

## 2005 Neb. LB 348

AN ACT relating to the legal system; to amend sections 25-1140.09, 33-103, 33-106, 33-106.02, 33-107.01, 33-123 to 33-125, 33-126.02, 33-126.03, 33-126.05, 33-126.06, 33-156, and 64-108, Reissue Revised Statutes of Nebraska, and sections 24-201.01, 24-703, and 25-2804, Revised Statutes Supplement, 2004; to change provisions relating to judges' salaries and retirement, court reporters, court fees, and notaries public; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

*Be it enacted by the people of the State of Nebraska,*

Section 1. Section 24-201.01, Revised Statutes Supplement, 2004, is amended to read:  
24-201.01. [D] On July 1, 2000, the salary of the Chief Justice and judges of the Supreme Court shall be one hundred eleven thousand three dollars. On July 1, 2001, the salary of the Chief Justice and the judges of the Supreme Court shall be one hundred fourteen thousand three hundred fifty-eight dollars. <D] On July 1, 2002, the salary of the Chief Justice and judges of the Supreme Court shall be one hundred nineteen thousand two hundred seventy-six dollars. [A] ON JULY 1, 2005, THE SALARY OF THE CHIEF JUSTICE AND THE JUDGES OF THE SUPREME COURT SHALL BE ONE HUNDRED TWENTY-TWO THOUSAND EIGHT HUNDRED FIFTY-FOUR DOLLARS. ON JULY 1, 2006, THE SALARY OF THE CHIEF JUSTICE AND THE JUDGES OF THE SUPREME COURT SHALL BE ONE HUNDRED TWENTY-SIX THOUSAND EIGHT HUNDRED FORTY-SIX DOLLARS. <A]

The Chief Justice and the judges of the Supreme Court shall hold no other public office of profit or trust during their terms of office nor accept any public appointment or employment under the authority of the government of the United States for which they receive compensation for their services. Such salaries shall be payable in equal monthly installments.

Sec. 2. Section 24-703, Revised Statutes Supplement, 2004, is amended to read:

24-703. (1) Each original member shall contribute monthly four percent of his or her monthly compensation to the fund until the maximum benefit as limited in subsection (1) of section 24-710 has been earned. It shall be the duty of the Director of Administrative Services in accordance with subsection (10) of this section to make a deduction of four percent on the monthly payroll of each original member who is a judge of the Supreme Court, a judge of the Court of Appeals, a judge of the district court, a judge of a separate juvenile court, a judge of the county court, a clerk magistrate of the county court who was an associate county judge and a member of the fund at the time of his or her appointment as a clerk magistrate, or a judge of the Nebraska Workers' Compensation Court showing the amount to be deducted and its credit to the fund. The Director of Administrative Services and the State Treasurer shall credit the four percent as shown on the payroll and the amounts received from the various counties to the fund and remit the same to the director in charge of the judges retirement system who shall keep an accurate record of the contributions of each judge.

(2)(a) Beginning on July 1, 2004, each future member who has not elected to make contributions and receive benefits as provided in section 24-703.03 shall contribute monthly six percent of his or her monthly compensation to the fund until the maximum benefit as limited in subsection (2) of section 24-710 has been earned. After the maximum benefit as limited in subsection (2) of

section 24-710 has been earned, such future member shall make no further contributions to the fund, except that any time the maximum benefit is changed, a future member who has previously earned the maximum benefit as it existed prior to the change shall contribute monthly six percent of his or her monthly compensation to the fund until the maximum benefit as changed and as limited in subsection (2) of section 24-710 has been earned.

(b) Beginning on July 1, 2004, a judge who first serves as a judge on or after such date or a future member who elects to make contributions and receive benefits as provided in section 24-703.03 shall contribute monthly eight percent of his or her monthly compensation to the fund until the maximum benefit as limited by subsection (2) of section 24-710 has been earned. After the maximum benefit as limited in subsection (2) of section 24-710 has been earned, such judge or future member shall contribute monthly four percent of his or her monthly compensation to the fund for the remainder of his or her active service.

(c) It shall be the duty of the Director of Administrative Services to make a deduction on the monthly payroll of each such future member who is a judge of the Supreme Court, a judge of the Court of Appeals, a judge of the district court, a judge of a separate juvenile court, a judge of the county court, a clerk magistrate of the county court who was an associate county judge and a member of the fund at the time of his or her appointment as a clerk magistrate, or a judge of the Nebraska Workers' Compensation Court showing the amount to be deducted and its credit to the fund. This shall be done each month. The Director of Administrative Services and the State Treasurer shall credit the amount as shown on the payroll and the amounts received from the various counties to the fund and remit the same to the director in charge of the judges retirement system who shall keep an accurate record of the contributions of each judge.

(3) A Nebraska Retirement Fund for Judges fee of five dollars shall be taxed as costs in each [A> (A) <A] civil cause of action, criminal cause of action, traffic misdemeanor or infraction, and city or village ordinance violation filed in the district courts [A> , <A] [D> and <D] the county courts [A> , AND THE SEPARATE JUVENILE COURTS, (B) FILING IN THE DISTRICT COURT OF AN ORDER, AWARD, OR JUDGMENT OF THE NEBRASKA WORKERS' COMPENSATION COURT OR ANY JUDGE THEREOF PURSUANT TO SECTION 48-188, (C) APPEAL OR OTHER PROCEEDING FILED IN THE COURT OF APPEALS, AND (D) ORIGINAL ACTION, APPEAL, OR OTHER PROCEEDING FILED IN THE SUPREME COURT <A] . In county courts a sum shall be charged which is equal to ten percent of each fee provided by sections 33-125, 33-126.02, 33-126.03, and 33-126.06 [A> , ROUNDED TO THE NEAREST EVEN DOLLAR <A] . No judges retirement fee shall be charged for filing a report pursuant to sections 33-126.02 and 33-126.06. When collected by the clerk of the district or county court, such fees shall be paid to the director in charge of the judges retirement system on forms prescribed by the board by the clerk within ten days after the close of each calendar quarter. Such director shall promptly thereafter remit the same to the State Treasurer for credit to the fund. No Nebraska Retirement Fund for Judges fee which is uncollectible for any reason shall be waived by a county judge as provided in section 29-2709.

(4) All expenditures from the fund shall be authorized by voucher in the manner prescribed in section 24-713. The fund shall be used for the payment of all annuities and other benefits and for the expenses of administration.

(5) The fund shall consist of the total fund as of December 25, 1969, the contributions of members as provided in this section, all supplementary court fees as provided in subsection (3) of this section, and any required contributions of the state.

(6) Not later than January 1 of each year, the State Treasurer shall transfer to the fund the amount certified by the board as being necessary to pay the cost of any benefits accrued during the fiscal year ending the previous June 30 in excess of member contributions for that fiscal year and court fees as provided in subsection (3) of this section [D> , <D] [A> AND FEES PURSUANT TO SECTIONS 25-2804, 33-103, 33-106, 33-106.02, 33-123, 33-125, 33-126.02, 33-126.03, AND 33-126.06 AND SECTION 6 OF THIS ACT AND DIRECTED TO BE REMITTED TO THE FUND, <A] if any, for that fiscal year plus any required contributions of the state as provided in subsection (9) of this section.

(7) Benefits under the retirement system to members or to their beneficiaries shall be paid from the fund.

(8) Any member who is making contributions to the fund on December 25, 1969, may, on or before June 30, 1970, elect to become a future member by delivering written notice of such election to the board.

(9) Not later than January 1 of each year, the State Treasurer shall transfer to the fund an amount, determined on the basis of an actuarial valuation as of the previous June 30 and certified by the board, to fully fund the unfunded accrued liabilities of the retirement system as of June 30, 1988, by level payments up to January 1, 2000. Such valuation shall be on the basis of actuarial assumptions recommended by the actuary, approved by the board, and kept on file with the board. For the fiscal year beginning July 1, 2002, and each fiscal year thereafter, the actuary for the board shall perform an actuarial valuation of the system using the entry age actuarial cost method. Under this method, the actuarially required funding rate is equal to the normal cost rate, plus the contribution rate necessary to amortize the unfunded actuarial accrued liability on a level payment basis. The normal cost under this method shall be determined for each individual member on a level percentage of salary basis. The normal cost amount is then summed for all members. The initial unfunded actual accrued liability as of July 1, 2002, if any, shall be amortized over a twenty-five-year period. During each subsequent actuarial valuation, changes in the funded actuarial accrued liability due to changes in benefits, actuarial assumptions, the asset valuation method, or actuarial gains or losses shall be measured and amortized over a twenty-five-year period beginning on the valuation date of such change. If the unfunded actuarial accrued liability under the entry age actuarial cost method is zero or less than zero on an actuarial valuation date, then all prior unfunded actuarial accrued liabilities shall be considered fully funded and the unfunded actuarial accrued liability shall be reinitialized and amortized over a twenty-five-year period as of the actuarial valuation date. If the actuarially required contribution rate exceeds the rate of all contributions required pursuant to the Judges Retirement Act, there shall be a supplemental appropriation sufficient to pay for the differences between the actuarially required contribution rate and the rate of all contributions required pursuant to the Judges Retirement Act.

(10) The state or county shall pick up the member contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal

Revenue Code as defined in section 49-801.01, except that the state or county shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the code, these contributions shall not be included as gross income of the member until such time as they are distributed or made available. The state or county shall pay these member contributions from the same source of funds which is used in paying earnings to the member. The state or county shall pick up these contributions by a compensation deduction through a reduction in the compensation of the member. Member contributions picked up shall be treated for all purposes of the Judges Retirement Act in the same manner and to the extent as member contributions made prior to the date picked up.

Sec. 3. Section 25-1140.09, Reissue Revised Statutes of Nebraska, is amended to read:

25-1140.09. On the application of the county attorney or any party to a suit in which a record of the proceedings has been made, upon receipt of the notice provided in section 29-2525, or upon the filing of a praecipe for a bill of exceptions by an appealing party in the office of the clerk of the district court as provided in section 25-1140, the court reporter shall prepare a transcribed copy of the proceedings so recorded or any part thereof. The reporter shall be entitled to receive, in addition to his or her salary, a [A] PER-PAGE [A] fee [A] AS PRESCRIBED BY THE SUPREME COURT [A] [D] of two dollars and seventy-five cents per page [D] for the original copy and [D] fifty cents per page for [D] each [D] other [D] [A] ADDITIONAL [A] copy, to be paid by the party requesting the same except as otherwise provided in this section.

When the transcribed copy of the proceedings is required by the county attorney, the fee therefor shall be paid by the county in the same manner as other claims are paid. When the defendant in a criminal case, after conviction, makes an affidavit that he or she is unable by reason of his or her poverty to pay for such copy, the court or judge thereof may, by order endorsed on such affidavit, direct delivery of such transcribed copy to such defendant, and the fee shall be paid by the county in the same manner as other claims are allowed and paid. When such copy is prepared in any criminal case in which the sentence adjudged is capital, the fees therefor shall be paid by the county in the same manner as other claims are allowed or paid.

The [A] FEE FOR PREPARATION OF A BILL OF EXCEPTIONS AND THE [A] procedure for preparation, settlement, signature, allowance, certification, filing, and amendment of a bill of exceptions shall be regulated and governed by rules of practice prescribed by the Supreme Court. The fee paid shall be taxed, by the clerk of the district court, to the party against whom the judgment or decree is rendered except as otherwise ordered by the presiding district judge.

Sec. 4. Section 25-2804, Revised Statutes Supplement, 2004, is amended to read:

25-2804. (1) Actions in the Small Claims Court shall be commenced by the filing of a claim, personally or by mail, by the plaintiff on a form provided by the clerk of a county court. The claim form shall be executed by the plaintiff in the presence of a judge, a clerk or deputy or assistant clerk of a county court, or a notary public or other person authorized by law to take acknowledgments. If not filed in person, the claim form and appropriate fees shall be mailed by the plaintiff to the court of proper jurisdiction.

(2) At the time of the filing of the claim, the plaintiff shall pay a fee of [D] five dollars [D] [A] SIX DOLLARS AND TWENTY-FIVE CENTS [A] to the clerk. [A] ONE DOLLAR AND

TWENTY-FIVE CENTS OF SUCH FEE SHALL BE REMITTED TO THE STATE TREASURER FOR CREDIT TO THE NEBRASKA RETIREMENT FUND FOR JUDGES. <A]

(3) Upon filing of a claim in the Small Claims Court, the court shall set a time for hearing and shall cause notice to be served upon the defendant. Notice shall be served not less than five days before the time set for hearing. Notice shall consist of a copy of the complaint and a summons directing the defendant to appear at the time set for hearing and informing the defendant that if he or she fails to appear, judgment will be entered against him or her. Notice shall be served in the manner provided for service of a summons in a civil action. If the notice is to be served by certified mail, the clerk shall provide the plaintiff with written instructions, prepared and provided by the State Court Administrator, regarding the proper procedure for service by certified mail. The cost of service shall be paid by the plaintiff, but such cost and filing fee shall be added to any judgment given the plaintiff.

(4) The defendant may file a setoff or counterclaim. Any setoff or counterclaim shall be filed and a copy delivered to the plaintiff at least two days prior to the time of trial. If the setoff or counterclaim exceeds the jurisdictional limits of the Small Claims Court as established pursuant to section 25-2802, the court shall cause the entire matter to be transferred to the regular county court docket and set for trial.

(5) No prejudgment actions for attachment, garnishment, replevin, or other provisional remedy may be filed in the Small Claims Court.

(6) All forms required by this section shall be prescribed by the Supreme Court. The claim form shall provide for the names and addresses of the plaintiff and defendant, a concise statement of the nature, amount, and time and place of accruing of the claim, and an acknowledgment for use by the person in whose presence the claim form is executed and shall also contain a brief explanation of the Small Claims Court procedure and methods of appeal therefrom.

(7) Judgments rendered against a defendant in his or her absence may not be set aside but may only be appealed as governed by section 25-2807.

Sec. 5. Section 33-103, Reissue Revised Statutes of Nebraska, is amended to read:  
33-103. At the time of filing an appeal, original action, or other proceeding in the Court of Appeals or Supreme Court there shall be paid to the clerk the sum of [~~D~~] fifty [~~D~~] [~~A~~] ONE HUNDRED [~~A~~] dollars as a docket fee. [~~A~~] FIFTY DOLLARS OF SUCH FEE SHALL BE REMITTED TO THE STATE TREASURER FOR CREDIT TO THE NEBRASKA RETIREMENT FUND FOR JUDGES. <A]

The clerk shall charge fees for copies of documents and certificates at the rate provided in section 25-1280.

Sec. 6. [~~A~~] AT THE TIME OF FILING A PETITION FOR FURTHER REVIEW TO THE SUPREME COURT FROM THE COURT OF APPEALS, THERE SHALL BE PAID TO THE CLERK THE SUM OF FIFTY DOLLARS AS A DOCKET FEE IN LIEU OF ANY OTHER FILING FEES. THE FEE SHALL BE REMITTED TO THE STATE TREASURER FOR CREDIT TO THE NEBRASKA RETIREMENT FUND FOR JUDGES. <A]



Sec. 7. Section 33-106, Reissue Revised Statutes of Nebraska, is amended to read:

33-106. (1) In addition to the judges retirement fund fee [A] PROVIDED IN SECTION 24-703 <A] and the fee provided in section 33-106.03 and except as otherwise provided by law, the fees of the clerk of the district court shall be as follows: There shall be a docket fee of [D] forty <D] [A] FORTY-TWO <A] dollars for each civil and criminal case except (a) a case commenced by filing a transcript of judgment as hereinafter provided, (b) proceedings under the Nebraska Workers' Compensation Act and the Employment Security Law, when provision is made for the fees that may be charged, and (c) a criminal case appealed to the district court from any court inferior thereto as hereinafter provided. There shall be a docket fee of twenty-five dollars for each case commenced by filing a transcript of judgment from another court in this state for the purpose of obtaining a lien. There shall be a docket fee of [D] twenty-five <D] [A] TWENTY-SEVEN <A] dollars for each criminal case appealed to the district court from any court inferior thereto.

(2) In all cases, other than those appealed from an inferior court or original filings which are within jurisdictional limits of an inferior court and when a jury is demanded in district court, the docket fee shall cover all fees of the clerk, except that the clerk shall be paid for each copy or transcript ordered of any pleading, record, or other paper and that the clerk shall be entitled to a fee of fifteen dollars for making a complete record of a case.

(3) The fee for making a complete record of a case shall be taxed as a part of the costs of the case, except when expressly waived by the parties to the action. In a Title IV-D case, in a case filed pursuant to sections 25-2301 to 25-2310, or in a case filed by a county attorney, the fee for making a complete record of a case shall be waived. In all civil cases, except habeas corpus cases in which a poverty affidavit is filed and approved by the court, and for all other services, the docket fee or other fee shall be paid by the party filing the case or requesting the service at the time the case is filed or the service requested.

(4) For any other service which may be rendered or performed by the clerk but which is not required in the discharge of his or her official duties, the fee shall be the same as that of a notary public but in no case less than one dollar.

Sec. 8. Section 33-106.02, Reissue Revised Statutes of Nebraska, is amended to read:

33-106.02. [A] (1) <A] The clerk of the district court of each county shall not retain for his or her own use any fees, revenue, perquisites, or receipts, fixed, enumerated, or provided in this or any other section of the statutes of the State of Nebraska. The clerk shall on or before the fifteenth day of each month make a report to the county board, under oath, showing the different items of such fees, revenue, perquisites, or receipts received, from whom, at what time, and for what service, and the total amount received by such officer since the last report, and also the amount received for the current year.

[A] (2) <A] The clerk shall account for and pay any fees, revenue, perquisites, or receipts not later than the fifteenth day of the month following the calendar month in which such fees, revenue, perquisites, or receipts were received in the following manner:

[A] (A) <A] [D] (1) <D] Of the [D] forty-dollar <D] [A] FORTY-TWO-DOLLAR <A] docket fee imposed pursuant to section 33-106, five dollars shall be [D] transmitted <D] [A] REMITTED <A] to the State Treasurer [D] who shall deposit the same in <D] [A] FOR CREDIT TO <A] the General Fund [A] AND TWO DOLLARS SHALL BE REMITTED TO

THE STATE TREASURER FOR CREDIT TO THE NEBRASKA RETIREMENT FUND FOR JUDGES <A> ;

[A> (B) OF THE TWENTY-SEVEN-DOLLAR DOCKET FEE IMPOSED FOR APPEAL OF A CRIMINAL CASE TO THE DISTRICT COURT PURSUANT TO SECTION 33-106, TWO DOLLARS SHALL BE REMITTED TO THE STATE TREASURER FOR CREDIT TO THE NEBRASKA RETIREMENT FUND FOR JUDGES; <A] and [D> (2) the <D]

[A> (C) THE <A] remaining fees, revenue, perquisites, or receipts shall be credited to the general fund of the county.

Sec. 9. Section 33-107.01, Reissue Revised Statutes of Nebraska, is amended to read:

33-107.01. A legal services fee of five dollars [A> AND TWENTY-FIVE CENTS <A] shall be taxed as costs in each case filed in each separate juvenile court and district court, including appeals to such courts, and on each case filed in each county court except those filed in county court pursuant to its jurisdiction under [D> subdivision (5) of section 24-517 or <D] section 25-2802. A legal services fee of five dollars [A> AND TWENTY-FIVE CENTS <A] shall be taxed as costs for each appeal and original action filed in the Court of Appeals and the Supreme Court. Such fees shall be remitted to the State Treasurer on forms prescribed by the State Treasurer within ten days after the close of each month for credit to the Legal Aid and Services Fund.

Sec. 10. Section 33-123, Reissue Revised Statutes of Nebraska, is amended to read:

33-123. The county court shall be entitled to the following fees in civil matters: For any and all services rendered up to and including the judgment or dismissal of the action other than for a domestic relations matter, [D> eighteen <D] [A> TWENTY <A] dollars [A> OF WHICH TWO DOLLARS SHALL BE REMITTED TO THE STATE TREASURER FOR CREDIT TO THE NEBRASKA RETIREMENT FUND FOR JUDGES <A] , and for any and all services rendered up to and including the judgment or dismissal of a domestic relations matter, forty dollars; for filing a foreign judgment or a judgment transferred from another court in this state, fifteen dollars; and for writs of execution, writs of restitution, garnishment, and examination in aid of execution, five dollars each.

Sec. 11. Section 33-124, Reissue Revised Statutes of Nebraska, is amended to read:

33-124. In criminal matters, including preliminary and juvenile hearings, the county court shall receive, for any and all services rendered up to and including the judgment or dismissal of the action and the issuance of mittimus or discharge to the jailer, the sum of [D> eighteen <D] [A> TWENTY <A] dollars [A> OF WHICH TWO DOLLARS SHALL BE REMITTED TO THE STATE TREASURER FOR CREDIT TO THE NEBRASKA RETIREMENT FUND FOR JUDGES <A] .

Sec. 12. Section 33-125, Reissue Revised Statutes of Nebraska, is amended to read:

33-125. [A> (1) <A] In probate matters the county court shall be entitled to receive the following fees:

[D> (1) <D] [A> (A) <A] For probate proceedings commenced and closed informally, [D> twenty dollars, <D] [A> TWENTY-TWO DOLLARS OF WHICH TWO DOLLARS SHALL BE REMITTED TO THE STATE TREASURER FOR CREDIT TO THE NEBRASKA RETIREMENT FUND FOR JUDGES; <A] for each petition or application filed within the informal proceedings, [D> twenty dollars, <D] [A> TWENTY-TWO DOLLARS OF WHICH

TWO DOLLARS SHALL BE REMITTED TO THE STATE TREASURER FOR CREDIT TO THE NEBRASKA RETIREMENT FUND FOR JUDGES; <A] and for any other proceeding under the Nebraska Probate Code for which no court fee is established by statute, [D] twenty <D] [A] TWENTY-TWO <A] dollars [A] OF WHICH TWO DOLLARS SHALL BE REMITTED TO THE STATE TREASURER FOR CREDIT TO THE NEBRASKA RETIREMENT FUND FOR JUDGES <A] . The fees assessed under this subdivision shall not exceed the fees which would be assessed for a formal probate under subdivision [D] (2) <D] [A] (B) <A] of this [D] section <D] [A] SUBSECTION <A] ; and [D] (2) for <D] [A] (B) FOR <A] probate proceedings commenced or closed formally:

[A] (I) <A] When the value does not exceed one thousand dollars, [D] twenty <D] [A] TWENTY-TWO <A] dollars; [D] when <D]

[A] (II) WHEN <A] the value exceeds one thousand dollars and is not more than two thousand dollars, thirty dollars; [D] when <D]

[A] (III) WHEN <A] the value exceeds two thousand dollars and is not more than five thousand dollars, fifty dollars; [D] when <D]

[A] (IV) WHEN <A] the value exceeds five thousand dollars and is not more than ten thousand dollars, seventy dollars; [D] when <D]

[A] (V) WHEN <A] the value exceeds ten thousand dollars and is not more than twenty-five thousand dollars, eighty dollars; [D] when <D]

[A] (VI) WHEN <A] the value exceeds twenty-five thousand dollars and is not more than fifty thousand dollars, one hundred dollars; [D] when <D]

[A] (VII) WHEN <A] the value exceeds fifty thousand dollars and is not more than seventy-five thousand dollars, one hundred twenty dollars; [D] when <D]

[A] (VIII) WHEN <A] the value exceeds seventy-five thousand dollars and is not more than one hundred thousand dollars, one hundred sixty dollars; [D] when <D]

[A] (IX) WHEN <A] the value exceeds one hundred thousand dollars and is not more than one hundred twenty-five thousand dollars, two hundred twenty dollars; [D] when <D]

[A] (X) WHEN <A] the value exceeds one hundred twenty-five thousand dollars and is not more than one hundred fifty thousand dollars, two hundred fifty dollars; [D] when <D]

[A] (XI) WHEN <A] the value exceeds one hundred fifty thousand dollars and is not more than one hundred seventy-five thousand dollars, two hundred seventy dollars; [D] when <D]

[A] (XII) WHEN <A] the value exceeds one hundred seventy-five thousand dollars and is not more than two hundred thousand dollars, three hundred dollars; [D] when <D]

[A] (XIII) WHEN <A] the value exceeds two hundred thousand dollars and is not more than three hundred thousand dollars, three hundred fifty dollars; [D] when <D]

[A] (XIV) WHEN <A] the value exceeds three hundred thousand dollars and is not more than four hundred thousand dollars, four hundred dollars; [D] when <D]

[A] (XV) WHEN <A] the value exceeds four hundred thousand dollars and is not more than five hundred thousand dollars, five hundred dollars; [D] when <D]

[A] (XVI) WHEN <A] the value exceeds five hundred thousand dollars and is not more than seven hundred fifty thousand dollars, six hundred dollars; [D] when <D]

[A] (XVII) WHEN <A] the value exceeds seven hundred fifty thousand dollars and is not more than one million dollars, seven hundred dollars; [D] when <D]

[A] (XVIII) WHEN <A] the value exceeds one million dollars and is not more than two million five hundred thousand dollars, eight hundred dollars; [D] when <D]



[A] (XIX) WHEN [A] the value exceeds two million five hundred thousand dollars and is not more than five million dollars, one thousand dollars; and [D] on [D]

[A] (XX) ON [A] all estates when the value exceeds five million dollars, one thousand five hundred dollars.

[A] (2) [A] The fees prescribed in subdivision [D] (2) [D] [A] (1)(B) [A] of this section shall be based on the gross value of the estate, including both real and personal property in the State of Nebraska at the time of death. The gross value shall mean the actual value of the estate less liens and joint tenancy property. Formal fees shall be charged in full for all services performed by the court, and no additional fees shall be charged for petitions, hearing, and orders in the course of such administration. The court shall provide one certified copy of letters of appointment without charge. In other cases when it is necessary to copy instruments, the county court shall be allowed the fees provided in section 33-126.05. In all cases when a petition for probate of will or appointment of an administrator, special administrator, personal representative, guardian, or trustee or any other petition for an order in probate matters is filed and no appointment is made or order entered and the cause is dismissed, the fee shall be ten dollars.

Sec. 13. Section 33-126.02, Reissue Revised Statutes of Nebraska, is amended to read:

33-126.02. In matters of guardianship and conservatorship, the county court shall be entitled to receive the following fees: Upon the filing of a petition for the appointment of a guardian, [D] twenty [D] [A] TWENTY-TWO [A] dollars; upon the filing of a petition for the appointment of a conservator, [D] twenty [D] [A] TWENTY-TWO [A] dollars; upon the filing of one petition for a consolidated appointment of both a guardian and conservator, [D] twenty [D] [A] TWENTY-TWO [A] dollars; for the appointment of a successor guardian or conservator, [D] twenty [D] [A] TWENTY-TWO [A] dollars; for the appointment of a temporary guardian or temporary or special conservator, [D] twenty [D] [A] TWENTY-TWO [A] dollars; and for proceedings for a protective order in the absence of a guardianship or conservatorship, [D] twenty [D] [A] TWENTY-TWO [A] dollars. If there is more than one ward listed in a petition for appointment of a guardian or conservator or both, only one filing fee shall be assessed. [A] TWO DOLLARS OF EACH TWENTY-TWO-DOLLAR FEE SHALL BE REMITTED TO THE STATE TREASURER FOR CREDIT TO THE NEBRASKA RETIREMENT FUND FOR JUDGES. [A] While such guardianship or conservatorship is pending, the court shall receive five dollars for filing and recording each report. When the appointment of a custodian as provided for in the Nebraska Uniform Transfers to Minors Act is made, the county court shall be entitled to receive a fee of twenty dollars.

Sec. 14. Section 33-126.03, Reissue Revised Statutes of Nebraska, is amended to read:

33-126.03. In all matters for the determination of inheritance tax under Chapter 77, article 20, the county court shall be entitled to receive fees of [D] twenty [D] [A] TWENTY-TWO [A] dollars. Fees under this section shall not be charged if fees have been imposed pursuant to subdivision [D] (2) [D] [A] (1)(B) [A] of section 33-125. Except in cases instituted by the county attorney, such fee shall be paid by the person petitioning for such determination. [A] TWO DOLLARS OF SUCH FEE SHALL BE REMITTED TO THE STATE TREASURER FOR CREDIT TO THE NEBRASKA RETIREMENT FUND FOR JUDGES. [A]

Sec. 15. Section 33-126.05, Reissue Revised Statutes of Nebraska, is amended to read:

33-126.05. The county court shall be allowed the following miscellaneous fees: For delayed birth registration, for the entire proceedings, ten dollars; for depositing will for safekeeping and indexing the same, two dollars; and for each use of any credit card authorized by the court for any payment, [D] three dollars [A] A FEE ESTABLISHED IN THE MANNER PROVIDED IN SUBSECTION (3) OF SECTION 81-118.01 [A] . The legal fees for printing notices required by law to be printed in some newspaper shall be allowed in addition to the fees allowed in this section. For the following services performed by the county court, it shall be entitled to receive the following fees: For temporary restraining order in injunction, in the absence of the district judge, five dollars; for appointment of appraisers in condemnation proceedings, fifteen dollars, plus one dollar for each additional parcel of land included in the petition when there is more than one; and for certifying report of appraisers to the county clerk or register of deeds and making transcript of the same to the district court, one dollar per page. In addition to the fees provided in sections 33-123 to 33-125, the county court shall be entitled to the following fees: For providing photocopies, twenty-five cents per page; and for executing certificate and affixing the seal, one dollar.

Sec. 16. Section 33-126.06, Reissue Revised Statutes of Nebraska, is amended to read:

33-126.06. The county court shall be entitled to collect the following fees: For the registration of any trust, whether testamentary or not, [D] twenty [A] TWENTY-TWO [A] dollars; for each proceeding initiated in county court concerning the administration and distribution of trusts, the declaration of rights, and the determination of other matters involving trustees and beneficiaries of trusts, [D] twenty [A] TWENTY-TWO [A] dollars; for the appointment of a successor trustee, [D] twenty [A] TWENTY-TWO [A] dollars; and for filing and recording each report, five dollars. [A] TWO DOLLARS OF EACH TWENTY-TWO-DOLLAR FEE SHALL BE REMITTED TO THE STATE TREASURER FOR CREDIT TO THE NEBRASKA RETIREMENT FUND FOR JUDGES. [A]

Sec. 17. Section 33-156, Reissue Revised Statutes of Nebraska, is amended to read:

33-156. (1) In addition to all other court costs assessed according to law, an indigent defense fee of [D] two [A] THREE [A] dollars [D] and seventy-five cents [D] shall be taxed as costs for each case filed in each county court and district court, including appeals to such courts, and for each appeal and original action filed in the Court of Appeals and the Supreme Court. The fees shall be remitted to the State Treasurer on forms prescribed by the State Treasurer within ten days after the end of the month. The State Treasurer shall credit the fees to the Commission on Public Advocacy Operations Cash Fund.

(2) In cases under the DNA Testing Act, costs shall be paid as provided in such act.

Sec. 18. Section 64-108, Reissue Revised Statutes of Nebraska, is amended to read:

64-108. Every notary public, when notice by a party to any civil suit pending in any court of this state upon any adverse party for the taking of any testimony of witnesses by deposition, or any commission to take testimony of witnesses to be preserved for use in any suit thereafter to be commenced, has been deposited with him [A] OR HER [A] , or when a special commission issued out of any court of any state or country without this state, together with notice for the taking of testimony by depositions or commissions, has been deposited with him [A] OR HER [A] , is empowered to issue summons and command the presence before him [A] OR HER [A] of witnesses [A] . [A] [D] , and to punish witnesses for neglect or refusal to obey such

summons, or for refusal to testify when present, by commitment to the jail of the county for contempt. <D] All sheriffs and constables in this state are required to serve and return all process issued by notaries public in the taking of testimony of witnesses by commission or deposition.

Sec. 19. Sections 2, 4 to 17, and 22 of this act become operative on July 1, 2005. Sections 18 and 21 of this act become operative three calendar months after the adjournment of this legislative session. The other sections of this act become operative on their effective date.

Sec. 20. Original section 25-1140.09, Reissue Revised Statutes of Nebraska, and section 24-201.01, Revised Statutes Supplement, 2004, are repealed.

Sec. 21. Original section 64-108, Reissue Revised Statutes of Nebraska, is repealed.

Sec. 22. Original sections 33-103, 33-106, 33-106.02, 33-107.01, 33-123 to 33-125, 33-126.02, 33-126.03, 33-126.05, 33-126.06, and 33-156, Reissue Revised Statutes of Nebraska, and sections 24-703 and 25-2804, Revised Statutes Supplement, 2004, are repealed.

Sec. 23. Since an emergency exists, this act takes effect when passed and approved according to law.

Approved by the Governor, June 2, 2005