

**FIRST ENGROSSMENT
with Senate Amendments
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; to provide for a transfer; to
6 provide a statement of legislative intent; 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:

Subdivision 1.

SUPREME COURT

| | <u>Base Level</u> | <u>Adjustments or Enhancements</u> | <u>Appropriation</u> | |
|----|---------------------------------|--|----------------------|----------------|
| 15 | | | | |
| 16 | | | | |
| 17 | Salaries and wages | \$10,909,112 | \$429,608 | \$11,338,720 |
| 18 | Operating expenses | 2,731,582 | (820) | 2,730,762 |
| 19 | Capital assets | 0 | 977,500 | 977,500 |
| 20 | Judges' retirement | 80,764 | (80,764) | 0 |
| 21 | Guardianship monitoring program | <u>316,204</u> | <u>(33,162)</u> | <u>283,042</u> |
| 22 | Total all funds | \$14,037,662 | \$1,292,362 | \$15,330,024 |
| 23 | Less estimated income | <u>0</u> | <u>970,000</u> | <u>970,000</u> |
| 24 | Total general fund | \$14,037,662 | \$322,362 | \$14,360,024 |

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1 Subdivision 2.

2 DISTRICT COURTS

| | | Adjustments or | |
|----|------------------------------------|---------------------|----------------------|
| | <u>Base Level</u> | <u>Enhancements</u> | <u>Appropriation</u> |
| 4 | | | |
| 5 | Salaries and wages | \$5,810,396 | \$73,413,024 |
| 6 | Operating expenses | (434,305) | 20,446,902 |
| 7 | Capital assets | 189,852 | 189,852 |
| 8 | Judges' retirement | (62,958) | 280,332 |
| 9 | University of North Dakota central | <u>(40,000)</u> | <u>0</u> |
| 10 | legal research | | |
| 11 | Total all funds | \$5,462,985 | \$94,330,110 |
| 12 | Less estimated income | <u>320,458</u> | <u>1,659,596</u> |
| 13 | Total general fund | \$5,142,527 | \$92,670,514 |

14 Subdivision 3.

15 JUDICIAL CONDUCT COMMISSION AND DISCIPLINARY BOARD

| | | Adjustments or | |
|----|---------------------------------|---------------------|----------------------|
| | <u>Base Level</u> | <u>Enhancements</u> | <u>Appropriation</u> |
| 16 | | | |
| 17 | | | |
| 18 | Judicial conduct commission and | <u>\$76,140</u> | <u>\$1,250,962</u> |
| 19 | disciplinary board | | |
| 20 | Total all funds | \$76,140 | \$1,250,962 |
| 21 | Less estimated income | <u>0</u> | <u>482,701</u> |
| 22 | Total general fund | \$76,140 | \$768,261 |

23 Subdivision 4.

24 BILL TOTAL

| | | Adjustments or | |
|----|--------------------------------|---------------------|----------------------|
| | <u>Base Level</u> | <u>Enhancements</u> | <u>Appropriation</u> |
| 25 | | | |
| 26 | | | |
| 27 | Grand total general fund | \$5,541,029 | \$107,798,799 |
| 28 | Grand total special funds | <u>1,290,458</u> | <u>3,112,297</u> |
| 29 | Grand total all funds | \$6,831,487 | \$110,911,096 |
| 30 | Full-time equivalent positions | 8.50 | 364.00 |

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

32 **ASSEMBLY.** The following amounts reflect one-time funding items approved by the sixty-fifth

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1 legislative assembly for the 2017-19 biennium and the 2019-21 biennium one-time funding
2 items included in section 1 of this Act:

| 3 | <u>One-Time Funding Description</u> | <u>2017-19</u> | <u>2019-21</u> |
|----|-------------------------------------|------------------|----------------|
| 4 | Pipeline protest trials | \$1,500,000 | \$0 |
| 5 | Copy machines | 0 | 82,500 |
| 6 | Audio and visual equipment | 0 | 114,852 |
| 7 | Law library remodel | <u>0</u> | <u>970,000</u> |
| 8 | Total all funds | \$1,500,000 | \$1,167,352 |
| 9 | Less estimated income | <u>1,500,000</u> | <u>970,000</u> |
| 10 | Total general fund | \$0 | \$197,352 |

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. ESTIMATED INCOME - CAPITOL BUILDING FUND - LEGISLATIVE INTENT.**

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

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

23 **27-02-02. Salaries of justices of supreme court.**

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

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

3 **27-02.1-01. Temporary court of appeals established - Jurisdiction - Writ authority -**
4 **Administration. (Effective through January 1, ~~2020~~2024)**

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

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

12 **27-02.1-02. Number, assignment, and compensation of judges. (Effective through**
13 **January 1, ~~2020~~2024)**

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

1 for a regularly elected or appointed justice of the supreme court, or one-half of the
2 daily compensation for services of one-half day or less. The compensation must be
3 paid upon certification by the judge that the services were performed for the number of
4 days shown on the certificate and must be paid in the same manner as the salaries of
5 the regularly elected or appointed judges are paid.

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

8 **27-02.1-03. Assignment and reassignment of cases - Quorum for decision of cases -**
9 **Authority in furtherance of jurisdiction. (Effective through January 1, ~~2020~~2024)**

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

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

23 **27-02.1-04. Administration - Employees and clerical assistance - Court of record -**
24 **Place of sessions. (Effective through January 1, ~~2020~~2024)**

- 25 1. The clerk of the supreme court shall provide clerk services to panels of the temporary
26 court of appeals.
- 27 2. Panels of the temporary court of appeals may hold court in any place the panel
28 considers convenient and efficient for conducting its business.
- 29 3. All proceedings of the panels of the temporary court of appeals must be pursuant to
30 the rules adopted by the supreme court.

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

3 **27-02.1-05. Chief judge. (Effective through January 1, ~~2020~~2024)**

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

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

8 **27-02.1-06. Review of decisions of panels. (Effective through January 1, ~~2020~~2024)**

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

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

17 **27-02.1-07. Right to appeal not created. (Effective through January 1, ~~2020~~2024)**

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

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

23 **27-02.1-08. Unitary appeal - Filing of appeal - Filing fee. (Effective through January 1,**
24 **~~2020~~2024)**

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

28 **SECTION 13. AMENDMENT.** Section 27-02.1-09 of the North Dakota Century Code is
29 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 two hundred
9 sixty-nine dollars through June 30, 2020, and ~~one hundred forty-three thousand eight hundred~~
10 ~~sixty-nine~~one hundred forty-nine thousand nine hundred twenty-six dollars thereafter. Each
11 district judge is entitled to travel expenses, including mileage and subsistence while engaged in
12 the discharge of official duties outside the city in which the judge's chambers are located. The
13 salary and expenses are payable monthly in the manner provided by law. A presiding judge of a
14 judicial district is entitled to receive an additional ~~four thousand thirty-five dollars per annum~~
15 ~~through June 30, 2016~~four thousand one hundred fifty-six dollars per annum through June 30,
16 2020, and ~~four thousand one hundred fifty-six~~four thousand two hundred sixty dollars thereafter.

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

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

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

1 **SECTION 18. EMERGENCY.** The \$970,000 appropriated from the capitol building fund in
2 section 1 to remodel the law library space and section 3 of this Act are declared to be an
3 emergency measure.