

Senate Bill 2045
House Judiciary Committee
Testimony Presented by Sara Behrens
March 1, 2023

Good morning Chair Klemin, members of the committee. My name is Sara Behrens and I am a staff attorney with the State Court Administrator's Office. I am here today in support of Senate Bill 2045.

The North Dakota Court of Appeals was established in 1987 and has been re-authorized every 4-5 years since then. The Supreme Court may call the Court of Appeals into service after certifying to the governor that the court has disposed of 250 cases within the preceding 12 months or for the purpose of handling one or more specific cases.

Judges on the Court of Appeals are appointed by the Supreme Court and may be active or retired district court judges, retired justices of the supreme court, or lawyers. When in session, they are paid a daily rate of 5% of the gross monthly salary of the justices for a full day of work (currently \$704.84) or one-half of the daily rate for a half-day or less of service.

Despite the Supreme Court having an average of 400 case filings per year, the Court of Appeals is rarely used. Since 1987, it has issued only 90 opinions. The last time we needed the Court of Appeals was in August 2007. Although it has had limited use, the Court of Appeals is an important component of our judicial system. The Court of Appeals has primarily been used when there is a vacancy on the court due to illness or retirement or when the lawsuit involved creates a conflict of interest for one or more justices.

Because they feared that the Court of Appeals might be called into session every time the Supreme Court reached the 250 case threshold, the legislature put a 5-year sunset clause on all of

the statutes in Ch. 27-02.1. We now have 36 years of history behind us and I think we have proved the concept, and proven that we have not abused the privilege of having a Court of Appeals. Therefore, we have proposed increasing the sunset to 10 years.

Thank you for your consideration and we urge a do pass.