

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.

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

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

12 Subdivision 1.

13 SUPREME COURT

<u>Governor's</u>			
	<u>Base Level</u>	<u>Recommendation</u>	<u>Appropriation</u>
<u>Salaries and wages</u>	<u>\$10,909,112</u>	<u>\$11,478,433</u>	<u>\$10,909,112</u>
<u>Operating expenses</u>	<u>2,731,582</u>	<u>2,730,762</u>	<u>2,731,582</u>
<u>Capital assets</u>	<u>0</u>	<u>967,500</u>	<u>0</u>
<u>Judges' retirement</u>	<u>80,764</u>	<u>0</u>	<u>80,764</u>
<u>Guardianship monitoring program</u>	<u>316,204</u>	<u>274,016</u>	<u>316,204</u>
<u>Total general fund</u>	<u>\$14,037,662</u>	<u>\$15,450,711</u>	<u>\$14,037,662</u>
<u>Adjustments or</u>			
	<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
<u>Salaries and wages</u>	<u>\$10,909,112</u>	<u>\$398,560</u>	<u>\$11,307,672</u>

Sixty-sixth
Legislative Assembly

1	Operating expenses	2,731,582	(820)	2,730,762
2	Capital assets	0	7,500	7,500
3	Judges' retirement	80,764	(80,764)	0
4	Guardianship monitoring program	316,204	(46,652)	269,552
5	Total general fund	\$14,037,662	\$277,824	\$14,315,486

Subdivision 2.

DISTRICT COURTS

Governor's				
	Base Level	Recommendation	Appropriation	
10	Salaries and wages	\$67,602,628	\$73,767,736	\$67,602,628
11	Operating expenses	20,881,207	20,426,202	20,881,207
12	Capital assets	0	189,852	0
13	Judges' retirement	343,290	279,612	343,290
14	University of North Dakota central	40,000	40,000	40,000
15	legal research			
16	Total all funds	\$88,867,125	\$94,703,402	\$88,867,125
17	Less estimated income	1,339,138	1,673,983	1,339,138
18	Total general fund	\$87,527,987	\$93,029,419	\$87,527,987

Adjustments or

	Base Level	Enhancements	Appropriation
21	Salaries and wages	\$4,724,467	\$72,327,095
22	Operating expenses	(455,005)	20,426,202
23	Capital assets	75,000	75,000
24	Judges' retirement	(63,678)	279,612
25	University of North Dakota central	(40,000)	0
26	legal research		
27	Total all funds	\$4,240,784	\$93,107,909
28	Less estimated income	315,033	1,654,171
29	Total general fund	\$3,925,751	\$91,453,738

Subdivision 3.

JUDICIAL CONDUCT COMMISSION AND DISCIPLINARY BOARD

<u>Governor's</u>			
	<u>Base Level</u>	<u>Recommendation</u>	<u>Appropriation</u>
Judicial conduct commission and	\$1,174,822	\$1,265,045	\$1,174,822
disciplinary board			
Total all funds	\$1,174,822	\$1,265,045	\$1,174,822
Less estimated income	482,701	508,699	482,701
Total general fund	\$692,121	\$756,346	\$692,121
<u>Adjustments or</u>			
	<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
Judicial conduct commission and	\$1,174,822	\$72,126	\$1,246,948
disciplinary board			
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

Subdivision 4.

BILL TOTAL

<u>Governor's</u>			
	<u>Base Level</u>	<u>Recommendation</u>	<u>Appropriation</u>
Grand total general fund	\$102,257,770	\$109,236,476	\$102,257,770
Grand total special funds	1,821,839	2,182,682	1,821,839
Grand total all funds	\$104,079,609	\$111,419,158	\$104,079,609
Full-time equivalent positions	355.50	363.00	355.50
<u>Adjustments or</u>			
	<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
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

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:

1	<u>One-Time Funding Description</u>	<u>2017-19</u>	<u>2019-21</u>
2	Pipeline protest trials	\$1,500,000	\$0
3	Total all funds	\$1,500,000	\$0
4	Less estimated income	1,500,000	0
5	Total general fund	\$0	\$0
6	<u>Pipeline protest trials</u>	<u>\$1,500,000</u>	<u>\$0</u>
7	<u>Copy machines</u>	<u>0</u>	<u>82,500</u>
8	<u>Total all funds</u>	<u>\$1,500,000</u>	<u>\$82,500</u>
9	<u>Less estimated income</u>	<u>1,500,000</u>	<u>0</u>
10	<u>Total general fund</u>	<u>\$0</u>	<u>\$82,500</u>

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

15 **SECTION 3. AMENDMENT.** Section 27-02-02 of the North Dakota Century Code is
 16 amended and reenacted as follows:

17 **27-02-02. Salaries of justices of supreme court.**

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

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

28 **27-02.1-01. Temporary court of appeals established - Jurisdiction - Writ authority -**
 29 **Administration. (Effective through January 1, ~~2020~~2024)**

30 A temporary court of appeals is established to exercise appellate and original jurisdiction as
 31 delegated by the supreme court. Panels of the temporary court of appeals may issue original

1 and remedial writs necessary to properly exercise jurisdiction in cases assigned to them. The
2 panels of the temporary court of appeals are subject to administration by the supreme court
3 pursuant to sections 3 and 8 of article VI of the Constitution of North Dakota.

4 **SECTION 5. AMENDMENT.** Section 27-02.1-02 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **27-02.1-02. Number, assignment, and compensation of judges. (Effective through**
7 **January 1, ~~2020~~2024)**

- 8 1. The supreme court may provide for the assignment of active or retired district court
9 judges, retired justices of the supreme court, and lawyers, to serve on three-judge
10 panels of the temporary court of appeals if the chief justice certifies to the governor
11 that the supreme court has disposed of two hundred fifty cases in the twelve months
12 preceding September first of any year. Assignments may be made for a time certain,
13 not to exceed one year from the date of assignment, or specifically for one or more
14 cases on the docket of the supreme court.
- 15 2. An active or retired district court judge serving on the temporary court of appeals may
16 not be assigned to hear cases in which the judge participated while serving on the
17 district court. An active district court judge may not be assigned to hear cases that
18 originated in the judicial district of the judge.
- 19 3. An active district court judge serving on the temporary court of appeals is not entitled
20 to additional compensation, but is entitled to reimbursement for expenses as provided
21 by sections 44-08-04 and 54-06-09.
- 22 4. Retired justices of the supreme court, retired district court judges, and lawyers serving
23 as judges on panels of the temporary court of appeals are entitled to receive as
24 compensation for each day of service in the performance of duties pursuant to the
25 assignment an amount equal to five percent of the gross monthly salary as provided
26 for a regularly elected or appointed justice of the supreme court, or one-half of the
27 daily compensation for services of one-half day or less. The compensation must be
28 paid upon certification by the judge that the services were performed for the number of
29 days shown on the certificate and must be paid in the same manner as the salaries of
30 the regularly elected or appointed judges are paid.

1 | **SECTION 6. AMENDMENT.** Section 27-02.1-03 of the North Dakota Century Code is
2 | amended and reenacted as follows:

3 | **27-02.1-03. Assignment and reassignment of cases - Quorum for decision of cases -**
4 | **Authority in furtherance of jurisdiction. (Effective through January 1, ~~2020~~2024)**

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

16 | **SECTION 7. AMENDMENT.** Section 27-02.1-04 of the North Dakota Century Code is
17 | amended and reenacted as follows:

18 | **27-02.1-04. Administration - Employees and clerical assistance - Court of record -**
19 | **Place of sessions. (Effective through January 1, ~~2020~~2024)**

- 20 | 1. The clerk of the supreme court shall provide clerk services to panels of the temporary
21 | court of appeals.
- 22 | 2. Panels of the temporary court of appeals may hold court in any place the panel
23 | considers convenient and efficient for conducting its business.
- 24 | 3. All proceedings of the panels of the temporary court of appeals must be pursuant to
25 | the rules adopted by the supreme court.

26 | **SECTION 8. AMENDMENT.** Section 27-02.1-05 of the North Dakota Century Code is
27 | amended and reenacted as follows:

28 | **27-02.1-05. Chief judge. (Effective through January 1, ~~2020~~2024)**

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

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

3 | **27-02.1-06. Review of decisions of panels. (Effective through January 1, ~~2020~~2024)**

4 | Any party in interest who is aggrieved by a judgment or order of a panel of the temporary
5 | court of appeals may petition the supreme court for review of the judgment or order pursuant to
6 | rules of the supreme court. Upon the filing of a petition for review by the supreme court, the
7 | order or judgment and mandate of the panel of the temporary court of appeals is stayed
8 | pending action of the supreme court. The supreme court has discretion to grant or deny the
9 | petition.

10 | **SECTION 10. AMENDMENT.** Section 27-02.1-07 of the North Dakota Century Code is
11 | amended and reenacted as follows:

12 | **27-02.1-07. Right to appeal not created. (Effective through January 1, ~~2020~~2024)**

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

16 | **SECTION 11. AMENDMENT.** Section 27-02.1-08 of the North Dakota Century Code is
17 | amended and reenacted as follows:

18 | **27-02.1-08. Unitary appeal - Filing of appeal - Filing fee. (Effective through January 1,**
19 | **~~2020~~2024)**

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

23 | **SECTION 12. AMENDMENT.** Section 27-02.1-09 of the North Dakota Century Code is
24 | amended and reenacted as follows:

25 | **27-02.1-09. Publication of opinions. (Effective through January 1, ~~2020~~2024)**

26 | Opinions of the panels of the temporary court of appeals may be published pursuant to
27 | rules of the supreme court.

28 | **SECTION 13. AMENDMENT.** Section 27-05-03 of the North Dakota Century Code is
29 | amended and reenacted as follows:

1 **27-05-03. Salaries and expenses of district judges.**

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

13 **SECTION 14. APPROPRIATION.** There are appropriated any funds received by the
14 supreme court, district courts, and judicial conduct commission and disciplinary board, not
15 otherwise appropriated, pursuant to federal acts and private gifts, grants, and donations for the
16 purpose as designated in the federal acts or private gifts, grants, and donations for the period
17 beginning July 1, 2019, and ending June 30, 2021.

18 **SECTION 15. TRANSFERS.** The director of the office of management and budget shall
19 transfer appropriation authority between line items in section 1 of this Act as requested by the
20 supreme court upon a finding by the court that the nature of the duties of the court and its staff
21 requires the transfers to carry on properly the functions of the judicial branch of government.

22 ~~**SECTION 14. UNIVERSITY OF NORTH DAKOTA CENTRAL LEGAL RESEARCH --**~~
23 ~~**MATCHING FUND REQUIREMENT.** Subdivision 2 of section 1 of this Act includes \$40,000~~
24 ~~from the general fund for university of North Dakota central legal research, which may not be~~
25 ~~spent until the chief justice of the supreme court certifies to the office of management and~~
26 ~~budget that \$40,000 in matching funds from nonstate sources have been provided to the~~
27 ~~university of North Dakota for central legal research.~~