023.

BILLINGS COUNTY, NORTH DAKOTA

By: \_\_\_\_\_

Lester Iverson, Board Chairman

Attest: \_\_\_\_\_

Marcia Lamb, County Auditor/Treasurer

**DANIELLE PETERSEN**  
**RECORDER & CLERK OF DISTRICT COURT**  
**RENVILLE COUNTY**  
PO BOX 68  
MOHALL, ND 58761  
PHONE: 701-756-6398

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Good morning, Chairwoman Larson and members of the committee. My name is Danielle Petersen. I am the County Recorder and Clerk of District Court for Renville County. Thank you for allowing me to provide testimony today expressing my opposition to Senate Bill 2277.

I became the Clerk and Recorder in 2018 and prior to that was the Deputy Clerk and Recorder in both Renville and Burke counties from 2012 – 2018. From this experience I have worked in 2 different districts and with approximately 12 different Judges.

In my office, we have a combined Recorder and Clerk of Court office. I have one deputy employed in my office. We are both trained on Clerk of Court and Recorder duties. If this bill passes, we would need to completely restructure our office duties and positions. This would mean I would need to combine my deputy with another office in our county and this would likely end up eliminating an entire position in our county. The Senate Bill restructuring plan may work in a large county but in small rural counties this is not doable. Small rural counties are being allotted one full time employee. If that one employee was to take a sick day or vacation, a citizen was to come in and need to pay a ticket or file a protection order, they walk into a closed door. Would the citizens be expected to drive to the next county to file their protection order? We need to be available to our citizens at all times and having one person in a small county office will not do that. Which brings me to my next concern. Space! Space is already an issue in most counties. Courthouses all across the state are being expanded and rebuilt. Where are these new separated court offices going to be housed in the courthouses?

There are so many unknowns. How are we going to go from fifty-three Clerks of Court down to eight clerks? Do these positions get opened for all to apply? Or are all of the current state clerk of courts automatically keeping their clerk titles and the rest of the clerks get demoted to deputies. I have been given a pay scale that showed my wages if I was to choose to continue my job as a Deputy Clerk of Court, my wage would be \$56,520. I'm currently making \$66,390 which means I'm going to take a pay cut of \$9,870. Along with the pay cut I would be expected to change my hours from 9-4:30 to 8-4:30 and my case load would increase. So ultimately, I'd be working five more hours a week, be making \$9,870 less a year and my case load would dramatically increase.

The contract clerks have invested thousands of dollars running for these elected positions. A few years ago, some of us who are on the line spent thousands of our county dollars and invested hundreds of hours to become certified Court Managers. This was a ton of extra work and didn't come with any extra pay. This is the kind of dedicated people you have working in your counties. The Court stands to lose up to twenty-five contract clerks with years of experience. We are public servants and trusted faces in our counties. Please, vote to keep this local and vote in opposition of Senate Bill 2277.

While the Renville County Commissioners have not yet passed a resolution in opposition, it is on the agenda for the Commissioner meeting on January 24<sup>th</sup>.

Thank you,

A handwritten signature in black ink that reads "Danielle Petersen". The signature is written in a cursive, flowing style with a small apostrophe over the 'i' in "Danielle".

Danielle Petersen

Renville County Recorder & Clerk of Court

**OFFICE OF THE  
MOUNTRAIL COUNTY STATE'S ATTORNEY**

P.O. Box 369  
Stanley, ND 58784

Wade G. Enget, State's Atty.  
William E. Woods, Jr., Asst. State's Atty.  
Amber J. Fiesel, Asst. State's Atty.

Telephone (701) 628-2965  
Fax No. (701) 628-3706

To: Senate Judiciary Committee  
Hon. Chairman Larson  
Hon. Vice-Chair Paulson  
Members of the Committee

From: Wade G. Enget, Mountrail County State's Attorney

Re: SB 2277

Chairman Larson, Vice-Chair Larson, Members of the Senate Judiciary Committee:

I am submitting this testimony in OPPOSITION to SB 2277.

Committee Members, I have several concerns with this Bill as written that have prompted me to request a DO NOT PASS.. I will summarize the reasons for my opposition :

- 1) I have been a practicing attorney for thirty-eight years, and Mountrail County State's Attorney for thirty-seven years. In that time, I have been a part of the court unification process, including serving on the Interim Committee that helped write the current law regarding Clerks of Court.

I have been told by the proponents of SB2277 that this Bill is about having better administrative control over the several clerks of court, and that with the present statutory framework that additional control is not possible. This argument does not hold water, in that each county that has a clerk must sign an agreement with the State Court in which they agree to follow all directives of the Court. If there needs to be additional control exercised by the State Court, that can be accomplished by additional training and including the requirements for training in the current contract with the affected counties.

- 2) The bringing all clerks under the State Court is the same concept that was accomplished by the State when it took over Social Services funding and administration in 2019. The providing of services to the rural areas of North Dakota has not improved since the implementation of the Human Service Zones, and I am afraid that this legislation will provide less local access to the rural areas as well if SB2277 is passed.

Thank you for your time, and again I would request a DO NOT PASS recommendation from this Committee on SB 2277.

(S)Wade G. Enget (04165)  
Mountrail County State's Attorney  
101 N. Main St.  
P.O. Box 69  
Stanley, ND 58784  
(701)628-2965

**Senate Bill 2277**  
**House Judiciary Committee**  
**Testimony Presented by Sara Behrens**  
**January 23, 2022**

Good morning Chair Larson, members of the committee. My name is Sara Behrens and I am a staff attorney with the State Court Administrator's Office. I am here today in support of Senate Bill 2277. SB 2277 completes the court unification that began in 1976 when a unified court system was mandated. Over the past nearly 50 years, the court system has been moving toward a completely unified state court system. In 1997, the Legislature included the intent in SB 2002 that the clerks ultimately be state-funded. In the interim, a compromise was reached resulting in HB 1275 which was introduced in the 1999 Legislative Session. HB 1275 created the current structure in which the smaller counties can choose whether to become state clerks of court or remain county clerks of court. This bill completes the clerk transfer process into the unified court system.

**Sections 1 through 6 and 8 through 10** remove references to clerks and ex officio clerks within title 11 of the North Dakota Century Code pertaining to counties.

**Section 7** removes the filing of documents maintained by the clerk and recorder to be done in a single location. This legislation would separate those offices.

**Section 11** removes references to county clerks and state clerks within section 12.1-32-08.

**Section 12** removes the language regarding state-funded clerks and equipment belonging to the district court because it is obsolete.

**Section 13** removes reference to county commissions because the funding of the clerks of court will now be the state's responsibility.

**Section 14** provides the meat of the bill. Section 14 removes references to the county clerks and county involvement with the salaries of clerks as funding will now be the responsibility of the state. It also requires that there be at least one individual located in each county to perform clerk of court services. Loss of services in rural counties is a big concern of the counties so the bill requires that there always be an employee physically located in the county. This will prevent future relocation of all staff out of any county. All of the language about county versus state clerks and agreements between the county and the state to provide clerk services is removed. It is replaced with a transition schedule for transitioning clerks from county positions to state positions and provides provisions for handling those clerks in elected positions when the transition begins. This same type of transition has been done previously when some counties became state offices following the 1999 legislation. In those positions where the clerk is serving both the clerk role and another role, the employee will be given the option to remain a county employee or to be transitioned into state employment as a clerk of court.

**Section 15** removes the requirement to track clerk time to be billed to the state will no longer be needed because they will be state employees.

**Section 16** repeals section 27-05.2-07 regarding an ex officio clerk violating the clerk's oath or neglecting or refusing to perform duties because ex officio clerks will no longer exist.

**Section 17** is an appropriation of \$12,267,050 and 63 FTEs to effectuate the transfer.

SB 2277  
68<sup>th</sup> Legislative Assembly  
Senate Judiciary Committee  
January 23, 2023  
Testimony of Travis W. Finck, Executive Director, NDCLCI

Madam Chair Larson, members of the Senate Judiciary Committee, my name is Travis Finck and I am the Executive Director for the North Dakota Commission on Legal Counsel for Indigents. The Commission is the state agency responsible for the delivery of indigent defense services in North Dakota. I rise today on behalf of the Commission to provide testimony in support of SB 2277.

In this last interim, I had the good fortune of working with the Court on a committee reviewing this issue. The Commission believes by furthering the unification of the Judicial Branch, more uniformity in the clerk of court offices may be achieved.

Madam Chair, members of the Senate Judiciary Committee, for the reasons stated herein, the Commission on Legal Counsel urges a DO PASS recommendation.

Respectfully Submitted:



Travis W. Finck

Executive Director, NDCLCI



## SARGENT COUNTY CLERK OF COURT

Alison Toepke, Clerk of Court  
Cindy Yagow, Chief Deputy Clerk of Court

355 Main Street South, Suite 2  
Forman, ND 58032  
(701) 724-6241

January 23, 2023

Good Morning, Chairwoman Larson and Members of the Judiciary Committee:

My name is Alison Toepke, and I am the Clerk of Court from Sargent County. Sargent County is contracted with the State of North Dakota to provide clerk of court services. I, along with my Chief Deputy Clerk of Court, Cindy Yagow, are submitting testimony in opposition to SB 2277, which transitions contracted clerk of court offices to state employment.

We feel that transition from county to state employment would result in loss of services to Sargent County constituents. Loss of services would create a hardship on several individuals in our county including elderly, low income, and pro-se litigants. We feel this not only would negatively affect Sargent County, but all rural counties in North Dakota.

In Sargent County we have a unique office combination with Clerk of Court, Treasurer, and Recorder office together. Currently our office has four full time employees handling the workload for the combined office. All four employees have and continued to be cross trained in all three departments. The State's proposal to transition our office to state employment would reduce the clerk of court office to one deputy clerk. We do not feel that one state deputy clerk would be sufficient to keep up with the needs and demands for court services in Sargent County. With local control, the elected Clerk of Court, in addition to the Sargent County Commission, have ensured the appropriate amount of employees needed to provide exceptional services to our citizens.

The intent of the State is to have another state employee fill in or transition to Sargent County from a larger county such as Stutsman County (Jamestown) or Cass County (Fargo) with travel time exceeding an hour to our location, in the event that the single state deputy clerk would be unavailable either due to clerking court trials or jury trials or due to illness, appointments, and vacation. We do not believe this is practical or cost effective and will not be efficient in providing clerk of court services. Assistance to high priority situations in case types that immediately need in person aid such as Domestic Violence Protection Orders or Disorderly Conduct Restraining Orders, would not be readily available, potentially leading to devastating consequences for the individual seeking relief from the Court. Services lost to these individuals would be detrimental to the people of Sargent County.

We are to believe that based on our caseload, one deputy is to remain in Sargent County, however, the switching to state employment is setting that one deputy up for failure. For one thing, there is more workload than what should be expected of one deputy alone. When work starts to get "farmed out" due to our workload, how long before it is decided that all of Sargent County Deputy Clerk workload should be done remotely, hence, leaving Sargent County without these services locally. Our residents would be forced to have hearings and jury trials in cities outside of Sargent County putting a higher burden upon them for travel, money and time.

If in the future, if there are more budget cuts as there was in the 2017-2019 biennium, clerk/court-related jobs were cut, we feel these smaller counties will be first on chopping block. If the State feels their remote deputies can absorb our workload, this would leave Sargent County without a Clerk of Court office eliminating the ability of its residents to have immediate and local access to services.

Information regarding this transition has been limited and we do not feel the State has been transparent with intent or the effects to each contract county. By supporting SB 2277, services if not immediately, inevitably down the road, will be lost for the citizens of Sargent County.

In addition to our testimony, we have attached the resolution adopted by the Sargent County Commission in opposition to Clerk of Court contract offices moving to state employment, unanimously passed and adopted on November 15, 2022.

Please give this bill a DO NOT PASS recommendation. Thank you for your time and consideration.



Alison Toepke  
Sargent County Clerk of Court, Recorder, Treasurer



Cindy Yagow  
Sargent County Chief Deputy Clerk of Court, Recorder, Treasurer

**SARGENT COUNTY COMMISSION RESOLUTION**

Commissioner Lyle Bopp introduced the following resolution and moved for its adoption:

**A RESOLUTION OPPOSING LEGISLATION MAKING THE  
SARGENT COUNTY CLERK OF COURTS' OFFICE A STATE OFFICE**

WHEREAS, there is legislation being proposed pertaining to the transition of contract county clerk services to state funding and other legislative priorities; and

WHEREAS, such legislation would make the Sargent County Clerk of Courts' Office a state agency and the employees thereof state employees, which would take away local control and governance of such office and employees; and

WHEREAS, the Board of Commissioner of Sargent County, North Dakota, is desirous of keeping the Sargent County Clerk of Courts' Office as a county office; and

WHEREAS, Sargent County has experienced loss of vital services in Sargent County when the State of North Dakota takes control of county services, and

WHEREAS, the loss of services in Sargent County creates a hardship on the elderly, low income, and disabled individuals,


NOW THEREFORE IT IS HEREBY RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS FOR SARGENT COUNTY, NORTH DAKOTA, that the following resolution be adopted as follows:

- 1) That the Board of County Commissioners of Sargent County directly opposes the passage of legislation pertaining to the transition of contract county clerk services to state funding and other legislative priorities; and
- 2) That the Board of County Commissioners of Sargent County resolves to keep the Sargent County Clerk of Courts' office a county office.

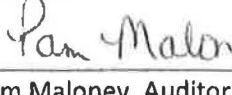
The motion for adoption of the foregoing Resolution was duly seconded by Commissioner Scott Johnson. On roll call vote, the following Commissioners voted in favor of the motion: Lyle Bopp, Mark Breker, Scott Johnson and Richard Ruch.

The majority having voted in favor of the motion and the motion carried the resolution was duly adopted on November 15, 2022.

Approved:

  
\_\_\_\_\_  
Jason Arth, Chairman

ATTEST:

  
\_\_\_\_\_  
Pam Maloney, Auditor

**SB 2277****Senate Judiciary Committee****Testimony Presented by Sally Holewa  
State Court Administrator  
January 23, 2023**

Good morning Chair Larson and members of the committee. For the record, my name is Sally Holewa and I am the state court administrator. It is the intention of the Chief Justice to provide testimony in support of SB 2277. Unfortunately, he was out-of-state when the calendar came out so he is not here today, and because of his travel schedule, he is unable to appear remotely to offer his testimony. Madam chair, we understand that today's hearing could not be rescheduled after it was posted and appreciate that you are willing to hold the bill open for him to testify in person on February 1<sup>st</sup>.

SB 2277 is a bill to complete the transfer of clerk of court staff to state-employment that was begun in 1999. It is not a new idea or a new process.

A lot of misinformation about this bill has been circulating so let me address some of that upfront.

This bill is not about shifting county funding to state funding – the state already pays for clerk of court services through contracts with the counties and has done so since 2001.

This bill is not about taking local control of court services away from the county – by statute and contract, clerk service must be delivered consistent with supreme court standards and procedures. Neither the clerk of court nor the county commission has any discretion in the manner in which clerks perform their duties.

This bill is not about closing county courts – the county courts were eliminated in 1995.

This is not a ploy to pull jobs out of the counties – it is a guarantee to keep jobs in the county regardless of how little court activity occurs there.

Again, I will be upfront with you. We don't need to have staff in every courthouse in the state to do clerk of court work. With access to case documents available through our case management system and the ability to remote into any courtroom in the state, we have the ability to have employees work from anywhere in North Dakota and beyond. In fact, it would be only slightly more expensive than what we are paying now, and a lot more efficient, to just ask for 35 new FTEs for the 14 clerk offices that are already under state employment. But we are specifically not asking for that. Instead, we are repudiating the concept of trial court centers and committing to keeping staff in all 53 counties because we believe it is important to support all areas of the state. I will let the Chief Justice talk more about that when he meets with you.

Finally, I will say that this bill did not come out of the blue. The Chief Justice was clear in his 2021 state of the judiciary address that he intended to bring a bill this session to address the clerk of court situation. Shortly after the 2021 session ended, he assigned our Court Services Committee to establish a workgroup to work through the detail of a transfer. That workgroup included the executive director of the Association of Counties and clerks of court from both contract counties and clerks from state-employed offices. The Chief Justice met with the clerks of court at their annual meeting in May to review the proposal and invite their questions. He also held regional meetings that included legislators, county commissioners and county officials to discuss the proposal.

This bill would complete the transfer of the clerks of court to state employment so the court will have control over the qualifications of the people hired into these positions and the means to ensure their work is satisfactory. It will also allow us the same flexibility to assign work to clerks that we currently have with all other court employees and the district court judges.

With that said, I'd like to give you a brief overview of where we are now and how we got in this situation.

## **The History**

North Dakota is not a stranger to court restructuring. The judicial system has been evolving and changing since territorial days. Everything from the number of supreme court justices, number and locations of judicial districts, levels of trial court, jurisdiction of judges and the division of costs has endured change over time. There is no reason that delivery of clerk services should be exempt from the same forces that drive change in other areas of the judiciary. Nor are they the only

focus of change. We have also asked legislators to bring forth bills to convert the referee positions to judgeships and to study the municipal court.

In his annual State of the Judiciary speech to the legislature in 1975, Chief Justice Erikstad proposed a plan to transfer full funding of court operations to the state in five phases. These phases were:

- statewide trial courts (with an anticipated merger of county and district courts prior to the transfer);
- juvenile courts and juvenile court personnel;
- clerks of court;
- jury fees and expenses and indigent defense costs;<sup>1</sup> and
- incentives to improve trial court facilities.

Since then, each of these phases have occurred, although not in the order proposed by the former Chief Justice. Jury and indigent defense costs were transferred to the state in 1981. The juvenile courts and juvenile court personnel were transferred in 1982. In 1983, the three-tiered county court system was consolidated into a single-level county court.<sup>2</sup> The county court remained separate from the general jurisdiction district courts until 1990 when the process of merging the courts started and they were finally eliminated in 1995. Transfer of the expense of clerk of court operations occurred in 2001, although not all clerks or their staff transferred to state employment. In 2003, the Courts Facility Improvement and Maintenance Fund was created.<sup>3</sup>

So you can see, the transfer of clerks of court was not an idea that occurred in a vacuum. However, because of the way the delivery of clerk services was compromised, it has not worked as intended.

I want to be clear that the compromise that was eventually adopted by the legislature did not involve court leadership and the court actively objected to it. What was implemented was an agreement and recommendation reached between three representatives of the North Dakota Clerks Association, two representatives of the State Bar Association, three members of the interim Judiciary Committee,

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<sup>1</sup>Indigent defense was managed and paid for by the courts prior to 2005. The Commission on Legal Counsel for Indigents was established in 2005 as an executive branch agency so the court no longer has a role in providing these services.

<sup>2</sup>The office of Justice of the Peace was eliminated in 1959.

<sup>3</sup> It is funded through a \$100 court administration fee imposed in all criminal cases except infractions [NDCC 29-26-22(2)].



one representative of the North Dakota Association of Counties, and one representative of the North Dakota County Commissioners Association. This proposal was adopted by the legislature and codified as chapter 27-05.2 of the North Dakota Century Code. As a result, while clerk of court services are entirely funded by the state, how the services are delivered varies from county to county.

Pursuant to 27-05.2, if a clerk of court office has an FTE of 5 or greater, the staff must be transferred to state employment. Staff from 11 counties were initially transferred under this provision. If a clerk of court office has an FTE need of 1 or greater, the county has the option of transferring the staff to state employment. Three counties have elected this option. Currently, there are 7 counties that have this option but have not elected to exercise it.<sup>4</sup> Counties that have an FTE need of less than 1 are not eligible to transfer staff to state employment.

For those counties that are not currently eligible to transfer employees to the state we hold a contract with them for clerk of court services. Contract payments include a proportionate share of the clerk of court staff salary, a proportionate share of insurance and retirement benefits, and a 10% overhead payment. The state is also required to provide the technology and equipment necessary for staff to do clerk of court work. In addition to reimbursing the county for the cost of hardware such as computers and scanners, the state shares broadband and phone costs with the counties.

Any county, except those that are required to transfer staff to state employment, may choose to refuse a contract with the state and instead provide county funding for court services. If choosing this option, they are required to provide the services consistent with the directives and standards of the Supreme Court. Since 2007, no county has chosen this option.

Individuals performing clerk of court duties may hold multiple positions and can reach their position as clerk of court in a variety of ways. According to data collected by the Association of Counties, the state currently has:

- 2 combined elected treasurer/recorders with clerk duties assigned
- 3 separately appointed recorders with clerk duties assigned
- 20 elected recorders with clerk duties assigned
- 11 separately appointed clerks of court

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<sup>4</sup> Those counties are Bottineau, Dunn, McLean, Mercer, Mountrail, Pembina and Traill

- 3 separately elected clerks of court
- 14 clerks of court employed by the state

## **The Issues**

I think Matthew 6:24 (KJV) best sums up the situation we are currently in with the clerks of court in these 39 counties, “No man can serve two masters: for either he will hate the one, and love the other; or else he will hold to the one, and despise the other.”

You will hear from the counties that the current situation is working well. Keep in mind though that the county has complete control over the method of selection for clerks (and in some cases actual selection over the individual appointed to serve as clerk), the hours the court will be open, and the rate of compensation for the clerk of court and any deputy clerks that are selected and hired by the county. The judicial branch is compelled by statute to accept these employees and the rate of compensation. At the same time, the county has no responsibility for either the quantity or quality of the work these employees perform in their duties as clerk of court. The judicial branch has that responsibility but no authority to compel compliance, institute corrective action or remove a county employee from their position. If a county cannot remove an employee (for example when the individual is elected) or is unwilling to do so, our only authority is to demand that the county select another county employee to do the work or reassign the work to staff in a state-employed clerk of court office. This is a functionally unusable option since usually there is no one else in the county who could take over clerk duties without extensive training and the state-employed offices are kept below minimum staffing standards and don't have the capacity to take on additional county work.

No business would willingly enter into this kind of arrangement, and I am not aware of any other North Dakota state agency – or any other state court system - that is bound to an arrangement that leaves the state all of the responsibility but none of the control.

You will also hear from individual clerks of court that there are not any issues with the current situation and that the separation between funding and oversight is required to allow flexibility in how they do their work. Again, they don't have a role in checkmating judges or deciding what statutes, administrative rules or supreme court policies should be followed. Furthermore, many of them don't see themselves as clerks of court for the state court system even when that is the only



position they hold and even knowing that the county is being paid for them to provide clerk of court services for the district court. Instead, those in multiple roles see themselves primarily as recorder or treasurer and only incidentally as a clerk of court. They may even have difficulty distinguishing what duties are assigned to each position, as suggested by one county resolution where the services they list as potentially losing are duties that are assigned to the county recorder. Those who serve only in the role of clerk see themselves as having a duty only to the county they are employed by and not to the state court system as a whole.

I will give you two quick examples of some of the day-to-day issues that arise out of the current situation, with the first being as recent as this past Friday. Our IT staff was compelled to make a 146-mile round-trip to a county because the clerk of court refused to move a network cable for a computer she needs to do her court work from one jack to another. This clerk, who is elected as a recorder and serving as an ex officio clerk of court, insisted it was “not her job.” I will note that this same clerk has in the past refused to arrange for an interpreter for court cases and refused to print court forms for individuals who come to the courthouse because it would use “county paper”.

Another example is an ongoing issue we have with a clerk of court who holds the position as an appointee of the county. This clerk refuses to follow court procedures as directed by the judges in that district. Despite numerous directives from the court and reminders that by contract and by statute she is legally required to follow the court’s directives, she continues to ignore the court and do as she has been asked to do by the state’s attorney. Her excuse is that she is a county employee.

Besides the occasional refusal to follow court directives or to do work that is perceived as “state work” there are bigger issues related to the breadth of work required of clerks of court that occur on a daily basis. I will preface these next remarks by saying most of the individuals performing court work are smart, hard-working people who sincerely want to do the best job they can. The problem is not them, it is the lack of work.

Eighty percent of cases are filed in the 14 counties where clerks are employed by the state. The remaining twenty percent of cases are filed in the 39 counties where clerks are employed by the county. In 2021, these contract counties had a combined annual caseload of 34,325, the majority of which (68%) were traffic tickets. The annual caseload per contract county in 2021 ranged from a low of 155 cases in Sioux County (an average of 1 case filed every 2 days) to a high of 2,798

cases (an average of 8 cases per day) in Mountrail County. Forty-eight percent of the cases in Sioux County and 71% of the cases in Mountrail County were traffic cases.

In 2021, only 6 of the 39 contract counties had more than 200 civil case filings. Civil cases include every type of family dispute (adoptions, child support, divorce, etc.), every type of probate case (guardianship, conservatorship, probate of estates, ancillary probate) and every type of civil action (collections, evictions, malpractice, injury, etc.). Each case type requires different pleadings, different court proceedings, different scheduling and unique data entry. Although very few civil cases are filed in contract counties, the clerks in those counties are expected to be fully proficient in handling each of those cases. It is no wonder then that these staff routinely need to contact staff in state-employed offices or staff at the child support office for assistance whenever these cases are filed.

Issues are not confined to just civil cases. Of the 39 contract counties, more than half routinely call our finance department with assistance in closing out the month-end financials, posting and returning bonds, and finding and correcting receipting errors.

Our yearly performance audits of clerk of court offices are limited to reviewing just a handful of cases because we don't have enough staff to do effective quality control. Despite the small number of cases reviewed, we routinely find such things as bonds not returned as directed, court ordered fines and fees not entered into the case management system, parties not entered on cases and similar issues.

A clerk recently sent me a letter suggesting that we provide better manuals and more education on how to do clerk functions. This same clerk admitted in her letter that despite having been a clerk for a number of years, she was unable to do some of the most basic clerk functions without assistance. We discontinued the clerk webinars that we were scheduling six times a year because the attendance by contract county clerks was sparse and the state-employed clerks who we were compelling to attend were already experts in those topics. We have two manuals and numerous wiki documents available for clerk use but have been informed by more than one clerk that it is easier to just call someone than look it up themselves or take their own notes on the procedure since they don't get those cases very often. We have one clerk who recently retired who had not attended a clerk of court conference or district clerks meeting in six years! I'm not sure what service she was providing to local residents since her information on most processes was undoubtedly outdated. Unlike our state-employed clerks, we cannot require these

county employees to be current in their training or institute corrective action when they refuse training. But there is more to this than simply wanting to direct the people employed to do court work on what they need to know. It is ultimately about the quality of service they are delivering to the citizens of their county. It does no good to have staff available for walk-in or phone queries if they can't provide accurate information.

We want to maintain services in all 53 counties, but we want to ensure that citizens are getting good service and that the state is getting value for its dollars. A big part of that is bringing the contract county clerks to a greater level of expertise in a few areas of work rather than requiring them to be experts in a large array of duties that they rarely perform. We can't do that now because we are artificially constrained by county boundaries. This set up made sense when each county court was a separate entity but that has not been the case in 25 years. You might ask why wait until now to address these issues? The answer is straightforward. Had we attempted to correct the problem before our only viable solution would have been to close county offices and relocate staff to where the work was. We are fortunate to be in a position now that we were not in even 10 years ago – we are able to distribute work electronically to where staff are available rather than relocating staff to where the work is generated.

## **The Benefits**

The benefits to transferring FTEs to state-employment are many. If they become state employees it will allow the court system to:

1. Gain control over the cost of services and the selection of staff;
2. Gain flexibility over workload distribution;
3. Increase staff competence;
4. Provide more consistency in processes and procedures;
5. Ensure statewide compliance with court rules and policies;
6. Provide accountability for work product and customer service;
7. Provide meaningful court services during employee absences; and
8. Build capacity to add new services;

I believe most of these are self-explanatory, but I will expand a little on number 8. With more staff and the flexibility of moving work across county lines we could develop a few centralized units. These include things like staffing one toll-free number as the court's information desk, assisting the self-help center with phone calls and forms development, reviewing annual guardianship reports for missing or inconsistent information, adding a fines and fees collection unit, providing remote

courtroom recording services, providing remote clerk of court services to include real-time updating of the record and generating orders and notices so they are available to the litigants as they leave the courtroom, and adding a filing and redaction unit to better protect the privacy of individuals. These are not unique ideas. They are things that our neighboring states of Minnesota, Kansas, Nebraska, Iowa and South Dakota are already doing.

The entire state will benefit by maximizing the value of the dollars we are spending on clerk of court services and by allowing us to introduce new services that we have not had the resources to implement.

Individual counties will benefit because we will continue to support local court jobs.

I will make a quick aside here to address a criticism raised by one of our clerks of court who opposes the transfer. In her testimony, she mentions our use of deputy clerks who are located outside of the county for which they work. That is accurate. We have two clerks who formerly worked in Williams County. Because of life circumstances, they chose to leave that community. However, they were able to continue their employment with us since the work can be done remotely. This has worked well for us since our numerous, repeated attempts to recruit locally have been unsuccessful. Remote work is not a first option for us and it is not an option we take lightly. It is, however, sometimes the best option for a given situation.

### **The Cost**

The bill has a \$12,267,050 price tag but if you net out what we are already paying the counties in contracts the increase in funds is only \$7,440,845.

The bill requests 63 new FTEs. That is a maximum number and the actual number may be less depending on how many individuals currently performing clerk duties elect to stay with the county. The minimum we would need transferred to maintain sufficient staff according to our weighted workload study is 24. However, transferring only 24 doesn't even allow for 1 clerk per county, and while it would improve accountability and consistency issues, it would not add capacity for new services. It would also require us to remove the proposed language on minimum staffing for each office. To maintain at least 1 FTE in each of the 39 counties plus an additional FTE in those 7 counties that have a staffing need of more than one than the minimum number to transfer is 46 FTEs.



In addition to the salary and wages for the requested FTEs, the bill includes funding for the hardware, software and data processing costs required for each FTE.

You will hear that the clerks of court will be demoted if this bill passes. I think that is a matter of semantics. We have been upfront that we believe the contract county clerk positions are equivalent to the clerk supervisor positions we have in our state-employed clerk of court offices. There is a salary difference between a clerk of court and clerk supervisor but even then most contract clerks will be getting a salary boost with the transfer. The few that exceed our pay ranges will retain their current salary but be frozen at that level, except for legislative salary adjustments, until our pay ranges catch up to them. Again, I will be upfront. There are a couple of contract county clerks whose annual salary exceeds what we pay for our most experienced clerks in our largest counties and the attorneys who work for the court system. Understandably, those three clerks of court oppose the transfer to state employment, as would anyone of us who was in their shoes.

Our eventual goal is to reduce the number of clerks of court in the state to just one per judicial district but to keep a clerk supervisor in all 53 counties to handle supervision of deputy clerks and any immediate issues that may arise in the office. This also is not a new idea. It was part of the original proposal the court brought forward in 1999. However, at that time there were only 7 judicial districts and the name change was from "clerk of court office" to "court support office" to eliminate any confusion over the absence of a county court and the duties of the staff to support the district court.

This concludes my testimony this morning. I will stand for any additional questions you have.

## SB 2277

## Written Testimony

Submitted by the North Dakota Supreme Court

After decades of study, in 1995 the district courts and the county courts in North Dakota were unified into a single unified system through the elimination of the county courts. The county courts, county judges and county court clerks were eliminated. Although we have continued to informally refer to some positions, in some counties, as "*County Clerks of Court*", those positions no longer exist. There are individual county employees who provide service within a state district court office.

Since 1995 the statewide judicial system has maintained a state district court office in each of our 53 counties, and organized into eight judicial districts. The districts themselves are comprised of multiple counties. For example cases pending in Nelson County and in Grand Forks County are both pending in the same State District, the Northeast Central Judicial District. The judges, the record keeping system, the clerk of court functions, and scheduling are all state court functions. A case is filed and is pending in a district court comprised of multiple counties, it is not filed and pending in a particular *county court*.

Unification was not without opposition. One of the primary points of opposition was the concern unification would lead to the elimination of court locations within individual counties, and the consolidation of services in only a few counties. Although complete unification has always been the goal only the 11 largest counties transferred their employees to state employment. Since that time 3 additional counties have voluntarily transferred their employees to state employment. No county has requested to depart from state employment.

The legislature recognized that elimination of the county court system, including the clerk of court functions, without transferring all of the employees to state employment left a gap. The compromise, reached between legislators and the counties, was for the state court system to make contract payments to counties and counties would in return provide the state court with workers to perform the state court clerk functions. Counties were free to fill the position with elections or appointment and were in control of the compensation to be paid to

the workers. This is significant. The individuals are performing state court functions in state court offices, they are not performing county functions.

The idea of ending the payments to counties and directly staffing state court offices with state employees is not new. It was intended from the very beginning of unification.

One common question that has been raised is why is it necessary to complete the unification process now. More appropriately, the questions should be framed as why it has taken almost 30 years. One immediate answer is that in the past 30 years, technology has brought us to a place where we no longer have to choose between keeping local offices or centralizing staff. Technology has also brought greater transparency in how court work is done and higher expectations as to accuracy and timeliness. The following are some of the reasons to fill the state court clerk positions with state employees:

- In 1995, our record keeping was in physical paper files. Filings were required to be complete at a physical location and files were kept in a single physical location. Since 2011 our files have been stored electronically. There is access to any file from any location in the state. Filings, previously done manually with paper documents are now done electronically. A document can be filed in any district court in the state from any location in the state.
- Clerk of court functions can now be completed from any location in the state, regardless of the district for which the document is being filed. For example, the filing of a document for Grand Forks County can be completed by someone in Nelson County. This has enabled individuals who prefer to reside in smaller communities to be employed by the state court system to work for offices physically located in other communities. Just one example is an individual who resides and works in the courthouse in Washburn, ND who, until recently, worked for the state district court office located in Bismarck, ND.
- When the contract arrangement was implemented in 1995 staffing at clerk of court offices was provided by individuals working exclusively for the court. That has changed significantly. Since the non-court

functions, like vital statistics and passports, were legislatively transferred to the county recorder, the compromise legislation on clerks designated the county recorder in the contract counties who chose not to fulfill the clerk duties in another way as the ex officio clerk of court. This was the beginning of the blurred county and state roles that has grown over time with shrinking case filings and counties combining offices. Because the state judicial system does not have any influence over the appointment or election process, it cannot determine who will be working in the state district court office. There are some exceptional people who work in counties with contracts, and we would like those people to work within the state system. However, there are also significant problems, including the following:

- Often times the individuals have multiple job roles requiring they split their attention between providing services to the state court and county functions. Naturally, given the county appointment or election, attention is often first provided to the county duties.
- Some individuals do not have the basic skills to provide the services required for clerk duties. In our state-employed offices, we can address performance issues through correction or termination. When the individual is employed by the county it is difficult to address because the county cannot remove an elected official or the county may be reluctant to act because the individual may be excellent in their county duties even if they are unable to provide satisfactory work in their clerk duties.
- Individuals have little opportunity to thoroughly learn their job because of low case numbers. Because certain types of cases are filed infrequently, a large amount of training and assistance that has to be provided by state employees in other locations.
- Other offices use multiple people to fill multiple roles, leading to problems with who to train and identifying who was responsible for a particular task.



- Our court system, since 2011, has operated almost exclusively through electronic filing and file management. The state-employed offices are consistent and uniform. An attorney or litigant filing a case in an office with state employees can be assured the filing process is identical in every office staffed by state employees. In contrast, not all district court offices staffed by county employees maintain the same consistent filing practices. This leads to increased costs to parties and significant barriers to court access.
- We have some very talented people working in state district court offices who are county employees. The state judicial system can use those individuals more efficiently, increasing their responsibility, providing them with new challenges, and allowing for significant advancement. Our current state court administrator started in a clerk of court office, most of our unit administrators were once in clerk of court offices, and many of our clerks of court in state offices once worked as deputy clerks. Transfer to state employment offers opportunities and new challenges.
- The pandemic and the ebbs and flow of oil production have confirmed the resiliency and responsiveness of our electronic filing system. If an office was short staffed in one location, rather than moving people to that location we simply routed the work to where there were people available to complete the work. If all court workers were state employees, we could do the same with our smaller communities. Stable, good paying jobs can be guaranteed in those communities. Rather than raising and lowering employment as case loads fluctuate, work from around the state can be allocated to where there is capacity. This eliminates the need to consolidate offices and protects smaller communities.
- Having all state district court offices staffed by state employees promotes efficiency within the judicial system as a whole. Workloads can be shared. When excess capacity for work exists in one state office it can be allocated additional workload. We are doing this now between state offices. Our state employee staffed offices are by every measure more efficient and more productive than the average state office staffed by non-state employees. This is not a reflection of

the abilities of the county employees who are doing district court work. It is a result of the size and variety of their workload. There are exceptional people doing work that they cannot excel at because they are prevented that opportunity because of the structure we have in place.

The judicial branch is committed to staffing every state court office in every county. It is an obligation owed to the people of the state of North Dakota. We have a state court office now in every county. The question is not about the location of state offices, there are 53 now, one in each county. With state employment their day-to-day activities may change, but staff location will not. The question is whether the staff in those offices will be state employees able to fully share in the work of the court or if staffing will continue to be done indirectly through the county as an adjunct to other county duties.

Many of the concerns raised in opposition to this bill are premised on the misconception the clerk of court functions are still county functions. As noted above, these are state district court offices. County courts were abolished in 1995. The services being provided now will be provided after employment changes from the county to the state. The clerk functions will be performed in the same location.

This process has been transparent. It was started in 1995. It was noted as a goal in the 2021 State of the Judiciary address. In 2022 an invitation to meet was sent to the individuals staffing state clerk of court offices and county commissions to meet and discuss the process. The purpose of those meetings was two-fold. First, to fully inform anyone with an interest this bill would be filed. We are confident we have provided significant information and answered all of the questions raised before, during, and after those meetings. Not all of the answers we have provided are the answers some individuals would have preferred, but we have been inclusive in this process.

The second purpose of the local meetings was to insure this committee was presented with full and complete opposition to this bill; yes opposition to this bill. Despite significant notice of this bill the opposition is

modest. I urge you to read the materials from the opposition to this bill while considering the following question – how much of the opposition is based on speculation about what may occur and conjecture of worst case scenarios. In contrast, the judicial system has had a 30 year opportunity to review and evaluate state offices staffed by state employees and state offices not staffed by state employees. The state offices that are staffed by state employees are more efficient and provide more consistent service. Bringing all court workers into state employment will be a better use and allocation of taxpayer funds because it will give us the means to balance workloads, improve worker knowledge and skills, and expand capacity to provide much needed services.

The bill has been crafted to employ as state employees the individuals currently staffing the state district court offices. There are relatively few individuals who will not see increases in job stability, compensation, benefits, and opportunity for new career challenges. We acknowledge there will be a limited number of individuals who will see a decrease in compensation either because they are paid for working multiple jobs for the county and would have to choose between continued county employment or the opportunity of full-time state court employment, and a second group who are paid more by the counties. While not entirely eliminating that issue, an amendment is being offered to this bill that would transfer a number of those few adversely impacted individuals to state employment with increased compensation.

We all strive to be good stewards of taxpayer funds, both those at the state and county level of government. Staffing state court offices with non-state employees does not achieve that goal. We have had thirty years to test the operation of state-employee state court offices and non-state staffed offices. Regardless of where the individual working on a case gets his or her paycheck, it is the judicial branch, not the counties, that is responsible for the quality of their work. We know from experience that the current situation is not ideal. We can achieve the goal of being good stewards through uniform staffing of state court offices.

SB 2277 Judiciary Committee Testimony- February 1, 2023

Submitted by Karin Boom- LaMoure County former Clerk of Court and current Deputy Clerk

Dear Chairwoman Larson and Committee members:

I have a deep and long involvement in the evolving structure of the Clerk of Court's Office and the Court system in North Dakota. In 1987 I interviewed for my position with the Clerk of Court and County Judge Gary Neuharth. Our District Court judge was located in Wahpeton and usually assigned cases to our County Judge. This is simply to say that there have been a lot of changes since that time.

The changes have come in increments, but with the underlying foundation of keeping a local court in every county and ongoing local involvement in the process. The current hybridized system of County and State employed Clerks was very carefully crafted over two legislative sessions, two interim sessions and a trip through a Consensus Council process jointly funded by State Court, Legislature and Association of Counties. The State Court at that time was integral in the process, contrary to the understanding of Sally Holewa presented in her testimony. Staff Attorney Jim Ganje was either present or consulted frequently as to the structure and implementation of this system. **This was not intended as an interim step to be a place holder anticipating this bill in the future, but as a carefully crafted solution to address the diverse court composition in North Dakota.** Fargo and Bowman will never function exactly the same. Everyone at that time felt we had a Solomonic task and with our most treasured positions and possessions laid bare on the table, treated with respect, and in the best interest of our cherished institution, we knew would continue with all interested parties preserved.

So, we have proceeded with that structure consisting of State Clerk of Courts in larger counties and some mid-sized counties electing to be State and others electing to remain County- contract and the smallest counties all as contract offices. Under this structure **in 2010** we made the largest transition in the history of our Court to a paperless electronic filing and court management system called Odyssey. **This system has unified the operation of courts under all the established categories. Every filing is controlled by the parameters established by law, court rule and administration under the Odyssey system.** Everything involving a filing- from the parties to the fees to the calendar to who has custody of the file at the moment and whether items are due for review or disposition are controlled in a uniform way across the state. Any of our clerks from any county could step into another county and work a case in that county. The differences between counties are more along the lines of how the cases are run through the calendar and brought before judges. We need that ability to be flexible within the uniformity to best serve our individual counties according to caseloads and pragmatic needs.

You have heard Chief Justice Jensen and Ms. Holewa stating that there are clerks who are not performing their duties properly or having divided loyalties. This was not presented as an overall issue, but as outliers with individual examples given. I would like to remind you that each of these situations involves a Clerk in a county with a contract with the State Court. **At no point have I heard that the contract was raised as a disciplinary mode.**

I can personally attest to a situation involving myself as Clerk in a contract county and an issue of non-compliance. My Unit Court Administrator Rodney Olsen called me to set up a meeting involving

serious docket currency problems in my county. Each case has little clocks in the process and they alert us to items that need attention. We run a 'Time Standards Report' daily to track these. I could see that those cases had overdue items and agreed to address those issues. I also contacted my Commissioners to let them know this issue had been raised there would probably be a contract problem with the State Court and went over all the documents presented to me to be resolved, and to keep them updated. This issue seemed to persist and I met with Olsen again and at that meeting we discovered that the report I had on my system was not enabled to pick up a set of time standards. When that was resolved by them, the entire report arrived at my desk and I was able to take care of the problems. I then met again with my Commissioners and apprised them of how it had been resolved. **The contract is the means by which contract Clerks are brought under the authority of Court Administration.**

Another new development at the administrative level is the implementation of online training tools and it was mentioned that there has been a move away from Zoom-style training. This is another means of facilitating compliance by all Clerks. At this time there have been sessions that are mandatory and when completed the transcript is reported to administration. It is a wonderful tool for Clerks and for administration. Clerks can attend at the time best available to them and take good notes and have a solid reference for future questions. The technology available at this point actually facilitates the current structure best.

The ability to assign work across County and even District lines should be a non-issue. During my time as Clerk of Court in LaMoure I was able multiple times to travel to Stutsman County when there were health issues and staffing shortages there and helped maintain work in that office. There was no exchange of funds- I lived an equal distance from each office and was happy to assist. Again, with the technology already in place, that work could easily be accessed by another person in another county without commuting. Assigning a certain case type, for example Small Claims cases, from one county to another is simply enabling that access. **The contracts say duties of the Court will be performed under the contract as determined by the Court. If the contracts need clarification that is also a simple matter.**

In smaller counties under the contracts there is a very efficient system of workload distribution. The Court caseload may not involve even 1 FTE, but multiple staff may be available to cover the office and the caseload. Those staff are cross-trained to be able to even out absences, busy court days and times when the Clerk is at conference or training. **The reimbursement to the Counties mentioned in earlier testimony is based on the FTE by caseload and therefore is not covering the entire cost of funding the office in those counties**, but the work is being taken care of very efficiently. Many of these offices have Clerks and staff that have decades in that position and are well able to serve there. They are dedicated to the Court **and** the County **and** the residents- not divided loyalty, but servants to all and facilitators of all. If those loyalties are skewed, that could also be brought to attention under the contract. **Extricating the physical office and staff from the County in these counties is going to prove very difficult to the County and will represent a significant loss of staff and facility-space and equipment to them. This would explain why non-judicial functions are listed as a loss to the County in their resolutions- because those responsibilities have been performed by the office and staff they would be losing.**

The proposed benefits listed in our Court Administrator's testimony are worthy goals and every office in our State would agree that higher levels of training, competence, compliance, seamless workload coverage during absences and flexibility of workload is an aspiration that could be fulfilled under the current structure.

The capacity to add new services likewise could be facilitated under the current structure. The capabilities of the electronic system allows each of those duties and services to be assigned, and new positions in Court Administration for administrative functions could be funded at a much lower cost than the proposal under this bill.

Ms. Holewa quoted a passage from Matthew in her testimony, and I would like to share a passage from Colossians 3 which I see as a far greater testament to the Clerks I have known. Colossians 3:23 Whatever you do, work at it with all your heart. Most Clerks see their work as a calling and a noble career, not a job.

The semantic gymnastics of this debate need to be carefully scrutinized and you are encouraged to discuss your questions with Court Administration and your local Clerk of Court equally to get the balanced information you need before you make a decision that could completely eliminate local input in this system. **Contracts between State and local entities are common** and provide the balance needed for the best service to all concerned. Simply putting a State employee at a desk in the County is not the answer as the salary flowing into the County is only a small part of the equation.

I would be happy to discuss any of the issues raised in my testimony. My phone number is 701-830-9599.

**Rachel Keohane**  
Golden Valley County Clerk of Court/Recorder  
PO Box 67  
Beach, ND 58621  
701-872-3713

Chairwoman Larson and members of the Senate Judiciary Committee:

My name is Rachel Keohane and I serve as the Clerk of Court/Recorder for Golden Valley County, which is a contract county. My testimony today is in opposition of SB 2277, which transitions contract county clerk of court offices to state employment.

I have worked in Golden Valley County for the last 10 years. I started in 2013 as a Deputy Clerk of Court/Recorder and in 2017 I was appointed as the Clerk of Court/Recorder until the 2018 election where I ran for the position of Clerk of Court/Recorder.

I feel switching contract clerk offices to state offices would hurt our community in the fact there may not always be someone in the office to help when individuals come in with questions or to file a case. It has been said that if we decide to stay with our county as an employee our deputy clerk of court would fill the vacant position as a state employee, which wouldn't work for the office here in Golden Valley County since the deputy clerk of court/recorder is also the deputy auditor who would stay as a county employee. So would the office sit empty until they can find someone for the position or would it just remain empty with bigger counties doing the work remotely?

We work very closely with our Sheriff's Office and State's Attorney and have very good relationships with one another which helps everyone have an ease with their job. This switch has been a concern for their offices as well on how things would proceed.

I feel unification needs to start at a higher level and it's not the fact that there are state court employees and county court employees. We all do the same job regardless.

In smaller counties where we have more than one roll we are still getting our work completed on a day to day basis. You learn how to prioritize what needs to be done and get it done and you stay until it is done.

Thank you for your time. I urge a DO NOT PASS recommendation on SB 2277. I have also attached our counties Resolution in opposition of SB 2277.



Rachel Keohane  
Golden Valley County Clerk of Court/Recorder

**RESOLUTION**  
**A RESOLUTION OPPOSING LEGISLATION MAKING THE**  
**GOLDEN VALLEY COUNTY CLERK OF COURTS OFFICE A STATE OFFICE**

WHEREAS, there is legislation being proposed pertaining to the transition of contract County Clerk services to State funding and other legislative priorities;

WHEREAS, such legislation would make the Golden Valley County Clerk of Courts Office a State Agency and the employees thereof State employees, which would take away local control and governance of such office and employees;

WHEREAS, the Board of Commissioners for Golden Valley County, North Dakota, is desirous of keeping the Golden Valley County Clerk of Courts Office as a County Office.

NOW THEREFORE IT IS HEREBY RESOLVED by the Board of Commissioners for Golden Valley County, North Dakota, that the following resolution be adopted as follows:

- 1.) That the Board of County Commissioners of Golden Valley County directly opposes the passage of legislation pertaining to the transition of contract County Clerk services to State funding and other legislative priorities; and
- 2.) That the Board of County Commissioners of Golden Valley County resolves to keep the Golden Valley County Clerk of Courts Office a County Office.

The majority having voted in favor of the motion and the motion having carried, the resolution was duly adopted on January 11, 2023.

APPROVED:

  
\_\_\_\_\_  
Adam Smith, Chairman

ATTEST:

  
\_\_\_\_\_  
Tamra Sperry, Auditor



## *CLERK OF DISTRICT COURT*

Mickie McNulty-Eide, Oliver County

PO Box 125

Center, North Dakota 58530

701-794-8777

[mmcnultyeide@nd.gov](mailto:mmcnultyeide@nd.gov)

TESTIMONEY ON SENATE BILL NO. 2277

State Judiciary Committee

January 31, 2023

Chairwoman Larson and members of the Senate Judiciary Committee:

My name is Mickie McNulty-Eide, and I am the Recorder/Clerk of Court for Oliver County. I take great pride in both of my roles in our county government. I am opposed to SB 2277, as it is written.

This bill, if passed, would transfer the contract clerks of court to state employment. The explanation for this bill that is reiterated to us is that it will complete the transfer that was started in 1999. This is not a valid argument. The fourteen clerks of court who are currently state employees are all in larger counties with populations of 10,000 and higher. None of the smaller counties were part of that original process. As I see it, no one at the state level can, without a doubt, say how this transfer will affect the smaller counties.

There are many unknowns. Will it be the county's responsibility to provide a work area for clerk if the transfer occurs? Will the state be liable for any necessary remodeling of current offices, especially in the counties that have limited space as it is? Will the county be reimbursed for any of the overhead costs such as utilities? Will each clerk have to get supplies and equipment from the state or will the county have to provide these?

The big question in my mind is what about the service we provide to our constituents. This is a great concern for many of us, who are currently contract clerks of court. We, as clerks of court, need to be readily available to assist the public with whatever service they require. Should the clerks of court become state employees, their office would likely have just one full-time employee. As Recorder/Clerk of Court, I am full-time with a full-time deputy. We are both cross-trained in each of the departments. This allows the office to be open the majority of the time without regard to vacations, sick days, etc. Many of our constituents are elderly, low income, or pro-se litigants. Not having a clerk of court available to guide them through the process they are involved in would create a hardship on them. Replacing that personal assistance with technology of any sort would not be acceptable. Asking an elderly person to use a computer to pay his/her fine would be like teaching him/her a foreign language. Someone would need to help him/her. That would quite

possibly involve an employee of another office therefore affecting the county as a whole. The same county that would no longer having any input into the opposition of the clerk of court office.

Contract clerks of court are being portrayed as incompetent and uncooperative, in general. The state wants more control over who is hired and/or fired. They want to be able to discipline those who are not living up to their expectations. I submit that the state could develop a contract with the state that would allow the two entities to work together with personnel issues. As far as the knowledge of the job duties required and the consistency of the performance of these duties, again the two entities could work together to eliminate any issues in these areas. Mandatory training would help immensely. When I became the clerk of court for Oliver County, I received very limited training in my job. I was told to contact my mentor, district court administration, or another clerk when I had a question. I take advantage of the training webinars offered to help improve my performance. Even if we were all state employees, there would be different interpretations of the guidelines. Our job duties would not be performed consistently across the state, no matter what.

In conclusion, I do not think transferring the rural county clerks of court to state employment is the answer to any of the issues at hand. More thought needs to be into this situation and how it can best be resolved. Based on this, I remain opposed to the passage of SB 2277 as it is presented.

Thank you for your time and consideration.

Mickie McNulty-Eide  
Oliver County Recorder/Clerk of Court

23.0953.01001  
Title.

Prepared by the Legislative Council staff for  
Senator Myrdal  
January 27, 2023

PROPOSED AMENDMENTS TO SENATE BILL NO. 2277

Page 9, line 4, overstrike "funding for the provision" and insert immediately thereafter  
"employment"

Page 9, line 4, overstrike "clerk" and insert immediately thereafter "clerks"

Page 9, line 4, overstrike "services"

Page 9, line 4, remove "must"

Page 9, line 4, overstrike "be provided" and insert immediately thereafter "must commence"

Page 9, line 23, replace "funding" with "employment"

Page 11, line 3, replace "\$12,267,050" with "\$13,799,866"

Renumber accordingly

**SB 2277**  
**Senate Judiciary**  
**February 1, 2023**

Chair Larson and members of the committee. My name is Aaron Birst and I am the Executive Director of the North Dakota Association of Counties. I am here today to oppose SB 2277 moving county clerks of courts to State Employment.

First and foremost. The relationship between the Counties and the State Court System is critical to ensuring North Dakota citizens have access to the justice system. Since the court unification in the early 90's, the State has taken over the responsibility of funding Judges and staff and the counties have kept the responsibility of housing those employees. (at no cost I might add) This relation has worked well over the decades and served North Dakota well. Regardless of the fate of this bill, this excellent partnership must continue.

This concept of the State taking over the county clerk's duties has been mentioned in the past, however there was no serious effort to do so until just recently. Why that is important is because this is a complicated issue that requires significant study. Currently there are 14 counties that house full time State staffed clerk's offices. That means the remaining 39 counties are served by clerks that have a contract with the State but are not exclusively dedicated to clerk's duties. **In other words, you cannot just flip a switch and change who writes out their paycheck.** On the back of this testimony is the current makeup of the offices found in county government. Through the urging of the legislature over the years (and the enactment of the tool chest legislation in the 80's) many counties have consolidated offices to become more efficient. As you can see 25 counties have combined their clerk with other office duties.

Even assuming the State "takeover" truly removes that responsibility from the counties we are still left with a half employee that would need to continue to provide necessary services. At least short term this creates a significant challenge for counties to determine how to maintain that employee if they even remain at all. This doesn't even address many of these clerks were **ELECTED** by their voters. Additionally, while it is true the State provides funding to those offices, in many cases the County has supplemented those dollars to ensure a quality employee can be hired. This is a benefit to the State as it keeps costs lower for the legislature.

I do not dispute the testimony of Ms. Holewa that there have been some unfortunate incidents. However, I would suggest such incidents are the extreme exception and not the norm and I would remind the committee it is easy to find performance issues when you look back over decades with 100's of different employees. And more to the point, remember the GOLDEN RULE, those with the GOLD RULE. If there is a significant issue the Court already has the authority to cancel any current reimbursement which certainly will get the Clerk and the County's attention. This system has served us all well and I don't disregard the Court's desire to create a system it feels it needs. They are entitled to that respect. But the best way to accomplish this would be a legislatively directed study to unwrap these complicated issues.



County 'Elect' Officials in 2016  
Updated 01/04/2017

Population 2010	Elected Total	Auditor		Treasurer		Recorder		Clerk of Dist. Court		Co. Supt. of Schools		State's Attorney		Sheriff		
		Status	Combined With	Status	Combined With	Status	Combined With	Status	Combined With?	Status	Combined With	Status	Combined With	Elected Status (1)	Combined With	
2,343	Adams	3.5	Comb. Elect.	Treasurer	Comb. Elect.	Auditor	Comb. Elect.	Clerk of Ct. %	Comb. Elect.	Recorder	Assigned	Auditor	Shared Elect.	Slope SA	Elected	911 Coord
11,066	Barnes	5.0	Elected		Elected		Elected		State Employ	July 1, 15	Assigned	Auditor	Elected		Elected	
6,660	Benson	5.0	Comb. Elect.	Treasurer	Comb. Elect.	Auditor	Elected %		Elected		Appointed		Elected		Elected	
783	Billings	4.0	Comb. Elect.	Treasurer	Comb. Elect.	Auditor	Comb. Elect.	Clerk of Ct. %	Comb. Elect.	Recorder	Assigned	Auditor	Appointed		Elected	
6,429	Botineau	5.0	Elected		Elected #		Elected		Appointed %		Assigned	Treasurer	Elected		Elected	
3,151	Bowman	5.0	Elected		Elected #		Comb. Elect.	Clerk of Ct. %	Comb. Elect.	Recorder	Assigned	Treasurer	Elected		Elected	
1,968	Burke	5.0	Elected		Elected		Comb. Elect.	Clerk of Ct. %	Comb. Elect.	Recorder	Assigned	Auditor	Elected		Elected	
81,308	Burligh	4.0	Comb. Elect.	Treas & Tax	Comb. Elect.	Aud. & Tax	Elected %		State Employ		Contract w/ Bis. Schools		Elected		Elected	
149,778	Cass	5.0	Elected		Elected %		Elected		State Employ		Assigned	Auditor	Elected		Elected	
3,993	Cavalier	5.0	Elected		Elected #		Elected		Appointed %		Assigned	Auditor	Elected		Elected	
5,289	Dickey	5.0	Elected		Elected #		Elected		Appointed %		Assigned	Recorder	Elected		Elected	
2,071	Divide	5.0	Elected		Elected		Comb. Elect.	Clerk of Ct. %	Comb. Elect.	Recorder	Appointed		Elected		Elected	
3,536	Dunn	4.0	Comb. Elect.	Treasurer	Comb. Elect.	Auditor	Comb. Elect.	Clerk of Ct. %	Comb. Elect.	Recorder	Assigned	Auditor	Elected		Elected	Coroner
2,385	Eddy	5.0	Elected		Elected		Comb. Elect.	Clerk of Ct. %	Comb. Elect.	Recorder	Appointed		Elected		Elected	911 Coord
3,550	Emmons	5.0	Elected		Elected #		Comb. Elect.	Clerk of Ct. %	Comb. Elect.	Recorder	Appointed		Elected		Elected	911 Coord
3,343	Foster	5.0	Elected		Elected		Elected %		Appointed		Assigned	Auditor	Elected		Elected	
1,680	Golden Valley	4.0	Elected		Elected		Comb. Elect.	Clerk of Ct. %	Comb. Elect.	Recorder	Assigned	Auditor	Appointed		Elected	
66,861	Grand Forks	2.0	Comb. Appt.	Treasurer	Comb. Appt.	Auditor	Appointed		State Employ		Appointed		Elected		Elected	
2,394	Grant	4.0	Comb. Elect.	Treasurer	Comb. Elect.	Auditor #	Comb. Elect.	Clerk of Ct. %	Comb. Elect.	Recorder	Assigned	Auditor	Elected		Elected	
2,420	Griggs	4.5	Elected		Elected		Comb. Elect.	Clerk of Ct. %	Comb. Elect.	Recorder	Assigned	Auditor	Elected		Elected	
2,477	Hettinger	4.0	Comb. Elect.	Treasurer	Comb. Elect.	Auditor	Comb. Elect.	Clerk of Ct. (1)	Comb. Elect.	Recorder	Assigned	Auditor	Shared Elect.	Nelson SA	Elected	Emerg. Man.
2,435	Kidder	5.0	Elected		Elected		Comb. Elect.	Clerk of Ct. %	Comb. Elect.	Recorder	Appointed		Elected		Elected	Coroner
4,139	LaMoure	4.0	Appointed		Elected		Elected		Appointed %		Assigned	Various Off.	Elected		Elected	Coroner
1,990	Logan	4.0	Elected		Elected	911 Coord	Comb. Elect.	Clerk of Ct. %	Comb. Elect.	Recorder	Appointed		Elected		Elected	
5,395	McHenry	6.0	Elected		Elected		Elected		Elected %		Appointed		Elected		Elected	
2,809	McIntosh	5.0	Elected		Elected		Comb. Elect.	Clerk of Ct. %	Comb. Elect.	Recorder	Appointed		Elected		Elected	Coroner/911
6,360	McKenzie	4.0	Comb. Elect.	Treasurer	Comb. Elect.	Auditor #	Elected		State Employ	July 1, 15	Appointed		Elected		Elected	
8,962	McLean	3.5	Comb. Elect.	Treasurer	Comb. Elect.	Auditor	Elected		Appointed %		Assigned	Dep. Auditor	Shared Elect.	Sheridan SA	Elected	
8,424	Mercer	5.0	Elected		Elected		Elected		Appointed %		Appointed		Elected		Elected	
27,471	Morton	5.0	Elected		Elected		Elected %		State Employ		Appointed		Elected		Elected	
7,673	Mountrail	5.0	Elected		Elected		Elected		Appointed %		Assigned	Auditor	Elected		Elected	911 Coord
3,126	Nelson	4.5	Elected		Elected		Comb. Elect.	Clerk of Ct. %	Comb. Elect.	Recorder	Appointed		Shared Elect.	Griggs SA	Elected	
1,846	Oliver	5.0	Elected		Elected		Comb. Elect.	Clerk of Ct. %	Comb. Elect.	Recorder	Assigned	Auditor	Elected		Elected	
7,413	Pembina	4.0	Comb. Elect.	Treasurer	Comb. Elect.	Auditor	Comb. Elect.	Clerk of Ct. %	Comb. Elect.	Recorder	Assigned	Auditor	Elected		Elected	
4,357	Pierce	3.0	Comb. Appt.	Treasurer	Comb. Appt.	Auditor	Elected		Appointed %		Assigned	Auditor	Elected		Elected	
11,451	Ramsey	5.0	Elected		Elected		Elected %		State Employ		Assigned	Treasurer	Elected		Elected	
5,457	Ransom	5.0	Elected		Elected #		Elected		Appointed %		Appointed		Elected		Elected	911 Coord
2,470	Renville	4.0	Comb. Elect.	Treasurer	Comb. Elect.	Auditor	Comb. Elect.	Clerk of Ct. %	Comb. Elect.	Recorder	Assigned	Auditor	Elected		Elected	
16,321	Richland	2.0	Appointed		Appointed		Appointed %		State Employ		Assigned	Recorder	Elected		Elected	
13,937	Rolette	5.0	Elected		Elected		Elected %		State Employ		Assigned	Auditor	Elected		Elected	Coroner
3,829	Sargent	4.0	Elected		Comb. Elect.	Rec. & Clk	Comb. Elect.	Treas. & Clk %	Comb. Appt.	Rec. & Treas	Assigned	Auditor	Elected		Elected	
1,321	Sheridan	4.5	Elected		Elected		Comb. Elect.	Clerk of Ct. %	Comb. Elect.	Recorder	Assigned	Auditor	Shared Elect.	McLean SA	Elected	Coroner
4,153	Sioux	4.0	Comb. Elect.	Tax Dir.	Comb. Elect.	Rec. & Clk	Comb. Elect.	Treas. & Clk %	Comb. Appt.	Rec. & Treas	Assigned	Auditor	Elected		Elected	911/EM/Corn
727	Slope	4.5	Elected		Elected		Comb. Elect.	Clerk of Ct. %	Comb. Elect.	Recorder	Appointed		Shared Elect.	Adams SA	Elected	Coroner
24,199	Stark	4.0	Comb. Elect.	Treasurer	Comb. Elect.	Auditor	Elected %		State Employ		Assigned	Auditor	Elected		Elected	
1,975	Steele	3.0	Elected		Elected		Comb. Appt.	Clerk of Ct. %	Comb. Appt.	Recorder	Assigned	Auditor	Appointed		Elected	
21,100	Stutsman	2.0	Appointed		Appointed		Appointed %		State Employ		Assigned	Auditor	Elected		Elected	
2,246	Towner	3.0	Comb. Appt.	Treasurer	Comb. Appt.	Auditor	Comb. Elect.	Clerk of Ct. %	Comb. Elect.	Recorder	Appointed		Elected		Elected	
8,121	Traill	6.0	Elected		Elected		Elected		Elected %		Assigned	Auditor	Elected		Elected	
11,119	Walsh	4.0	Appointed		Elected		Elected %		State Employ		Assigned	Auditor	Elected		Elected	Emerg. Man.
61,675	Ward	2.0	Comb. Appt.	Treasurer	Comb. Appt.	Auditor	Appointed %		State Employ		Assigned		Elected		Elected	
4,207	Wells	5.0	Elected		Elected		Elected %		State Employ		Appointed	Auditor	Elected		Elected	
22,398	Williams	4.0	Elected %		Comb. Elect.	Recorder	Comb. Elect.	Treasurer	State Employ		Assigned	Various Off.	Elected		Elected	
672,591	Statewide	228.0	* = Home Rule County		# = Also motor vehicle reg.		% = Official assigned marriage license duties									

Note: If an elected position is currently held by someone appointed to fill that position - the position is still listed as "elected".

1 Hettinger marriage licenses moved to Info. Tech. Officer

# Slope County Courthouse

**Slope County Clerk and Recorder**

**Cindy A. Ornsbey  
206 South Main  
Amidon, ND 58620  
cornsbey@nd.gov  
701-879-6275**

Esteemed members of the Senate Appropriations Committee,

Attached please find a copy of our Slope County Commissioners Resolution to Oppose SB2277.

This was not submitted as a formal testimony to the Senate Judiciary Committee simply because of time constraints. I would ask that you take into account another County is against the transition of the Clerk of Court to a state position.

Thank you for your prompt attention to this matter.

Sincerely,



Cindy A. Ornsbey  
Slope County Clerk and Recorder

## RESOLUTION

### OPPOSING LEGISLATION MAKING THE SLOPE COUNTY CLERK OF COURTS' OFFICE A STATE OFFICE.

WHEREAS, there is legislation being proposed pertaining to the transition of contract county clerk services to state funding and other legislative priorities;

WHEREAS, such legislation would make the Slope County Clerk of Courts' office a state agency and the employees thereof state employees, which would take away local control and governance of such office and employees;

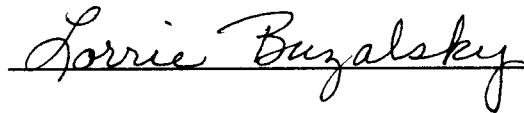
WHEREAS, the Board of Commissioners for Slope County, North Dakota, is desirous of keeping the Slope County Clerk of Courts' office as a county office.

NOW THEREFORE IT IS HEREBY RESOLVED by the Board of County Commissioners for Slope County, North Dakota, that the following resolution be adopted as such:

- (a) That the Board of Commissioners of Slope County directly opposes the passage of legislation pertaining to the transition of contract county clerk services to state funding and other legislative priorities; and
- (b) That the Board of County Commissioners of Slope County resolves to keep the Slope County Clerk of Courts' office a county office.



Scott Ouradnik, Chairman



Lorrie Buzalsky, Auditor