CHAPTER 27-05.2
CLERK OF DISTRICT COURT FUNDING AND FEES

27-05.2-01. Statement of intent.

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

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

1. Except as provided in subsection 2, the supreme court, within the limits of legislative appropriations and pursuant to subsection 7, shall provide clerk of district court services in each county in the state. The supreme court may provide such services through clerks of district court, deputies, and assistants who are employees of the judicial system or through service agreements under subsection 6. The supreme court shall develop standards and procedures to ensure that adequate clerk of district court services are provided. "Clerk of district court services" means those duties and services, as provided by statute or rule of the supreme court, that directly serve the judicial system and the provision of effective and efficient judicial services to the public. Beginning January 1, 2003, the individual designated by a board of county commissioners to provide clerk of district court services under subsection 2 or 6 serves as ex officio clerk of district court. The salary and bond for the ex officio clerk of district court must be fixed by a resolution adopted by the board of county commissioners.
2. A county may elect to provide clerk of district court services at the county's own expense. The board of county commissioners shall forward to the supreme court a resolution indicating its election to provide services under this subsection. Such services must be provided in a manner consistent with standards and procedures established by the supreme court. If the county is unable to provide adequate clerk of district court services, the supreme court shall provide for those services in any manner it considers appropriate. If a county has entered into an agreement under subsection 6, the county may not provide clerk of district court services under this subsection until after the agreement has expired.
3. In a county in which the supreme court determines that at least five full-time employees are necessary to provide adequate clerk of district court services, the elected clerk of district court and clerk of court staff designated by the supreme court shall become employees of the state judicial system if the board of county commissioners consents to the transition after consultation with the elected clerk. This subsection applies upon receipt by the supreme court of a resolution adopted by the board of county commissioners indicating its consent. Any equipment, including technology-related equipment, and furnishings in the control and custody of the clerk of district court on the date the clerk becomes a state employee must remain in the control and custody of the clerk until the state court administrator determines the items are no longer needed. The clerk, upon becoming a state employee, shall receive a salary in an amount not less than the salary received as a county employee and shall remain an employee of the state judicial system until the clerk retires, resigns, or the term for which the clerk was initially elected expires, whichever occurs earlier. Thereafter, the clerk of district court must be appointed in the manner provided by supreme court rule. If the board of county commissioners does not consent to the clerk and designated staff becoming employees of the state judicial system, the county must provide clerk of district court services at its own expense in accordance with subsection 2.
4. In a county in which the supreme court determines that one or more, but less than five, full-time employees are necessary to provide clerk of district court services, the

elected clerk of district court and clerk of court staff designated by the supreme court shall become employees of the state judicial system in the manner described in subsection 3. If the board of county commissioners does not consent to the clerk and designated staff becoming employees of the state judicial system, the county may provide clerk of district court services at its own expense under subsection 2 or the supreme court may provide funding for clerk of district court services in accordance with an agreement under subsection 6.

5. In a county in which the supreme court determines that less than one full-time employee is necessary to provide clerk of district court services, the supreme court may provide funding for such services in accordance with an agreement under subsection 6.
6. The supreme court may enter into an agreement with one or more boards of county commissioners to provide funding for the provision of clerk of district court services in a manner consistent with standards and procedures established by the supreme court. Funding for personnel under the agreement must be equal to the amount, based on county employee compensation levels, necessary for the number of full-time employees needed to provide clerk of district court services. Funding must be available under the agreement to defray the cost of technology-related equipment considered necessary by the supreme court for the delivery of adequate clerk of district court services. After entering into an agreement under this subsection, a county may, under chapter 11-10.2 or 11-10.3, provide for the delivery of clerk of district court services in a manner consistent with the agreement. If a county fails to fulfill the terms of an agreement or is unable to provide clerk of district court services consistent with standards and procedures established by the supreme court, the supreme court shall provide for those services in any manner it considers appropriate.
7. a. State funding for the provision of clerk of district court services may be provided beginning January 1, 2001. Before April 1, 2000, each board of county commissioners shall notify the supreme court of its election to provide clerk of district court services under subsection 2, of its consent to the elected clerk of court and designated staff becoming state employees under subsection 3 or 4, or of its election to enter into an agreement under subsection 6. If a board of county commissioners elects to enter into an agreement under subsection 6, the agreement must be executed before July 1, 2000. If an agreement is not executed before that date, the county must provide clerk of district court services at its own expense under subsection 2.
   b. Before April 1, 2002, and thereafter before April first of each succeeding even-numbered year, each board of county commissioners that has executed an agreement under subsection 6 or whose county is providing clerk of district court services under subsection 2 must notify the supreme court of its election to continue the existing arrangement or initiate a different option. If a board of county commissioners elects to enter into an agreement under subsection 6, the agreement must be executed before July first of the year the election is made. If an agreement is not executed before that date, the county must provide clerk of district court services at its own expense under subsection 2.

27-05.2-03. Fees to be charged by the clerk of the district court.

1. A clerk of the district court shall charge and collect the following fees in civil cases:
   a. For filing a case for decision that is not under subdivision b or e, one hundred sixty dollars.
      (1) Thirty dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the civil legal services fund. Any fees collected under this paragraph which exceed nine hundred thousand dollars in any biennium must be paid by the clerk of court to the state treasurer for deposit in the state general fund.
      (2) One hundred thirty dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the state general fund.

b. For filing a petition for dissolution of marriage, annulment, or separation, one hundred sixty dollars.
   (1) Thirty dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the civil legal services fund. Any fees collected under this paragraph which exceed nine hundred thousand dollars in any biennium must be paid by the clerk of court to the state treasurer for deposit in the state general fund.
   (2) One hundred dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the displaced homemaker account under section 14-06.1-14.
   (3) Thirty dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the state general fund.

c. For filing an answer to a case other than under subdivision d or e, one hundred dollars. The clerk shall deposit this fee with the state treasurer for deposit in the general fund in the state treasury.

d. For filing a motion to modify an order for spousal support, property division, child support, parental rights and responsibilities, residential responsibility, parenting time, one hundred sixty dollars. For filing an answer to a motion to modify an order for spousal support, property division, child support, parental rights and responsibilities, residential responsibility, or parenting time, one hundred dollars. The clerk shall deposit this fee with the state treasurer for deposit in the general fund of the state treasury.

e. For filing a small claims action in district court, twenty dollars.

f. For filing any matter authorized to be filed in the office of the clerk of court other than under subdivision a, b, or c, twenty dollars.

g. For preparing, certifying, issuing, or transmitting any document, twenty dollars, or a lesser fee as may be set by the state court administrator.

2. Section 27-01-07 applies to fees charged under this section. The clerk of court may not charge or collect any fee, prescribed by this or any other section, from the state or an agency thereof or from a political subdivision or agency thereof.

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

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

deposited as bail is forfeited, the clerk shall submit the appropriate sum to the state treasurer for deposit in the state general fund. If the clerk is unable to make payments from the special account because the address of the recipient is unknown or the recipient cannot otherwise be located, the clerk shall dispose of the deposited money in accordance with chapter 47-30.2.

27-05.2-05. Decree or judgment of divorce, annulment, or paternity filed with registrar of vital statistics.

The clerk of the district court in which any decree or judgment of divorce, annulment of marriage, or paternity has been entered shall within fifteen days of the filing thereof notify the state registrar of vital statistics of the entry of the decree or judgment of divorce, annulment of marriage, or paternity and shall furnish such information relating thereto as the state registrar may require upon such forms as may be furnished by the state registrar.

27-05.2-06. Records maintenance and disposal.

A clerk of district court shall maintain and dispose of court records in accordance with rules, policies, and procedures adopted by the supreme court.

27-05.2-07. Penalty for neglect of duty.

If an ex officio clerk of the district court violates the clerk's oath of office or neglects or refuses to perform any of the duties of office and any person is injured or aggrieved by such violation or neglect, such person may institute legal proceedings upon the bond of the clerk and recover double the amount of damages actually sustained. For each such violation or neglect by the clerk, the county treasurer shall collect a forfeiture of not less than fifty dollars.

27-05.2-08. Court facilities improvement and maintenance fund - Administration - Continuing appropriation.

The court facilities improvement and maintenance fund is a special fund in the state treasury. The state treasurer shall deposit in the fund certain fees collected under section 29-26-22. All moneys in the fund are appropriated on a continuing basis to be used as provided in this chapter.

27-05.2-09. Court facilities improvement advisory committee - Members.

1. The court facilities improvement advisory committee consists of:
    a. One member appointed by the North Dakota association of counties to represent counties with a population fewer than seven thousand five hundred.
    b. One member appointed by the North Dakota association of counties to represent counties with a population of seven thousand five hundred or more.
    c. The state court administrator, who shall serve as chairman of the committee.
    d. One member appointed by the state bar association of North Dakota.
    e. One member appointed by the chairman of the legislative management.
2. The term of each member is three years. Initially, as determined by lot, one member shall serve for one year, two members shall serve for two years, and two members shall serve for three years. At the end of the member's term, the appointing authority shall appoint a successor for a full three-year term. Except for the state court administrator, a member may not serve more than two 3-year terms. A vacancy must be filled by the appointing authority for the remainder of the term.
3. At the initial meeting of the committee, the committee shall adopt rules of operation and procedure for the committee. The committee shall submit the rules to the supreme court for approval. The rules of operation must provide that a quorum of the committee consists of at least three members.
4. The members of the committee are entitled to reimbursement for travel and expenses as provided by law for other state officers. Travel and expense costs must be paid from funds from the court facilities improvement and maintenance fund.
5. The supreme court shall provide staff services for the committee.

27-05.2-10. Application for grants from court facilities improvement and maintenance fund.

Moneys in the court facilities improvement and maintenance fund may be used by the court facilities improvement advisory committee to make grants to counties to provide funds for court facilities improvement and maintenance projects. The committee shall review applications to determine if the purpose of a grant is consistent with the purposes of the fund and if the proposed project is a necessary improvement to court facilities or essential to remodel or maintain existing court facilities in the applicant county. A grant may be awarded to a county only if the applicant county agrees to provide local funding for the project in an amount at least equal to twenty-five percent of the total cost of the project. The committee shall ensure that at least twenty-five percent of funds granted during a biennium are allocated to counties with a population fewer than seven thousand five hundred. Grants disbursed under this section may be used only to improve or provide essential remodeling or maintenance to facilities used for chambers, courts, and court-related services.