

SENATE BILL NO. 2002

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 14-08.1-08, 14-09-08.1, 14-09-08.2, 14-09-09.29, 14-09-26,
 3 27-02-02, and 27-05-03 and subsection 2 of section 50-09-02.1 of the North Dakota Century
 4 Code, relating to clerk of court responsibilities regarding child support, salaries of justices of the
 5 supreme court, and salaries of district court judges; to provide for a report; to provide a
 6 statement of legislative intent; and to provide an exemption.

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, 2021, and ending June 30, 2023, as follows:

13 Subdivision 1.

14 SUPREME COURT

	<u>Governor's</u>		
	<u>Base Level</u>	<u>Recommendation</u>	<u>Appropriation</u>
15 <u>Salaries and wages</u>	<u>\$11,338,720</u>	<u>\$11,283,059</u>	<u>\$11,338,720</u>
16 <u>Operating expenses</u>	<u>2,705,762</u>	<u>3,106,024</u>	<u>2,705,762</u>
17 <u>Capital assets</u>	<u>0</u>	<u>2,032,000</u>	<u>0</u>
18 <u>Guardianship monitoring program</u>	<u>283,042</u>	<u>288,504</u>	<u>283,042</u>
19 <u>Total all funds</u>	<u>\$14,327,524</u>	<u>\$16,709,587</u>	<u>\$14,327,524</u>
20 <u>Less estimated incomes</u>	<u>0</u>	<u>0</u>	<u>0</u>
21 <u>Total general fund</u>	<u>\$14,327,524</u>	<u>\$16,709,587</u>	<u>\$14,327,524</u>
22	<u>Adjustments or</u>		
23			
24			

Sixty-seventh
Legislative Assembly

	Base Level	Enhancements	Appropriation
1			
2	\$11,338,720	(\$102,613)	\$11,236,107
3	2,705,762	(355,668)	2,350,094
4	0	2,032,000	2,032,000
5	283,042	4,112	287,154
6	\$14,327,524	\$1,577,831	\$15,905,355
7	0	0	0
8	\$14,327,524	\$1,577,831	\$15,905,355

Subdivision 2.

DISTRICT COURTS

Governor's			
	Base Level	Recommendation	Appropriation
11			
12			
13	\$73,242,268	\$77,652,837	\$73,242,268
14	20,396,902	19,931,156	20,396,902
15	0	2,328,000	0
16	280,332	214,246	280,332
17	\$93,919,502	\$100,126,239	\$93,919,502
18	1,659,596	1,691,958	1,659,596
19	\$92,259,906	\$98,434,281	\$92,259,906

~~Adjustments or~~

	Base Level	Enhancements	Appropriation
20			
21			
22	\$73,242,268	\$3,911,435	\$77,153,703
23	20,396,902	755,340	21,152,242
24	0	2,328,000	2,328,000
25	280,332	(143,086)	137,246
26	\$93,919,502	\$6,851,689	\$100,771,191
27	1,659,596	32,314	1,691,910
28	\$92,259,906	\$6,819,375	\$99,079,281

Subdivision 3.

JUDICIAL CONDUCT COMMISSION AND DISCIPLINARY BOARD

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Governor's			
	Base Level	Recommendation	Appropriation
Judicial conduct commission and	\$1,250,962	\$1,325,843	\$1,250,962
—disciplinary board			
Total all funds	\$1,250,962	\$1,325,843	\$1,250,962
Less estimated income	482,701	502,500	482,701
Total general fund	\$768,261	\$823,343	\$768,261
Adjustments or			
	Base Level	Enhancements	Appropriation
Judicial conduct commission and	\$1,250,962	\$69,235	\$1,320,197
—disciplinary board			
Total all funds	\$1,250,962	\$69,235	\$1,320,197
Less estimated income	482,701	19,799	502,500
Total general fund	\$768,261	\$49,436	\$817,697

Subdivision 4.

BILL TOTAL

Governor's			
	Base Level	Recommendation	Appropriation
Grand total general fund	\$107,355,691	\$115,967,211	\$107,355,691
Grand total special funds	2,142,297	2,194,458	2,142,297
Grand total all funds	\$109,497,988	\$118,161,669	\$109,497,988
Full-time equivalent positions	363.00	363.00	363.00
Adjustments or			
	Base Level	Enhancements	Appropriation
Grand total general fund	\$107,355,691	\$8,446,642	\$115,802,333
Grand total special funds	2,142,297	52,113	2,194,410
Grand total all funds	\$109,497,988	\$8,498,755	\$117,996,743
Full-time equivalent positions	363.00	(1.50)	361.50

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO

SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect one-time funding

1 items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the
2 2021-23 biennium one-time funding items included in section 1 of this Act:

3	<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
4	Copy machines	\$82,500	\$0
5	Audio and visual equipment	64,852	0
6	Law library remodel	970,000	0
7	Total all funds	\$1,117,352	\$0
8	Less estimated income	970,000	0
9	Total general fund	\$147,352	\$0
10	<u>Docket management system</u>	<u>\$0</u>	<u>\$2,000,000</u>
11	<u>Juvenile case management system</u>	<u>0</u>	<u>2,000,000</u>
12	<u>Zoom remote video equipment</u>	<u>0</u>	<u>360,000</u>
13	<u>Wi-fi access points</u>	<u>0</u>	<u>157,600</u>
14	<u>Copy machines</u>	<u>82,500</u>	<u>0</u>
15	<u>Audio and visual equipment</u>	<u>64,852</u>	<u>0</u>
16	<u>Law library remodel</u>	<u>970,000</u>	<u>0</u>
17	<u>Total all funds</u>	<u>\$1,117,352</u>	<u>\$4,517,600</u>
18	<u>Less estimated income</u>	<u>970,000</u>	<u>0</u>
19	<u>Total general fund</u>	<u>\$147,352</u>	<u>\$4,517,600</u>

20 The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget
21 for the 2023-25 biennium. The supreme court shall report to the appropriations committees of
22 the sixty-eighth legislative assembly on the use of this one-time funding for the biennium
23 beginning July 1, 2021, and ending June 30, 2023.

24 **SECTION 3. APPROPRIATION.** There are appropriated any funds received by the supreme
25 court, district courts, and judicial conduct commission and disciplinary board, not otherwise
26 appropriated, pursuant to federal acts and private gifts, grants, and donations for the purpose
27 as designated in the federal acts or private gifts, grants, and donations for the period beginning
28 July 1, 2021, and ending June 30, 2023.

29 **SECTION 4. EXEMPTION - TRANSFERS.** Notwithstanding section 54-16-04, the director
30 of the office of management and budget shall transfer appropriation authority between line items
31 in section 1 of this Act as requested by the supreme court upon a finding by the court that the

1 nature of the duties of the court and its staff requires the transfers to carry on properly the
2 functions of the judicial branch of government.

3 **SECTION 5. AMENDMENT.** Section 14-08.1-08 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **14-08.1-08. Certification of records.**

6 ~~The clerk of court and any~~An authorized agent of the child support agency, in any
7 circumstance or proceeding requiring proof of the contents of the official records of the state
8 regarding any information maintained in the state case registry of the automated data
9 processing system established under section 50-09-02.1, may certify the content of those
10 records. A certification provided under this section is prima facie evidence of the contents of
11 those records.

12 **SECTION 6. AMENDMENT.** Section 14-09-08.1 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **14-09-08.1. Support payments - Payment to state disbursement unit - Transfer of**
15 **proceedings for enforcement of decree - Procedures upon failure to pay.**

- 16 1. In any action in which a court orders that payments for child support be made, the
17 court shall provide in its order that the payments be paid to the state disbursement unit
18 for remittance to the obligee.
- 19 2. a. Each party subject to the order shall immediately inform the state disbursement
20 unit of the party's:
- 21 (1) Social security number;
 - 22 (2) Residential and mailing addresses and any change of address;
 - 23 (3) Telephone number;
 - 24 (4) Motor vehicle operator's license number;
 - 25 (5) Employer's name, address, and telephone number;
 - 26 (6) Electronic mail address; and
 - 27 (7) Change of any other condition which may affect the proper administration of
28 this chapter.
- 29 b. Each order for payment of child support must notify each party of the
30 requirements in subdivision a and require the party to provide the information

1 within ten days from the date of the order or ten days after any change in the
2 information.

3 c. In any subsequent child support enforcement or modification action between the
4 parties, upon sufficient showing that diligent effort has been made to ascertain
5 the location of a party, the court shall deem due process requirements for notice
6 and service to have been met, with respect to the noticed party, by delivery of
7 written notice to the most recent residential or employer address provided by the
8 noticed party pursuant to this subsection.

9 d. The requirements of this subsection continue in effect until all child support
10 obligations have been satisfied with respect to each child subject to the order.

11 3. Whenever there is failure to make the payments as required, the clerk of court ~~may,~~
12 ~~and~~ upon request of the obligee or child support agency shall, send notice of the
13 arrears by first-class mail, with affidavit of service, to the person required to make the
14 payments, or request a district judge of the judicial district to issue a citation for
15 contempt of court against the person who has failed to make the payments. The
16 citation may be served on that person by first-class mail with affidavit of service to the
17 person's last-known address.

18 4. The court of its own motion or on motion of the child support agency or the state's
19 attorney of the county of venue, the county of the recipient's residence, or the county
20 of the obligor's residence may cause a ~~certified copy of any~~ support order in the action
21 to be transcribed and filed with the clerk of the district court of any county in this state
22 in which the obligee or the obligor may reside from time to time. Thereafter, this
23 section applies as if the support order were issued by the district court of the county to
24 which the support order is transcribed. No fee may be charged for transcribing or filing
25 a ~~certified copy of any~~ support order under this section.

26 **SECTION 7. AMENDMENT.** Section 14-09-08.2 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **14-09-08.2. Support for children after majority - Retroactive application.**

29 1. A judgment or order requiring the payment of child support until the child attains
30 majority continues as to the child until the end of the month during which the child is

1 graduated from high school or attains the age of nineteen years, whichever occurs
2 first, if:

3 a. The child is enrolled and attending high school and is eighteen years of age ~~prior-~~
4 ~~to~~before the date the child is expected to be graduated; and

5 b. The child resides with the person to whom the duty of support is owed.

6 2. A judgment or order may require payment of child support after majority under
7 substantially the circumstances described in subsection 1.

8 3. The person to whom the duty of support is owed under either subsection 1 or 2 may
9 file an affidavit with the district court and provide a copy to the child support agency
10 stating that the requirements of subsection 1 are met, the school in which the child is
11 enrolled, and the anticipated date of the child's graduation. Upon filing of the affidavit,
12 the child support resumes pursuant to subsection 1 or pursuant to the terms of a
13 judgment or order described in subsection 2. A fee may not be charged for filing such
14 an affidavit.

15 4. The ~~clerk of court~~child support agency shall serve the affidavit by first-class mail upon
16 the person owing the duty of support. If at any time thereafter the person owing the
17 duty of support files a motion with the court, supported by that person's affidavit that
18 the child is no longer enrolled in or attending high school or is no longer residing with
19 the person to whom the duty of support is owed, the court shall determine if the child is
20 enrolled in and attending high school and residing with the person to whom the duty of
21 support is owed and shall enter an order accordingly.

22 5. This section applies to child support orders concerning children described in
23 subsection 1 or 2, regardless of the date of entry of the order.

24 6. This section does not preclude the entry of an order for child support which continues
25 after the child reaches age eighteen, if the parties agree, or if the court determines the
26 support to be appropriate.

27 7. For purposes of this section:

28 a. A child is treated as being in school during summer vacation if the child was
29 enrolled in and attending school and did not graduate from high school at the end
30 of the school period immediately preceding the summer vacation; and

- 1 b. A child who is currently enrolled in school is not considered to have graduated,
2 even if all required coursework and examinations have been completed, until the
3 ceremony is held by the school to commemorate the child's graduation.

4 **SECTION 8. AMENDMENT.** Section 14-09-09.29 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **14-09-09.29. Coordination of income withholding activities and child support case**
7 **management.**

8 The child support agency ~~shall assume responsibility~~ is responsible for administration of
9 income withholding, managing accrual and termination dates and payment ledger adjustments
10 on the automated system established under section 50-09-02.1, and the receipt and
11 disbursement of child support payments. This section also applies to an order that does not
12 require the payment of child support but requires the payment of spousal support, if the court
13 orders the spousal support be paid through the state disbursement unit or be enforced through
14 income withholding.

15 **SECTION 9. AMENDMENT.** Section 14-09-26 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **14-09-26. Modification of existing child support orders.**

18 1. A child support order issued under any provision of this code and in effect on
19 October 1, 1998, is deemed to require payment to the state disbursement unit after
20 September 30, 1998.

21 2. A child support order issued under any provision of this code after September 30,
22 1998, must require payment to the state disbursement unit.

23 ~~3. A payment of child support received by a clerk of court after September 30, 1998, is~~
24 ~~deemed to be a payment to the state disbursement unit. A clerk of court receiving such~~
25 ~~child support payment after September 30, 1998, shall promptly remit or transfer that~~
26 ~~payment to the state disbursement unit.~~

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

29 **27-02-02. Salaries of justices of supreme court.**

30 The annual salary of each justice of the supreme court is ~~one hundred fifty nine thousand~~
31 ~~four hundred nine dollars through June 30, 2020~~ one hundred sixty-six thousand six hundred

1 ~~sixty-two dollars through June 20, 2022~~, and ~~one hundred sixty-three thousand three hundred~~
2 ~~ninety-four~~one hundred sixty-nine thousand nine hundred ninety-five dollars thereafter. The
3 chief justice of the supreme court is entitled to receive an additional ~~four thousand five hundred~~
4 ~~eight dollars per annum through June 30, 2020~~four thousand seven hundred thirteen dollars per
5 annum through June 30, 2022, and ~~four thousand six hundred twenty-one~~four thousand eight
6 hundred seven dollars per annum thereafter.

7 **SECTION 11. AMENDMENT.** Section 27-05-03 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **27-05-03. Salaries and expenses of district judges.**

10 The annual salary of each district judge is ~~one hundred forty-six thousand two hundred~~
11 ~~sixty-nine dollars through June 30, 2020~~one hundred fifty-two thousand nine hundred
12 twenty-five dollars through June 30, 2022, and ~~one hundred forty-nine thousand nine hundred~~
13 ~~twenty-six~~one hundred fifty-five thousand nine hundred eighty-four dollars thereafter. Each
14 district judge is entitled to travel expenses, including mileage and subsistence while engaged in
15 the discharge of official duties outside the city in which the judge's chambers are located. The
16 salary and expenses are payable monthly in the manner provided by law. A presiding judge of a
17 judicial district is entitled to receive an additional ~~four thousand one hundred fifty-six dollars per~~
18 ~~annum through June 30, 2020~~four thousand three hundred forty-five dollars per annum through
19 June 30, 2022, and ~~four thousand two hundred sixty~~four thousand four hundred thirty-two
20 dollars thereafter.

21 **SECTION 12. AMENDMENT.** Subsection 2 of section 50-09-02.1 of the North Dakota
22 Century Code is amended and reenacted as follows:

- 23 2. The state agency shall establish a statewide automated data processing system
24 designed to conform to requirements imposed by or under title IV-D. ~~The state agency~~
25 ~~must make that system available for the use of clerks of court in carrying out their~~
26 ~~duties under section 14-09-08.1.~~ The official records of the state regarding all child
27 support amounts owed, collected, and distributed must be maintained in that system.
28 Notwithstanding section 14-08.1-05, any record of a child support obligation that is
29 currently being enforced in another jurisdiction and not by a child support agency, that
30 is owed by an obligor who is deceased, or that is owed to a deceased obligee for
31 whom disbursement of any collections could not occur under section 14-09-25, may

1 be removed indefinitely from the statewide automated data processing system until a
2 request is received from a party to the child support case to restore those records.

3 **SECTION 13. LEGISLATIVE INTENT - INFORMATION TECHNOLOGY PROJECTS.** It is
4 the intent of the sixty-seventh legislative assembly that the judicial branch pursue the use of
5 federal funds from the coronavirus relief fund to defray the cost of remote video equipment and
6 district court wi-fi access points.