

**Sixty-sixth Legislative Assembly of North Dakota
In Regular Session Commencing Thursday, January 3, 2019**

HOUSE BILL NO. 1002
(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the judicial branch; to amend and reenact sections 27-02-02, 27-02.1-01, 27-02.1-02, 27-02.1-03, 27-02.1-04, 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 Century Code, relating to salaries of justices of the supreme court, the temporary court of appeals, and salaries of district judges; to provide for a report; to provide for a transfer; to provide a statement of legislative intent; to provide for a study; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the judicial branch for the purpose of defraying the expenses of the judicial 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>
Salaries and wages	\$10,909,112	\$429,608	\$11,338,720
Operating expenses	2,731,582	(25,820)	2,705,762
Capital assets	0	977,500	977,500
Judges' retirement	80,764	(80,764)	0
Guardianship monitoring program	316,204	(33,162)	283,042
Total all funds	\$14,037,662	\$1,267,362	\$15,305,024
Less estimated income	0	970,000	970,000
Total general fund	\$14,037,662	\$297,362	\$14,335,024

Subdivision 2.

DISTRICT COURTS

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$67,602,628	\$5,639,640	\$73,242,268
Operating expenses	20,881,207	(484,305)	20,396,902
Capital assets	0	139,852	139,852
Judges' retirement	343,290	(62,958)	280,332
University of North Dakota central legal research	40,000	(40,000)	0
Total all funds	\$88,867,125	\$5,192,229	\$94,059,354
Less estimated income	1,339,138	320,458	1,659,596
Total general fund	\$87,527,987	\$4,871,771	\$92,399,758

Subdivision 3.

JUDICIAL CONDUCT COMMISSION AND DISCIPLINARY BOARD

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
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	<u>482,701</u>	<u>0</u>	<u>482,701</u>
Total general fund	\$692,121	\$76,140	\$768,261

Subdivision 4.

BILL TOTAL

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Grand total general fund	\$102,257,770	\$5,245,273	\$107,503,043
Grand total special funds	<u>1,821,839</u>	<u>1,290,458</u>	<u>3,112,297</u>
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:

<u>One-Time Funding Description</u>	<u>2017-19</u>	<u>2019-21</u>
Pipeline protest trials	\$1,500,000	\$0
Copy machines	0	82,500
Audio and visual equipment	0	64,852
Law library remodel	<u>0</u>	<u>970,000</u>
Total all funds	\$1,500,000	\$1,117,352
Less estimated income	<u>1,500,000</u>	<u>970,000</u>
Total general fund	\$0	\$147,352

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

SECTION 3. ESTIMATED INCOME - CAPITOL BUILDING FUND - LEGISLATIVE INTENT. The estimated income line item in subdivision 1 of section 1 of this Act includes \$970,000 of one-time funding from the capitol building fund to remodel the supreme court law library space in the judicial wing of the state capitol. It is the intent of the sixty-sixth legislative assembly that any remodel of judicial wing space result in at least two study rooms remaining in the judicial wing for use by attorneys appearing in cases before the supreme court.

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

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

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

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

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

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

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

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

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

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

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

1. Panels of the temporary court of appeals have jurisdiction to hear and to decide all cases assigned by the supreme court.
2. The supreme court may order reassignment of any case from a panel of the temporary court of appeals to the supreme court.
3. A majority of the three judges of a panel of the temporary court of appeals hearing a case is necessary to pronounce a decision.

4. When a judgment or order is reversed, modified, or confirmed by a panel of the temporary court of appeals, the reasons must be concisely stated in writing, signed by the judges concurring, filed in the office of the clerk of the supreme court, and preserved with the record of the case. Any judge concurring or dissenting may give the reasons for the judge's concurrence or dissent in writing over the judge's signature.

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

27-02.1-04. Administration - Employees and clerical assistance - Court of record - Place of sessions. (Effective through January 1, 20202024)

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

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

27-02.1-05. Chief judge. (Effective through January 1, 20202024)

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

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

27-02.1-06. Review of decisions of panels. (Effective through January 1, 20202024)

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

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

27-02.1-07. Right to appeal not created. (Effective through January 1, 20202024)

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

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

27-02.1-08. Unitary appeal - Filing of appeal - Filing fee. (Effective through January 1, 20202024)

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

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

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

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

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

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

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

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

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

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

SECTION 18. JUDICIAL BRANCH STUDY - DISTRICT COURT REPORTERS - REPORT. During the 2019-20 interim, the judicial branch shall study the need for one full-time equivalent court reporter position for each district court judgeship. The judicial branch shall report the results of its study to the budget section by December 31, 2020.

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

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1002 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 83 Nays 9 Absent 2

Speaker of the House

Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 47 Nays 0 Absent 0

President of the Senate

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2019.

Approved at _____ M. on _____, 2019.

Governor

Filed in this office this _____ day of _____, 2019,
at _____ o'clock _____ M.

Secretary of State