

Sixty-sixth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1002

Introduced by

Appropriations Committee

1 A BILL for an Act to provide an appropriation for defraying the expenses of the judicial branch;
2 to amend and reenact sections 27-02-02, 27-02.1-01, 27-02.1-02, 27-02.1-03, 27-02.1-04,
3 27-02.1-05, 27-02.1-06, 27-02.1-07, 27-02.1-08, 27-02.1-09, and 27-05-03 of the North Dakota
4 Century Code, relating to salaries of justices of the supreme court, the temporary court of
5 appeals, and salaries of district judges; to provide for a report; ~~and to provide for a transfer; to~~
6 provide a statement of legislative intent; to provide for a study; and to declare an emergency.

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

8 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds
9 as may be necessary, are appropriated out of any moneys in the general fund in the state
10 treasury, not otherwise appropriated, and from special funds derived from federal funds and
11 other income, to the judicial branch for the purpose of defraying the expenses of the judicial
12 branch for the biennium beginning July 1, 2019, and ending June 30, 2021, as follows:

13 Subdivision 1.

SUPREME COURT

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
17 Salaries and wages	\$10,909,112	\$398,560	\$11,307,672
18 Operating expenses	2,731,582	(820)	2,730,762
19 Capital assets	0	7,500	7,500
20 Judges' retirement	80,764	(80,764)	0
21 Guardianship monitoring program	316,204	(46,652)	269,552
22 Total general fund	\$14,037,662	\$277,824	\$14,315,486
23 <u>Salaries and wages</u>	<u>\$10,909,112</u>	<u>\$429,608</u>	<u>\$11,338,720</u>
24 <u>Operating expenses</u>	<u>2,731,582</u>	<u>(25,820)</u>	<u>2,705,762</u>

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1	Capital assets	0	977,500	977,500
2	Judges' retirement	80,764	(80,764)	0
3	Guardianship monitoring program	316,204	(33,162)	283,042
4	Total all funds	\$14,037,662	\$1,267,362	\$15,305,024
5	Less estimated income	0	970,000	970,000
6	Total general fund	\$14,037,662	\$297,362	\$14,335,024

Subdivision 2.

DISTRICT COURTS

			Adjustments or	
	Base Level	Enhancements	Appropriation	
11	Salaries and wages	\$67,602,628	\$4,724,467	\$72,327,095
12	Operating expenses	20,881,207	(455,005)	20,426,202
13	Capital assets	0	75,000	75,000
14	Judges' retirement	343,290	(63,678)	279,612
15	University of North Dakota central	40,000	(40,000)	0
16	— legal research			
17	Total all funds	\$88,867,125	\$4,240,784	\$93,107,909
18	Less estimated income	1,339,138	315,033	1,654,171
19	Total general fund	\$87,527,987	\$3,925,751	\$91,453,738
20	Salaries and wages	\$67,602,628	\$5,639,640	\$73,242,268
21	Operating expenses	20,881,207	(484,305)	20,396,902
22	Capital assets	0	139,852	139,852
23	Judges' retirement	343,290	(62,958)	280,332
24	University of North Dakota central	40,000	(40,000)	0
25	— legal research			
26	Total all funds	\$88,867,125	\$5,192,229	\$94,059,354
27	Less estimated income	1,339,138	320,458	1,659,596
28	Total general fund	\$87,527,987	\$4,871,771	\$92,399,758

Subdivision 3.

JUDICIAL CONDUCT COMMISSION AND DISCIPLINARY BOARD

	Base Level	Adjustments or Enhancements	Appropriation
Judicial conduct commission and disciplinary board	\$1,174,822	\$72,126	\$1,246,948
Total all funds	\$1,174,822	\$72,126	\$1,246,948
Less estimated income	482,701	18,724	501,425
Total general fund	\$692,121	\$53,402	\$745,523
Judicial conduct commission and disciplinary board	\$1,174,822	\$76,140	\$1,250,962
Total all funds	\$1,174,822	\$76,140	\$1,250,962
Less estimated income	482,701	0	482,701
Total general fund	\$692,121	\$76,140	\$768,261

Subdivision 4.

BILL TOTAL

	Base Level	Adjustments or Enhancements	Appropriation
Grand total general fund	\$102,257,770	\$4,256,977	\$106,514,747
Grand total special funds	1,821,839	333,757	2,155,596
Grand total all funds	\$104,079,609	\$4,590,734	\$108,670,343
Full-time equivalent positions	355.50	5.50	361.00
Grand total general fund	\$102,257,770	\$5,245,273	\$107,503,043
Grand total special funds	1,821,839	1,290,458	3,112,297
Grand total all funds	\$104,079,609	\$6,535,731	\$110,615,340
Full-time equivalent positions	355.50	7.50	363.00

SECTION 2. ONE-TIME FUNDING - REPORT TO SIXTY-SEVENTH LEGISLATIVE

ASSEMBLY. The following amounts reflect one-time funding items approved by the sixty-fifth legislative assembly for the 2017-19 biennium and the 2019-21 biennium one-time funding items included in section 1 of this Act:

One-Time Funding Description	2017-19	2019-21
Pipeline protest trials	\$1,500,000	\$0
Copy machines	0	\$82,500
Total all funds	\$1,500,000	\$82,500

1	Less estimated income	1,500,000	0
2	Total general fund	\$0	\$82,500
3	Pipeline protest trials	\$1,500,000	\$0
4	Copy machines	0	82,500
5	Audio and visual equipment	0	64,852
6	Law library remodel	0	970,000
7	Total all funds	\$1,500,000	\$1,117,352
8	Less estimated income	1,500,000	970,000
9	Total general fund	\$0	\$147,352

10 The 2019-21 biennium one-time funding amounts are not a part of the entity's base budget
 11 for the 2021-23 biennium. The supreme court shall report to the appropriations committees of
 12 the sixty-seventh legislative assembly on the use of this one-time funding for the biennium
 13 beginning July 1, 2019, and ending June 30, 2021.

14 **SECTION 3. ESTIMATED INCOME - CAPITOL BUILDING FUND - LEGISLATIVE INTENT.**

15 The estimated income line item in subdivision 1 of section 1 of this Act includes \$970,000 of
 16 one-time funding from the capitol building fund to remodel the supreme court law library space
 17 in the judicial wing of the state capitol. It is the intent of the sixty-sixth legislative assembly that
 18 any remodel of judicial wing space result in at least two study rooms remaining in the judicial
 19 wing for use by attorneys appearing in cases before the supreme court.

20 **SECTION 4. AMENDMENT.** Section 27-02-02 of the North Dakota Century Code is

21 amended and reenacted as follows:

22 **27-02-02. Salaries of justices of supreme court.**

23 The annual salary of each justice of the supreme court is ~~one hundred fifty-two thousand-~~
 24 ~~four hundred thirty-six dollars through June 30, 2016~~~~one hundred sixty thousand one hundred-~~
 25 ~~forty-nine~~~~one hundred fifty-nine thousand four hundred nine~~ dollars through June 30, 2020, and
 26 one hundred fifty-seven thousand nine~~one hundred sixty-three thousand three hundred-~~
 27 ~~fifty-two~~~~one hundred sixty-three thousand three hundred ninety-four~~ dollars thereafter. The chief
 28 justice of the supreme court is entitled to receive an additional ~~four thousand three hundred-~~
 29 ~~seventy-seven dollars per annum through June 30, 2016~~~~four thousand five hundred-~~
 30 ~~ninety-eight~~~~four thousand five hundred eight~~ dollars per annum through June 30, 2020, and ~~four-~~

1 thousand five hundred eight ~~four thousand six hundred ninety~~ four thousand six hundred
2 twenty-one dollars per annum thereafter.

3 **SECTION 5. AMENDMENT.** Section 27-02.1-01 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **27-02.1-01. Temporary court of appeals established - Jurisdiction - Writ authority -**
6 **Administration. (Effective through January 1, 20202024)**

7 A temporary court of appeals is established to exercise appellate and original jurisdiction as
8 delegated by the supreme court. Panels of the temporary court of appeals may issue original
9 and remedial writs necessary to properly exercise jurisdiction in cases assigned to them. The
10 panels of the temporary court of appeals are subject to administration by the supreme court
11 pursuant to sections 3 and 8 of article VI of the Constitution of North Dakota.

12 **SECTION 6. AMENDMENT.** Section 27-02.1-02 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **27-02.1-02. Number, assignment, and compensation of judges. (Effective through**
15 **January 1, 20202024)**

- 16 1. The supreme court may provide for the assignment of active or retired district court
17 judges, retired justices of the supreme court, and lawyers, to serve on three-judge
18 panels of the temporary court of appeals if the chief justice certifies to the governor
19 that the supreme court has disposed of two hundred fifty cases in the twelve months
20 preceding September first of any year. Assignments may be made for a time certain,
21 not to exceed one year from the date of assignment, or specifically for one or more
22 cases on the docket of the supreme court.
- 23 2. An active or retired district court judge serving on the temporary court of appeals may
24 not be assigned to hear cases in which the judge participated while serving on the
25 district court. An active district court judge may not be assigned to hear cases that
26 originated in the judicial district of the judge.
- 27 3. An active district court judge serving on the temporary court of appeals is not entitled
28 to additional compensation, but is entitled to reimbursement for expenses as provided
29 by sections 44-08-04 and 54-06-09.
- 30 4. Retired justices of the supreme court, retired district court judges, and lawyers serving
31 as judges on panels of the temporary court of appeals are entitled to receive as

1 compensation for each day of service in the performance of duties pursuant to the
2 assignment an amount equal to five percent of the gross monthly salary as provided
3 for a regularly elected or appointed justice of the supreme court, or one-half of the
4 daily compensation for services of one-half day or less. The compensation must be
5 paid upon certification by the judge that the services were performed for the number of
6 days shown on the certificate and must be paid in the same manner as the salaries of
7 the regularly elected or appointed judges are paid.

8 **SECTION 7. AMENDMENT.** Section 27-02.1-03 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **27-02.1-03. Assignment and reassignment of cases - Quorum for decision of cases -**
11 **Authority in furtherance of jurisdiction. (Effective through January 1, ~~2020~~2024)**

- 12 1. Panels of the temporary court of appeals have jurisdiction to hear and to decide all
13 cases assigned by the supreme court.
- 14 2. The supreme court may order reassignment of any case from a panel of the temporary
15 court of appeals to the supreme court.
- 16 3. A majority of the three judges of a panel of the temporary court of appeals hearing a
17 case is necessary to pronounce a decision.
- 18 4. When a judgment or order is reversed, modified, or confirmed by a panel of the
19 temporary court of appeals, the reasons must be concisely stated in writing, signed by
20 the judges concurring, filed in the office of the clerk of the supreme court, and
21 preserved with the record of the case. Any judge concurring or dissenting may give the
22 reasons for the judge's concurrence or dissent in writing over the judge's signature.

23 **SECTION 8. AMENDMENT.** Section 27-02.1-04 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **27-02.1-04. Administration - Employees and clerical assistance - Court of record -**
26 **Place of sessions. (Effective through January 1, ~~2020~~2024)**

- 27 1. The clerk of the supreme court shall provide clerk services to panels of the temporary
28 court of appeals.
- 29 2. Panels of the temporary court of appeals may hold court in any place the panel
30 considers convenient and efficient for conducting its business.

1 3. All proceedings of the panels of the temporary court of appeals must be pursuant to
2 the rules adopted by the supreme court.

3 **SECTION 9. AMENDMENT.** Section 27-02.1-05 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **27-02.1-05. Chief judge. (Effective through January 1, ~~2020~~2024)**

6 The chief justice of the supreme court shall designate a chief judge of each panel of the
7 temporary court of appeals who shall preside pursuant to rules of the supreme court.

8 **SECTION 10. AMENDMENT.** Section 27-02.1-06 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **27-02.1-06. Review of decisions of panels. (Effective through January 1, ~~2020~~2024)**

11 Any party in interest who is aggrieved by a judgment or order of a panel of the temporary
12 court of appeals may petition the supreme court for review of the judgment or order pursuant to
13 rules of the supreme court. Upon the filing of a petition for review by the supreme court, the
14 order or judgment and mandate of the panel of the temporary court of appeals is stayed
15 pending action of the supreme court. The supreme court has discretion to grant or deny the
16 petition.

17 **SECTION 11. AMENDMENT.** Section 27-02.1-07 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **27-02.1-07. Right to appeal not created. (Effective through January 1, ~~2020~~2024)**

20 This chapter does not provide or create a right of appeal if that right is not otherwise
21 provided by law. An appeal assigned to a panel of the temporary court of appeals fulfills the
22 right of appeal provided by section 28-27-02.

23 **SECTION 12. AMENDMENT.** Section 27-02.1-08 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **27-02.1-08. Unitary appeal - Filing of appeal - Filing fee. (Effective through January 1,**
26 **~~2020~~2024)**

27 All appeals must be treated as one appeal process under the jurisdiction of the supreme
28 court. In any appeal there may be only one filing and one filing fee required. The filing fee is as
29 prescribed by section 27-03-05.

30 **SECTION 13. AMENDMENT.** Section 27-02.1-09 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **27-02.1-09. Publication of opinions. (Effective through January 1, 20202024)**

2 Opinions of the panels of the temporary court of appeals may be published pursuant to
3 rules of the supreme court.

4 **SECTION 14. AMENDMENT.** Section 27-05-03 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **27-05-03. Salaries and expenses of district judges.**

7 The annual salary of each district judge is ~~one hundred thirty-nine thousand six hundred~~
8 ~~seventy-nine dollars through June 30, 2016~~~~one hundred forty-six thousand seven hundred~~
9 ~~forty-six~~ one hundred forty-six thousand two hundred sixty-nine dollars through June 30, 2020,
10 and ~~one hundred forty-three thousand eight hundred sixty-nine~~~~one hundred forty-nine thousand~~
11 ~~six hundred eighty-one~~ one hundred forty-nine thousand nine hundred twenty-six dollars
12 thereafter. Each district judge is entitled to travel expenses, including mileage and subsistence
13 while engaged in the discharge of official duties outside the city in which the judge's chambers
14 are located. The salary and expenses are payable monthly in the manner provided by law. A
15 presiding judge of a judicial district is entitled to receive an additional ~~four thousand thirty-five~~
16 ~~dollars per annum through June 30, 2016~~~~four thousand two hundred forty~~ four thousand one
17 hundred fifty-six dollars per annum through June 30, 2020, and ~~four thousand one hundred fifty~~
18 ~~six~~ ~~four thousand three hundred twenty-four~~ four thousand two hundred sixty dollars thereafter.

19 **SECTION 15. APPROPRIATION.** There are appropriated any funds received by the
20 supreme court, district courts, and judicial conduct commission and disciplinary board, not
21 otherwise appropriated, pursuant to federal acts and private gifts, grants, and donations for the
22 purpose as designated in the federal acts or private gifts, grants, and donations for the period
23 beginning July 1, 2019, and ending June 30, 2021.

24 **SECTION 16. TRANSFERS.** The director of the office of management and budget shall
25 transfer appropriation authority between line items in section 1 of this Act as requested by the
26 supreme court upon a finding by the court that the nature of the duties of the court and its staff
27 requires the transfers to carry on properly the functions of the judicial branch of government.

28 **SECTION 17. LEGISLATIVE INTENT - NEW DISTRICT COURT JUDGES.** It is the intent
29 of the sixty-sixth legislative assembly that the judicial branch consider the relocation of current
30 district court judge positions prior to submitting a future request for any additional district court
31 judge positions.

1 **SECTION 18. JUDICIAL BRANCH STUDY - DISTRICT COURT REPORTERS - REPORT.**

2 During the 2019-20 interim, the judicial branch shall study the need for one full-time equivalent
3 court reporter position for each district court judgeship. The judicial branch shall report the
4 results of its study to the budget section by December 31, 2020.

5 **SECTION 19. EMERGENCY.** The \$970,000 appropriated from the capitol building fund in
6 section 1 to remodel the law library space and section 3 of this Act are declared to be an
7 emergency measure.