

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 919

Introduced by Schilz, 47.

Read first time January 10, 2012

Committee: Judiciary

A BILL

1 FOR AN ACT relating to fees; to amend sections 60-158, 69-2404, and
2 83-424, Reissue Revised Statutes of Nebraska, and
3 sections 24-703 and 33-117, Revised Statutes Cumulative
4 Supplement, 2010; to change court fees, sheriff's fees,
5 identification inspection fees, and handgun certificate
6 fees; to provide an operative date; to repeal the
7 original sections; and to declare an emergency.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 24-703, Revised Statutes Cumulative
2 Supplement, 2010, is amended to read:

3 24-703 (1) Each original member shall contribute monthly
4 four percent of his or her monthly compensation to the fund until the
5 maximum benefit as limited in subsection (1) of section 24-710 has
6 been earned. It shall be the duty of the Director of Administrative
7 Services in accordance with subsection (10) of this section to make a
8 deduction of four percent on the monthly payroll of each original
9 member who is a judge of the Supreme Court, a judge of the Court of
10 Appeals, a judge of the district court, a judge of a separate
11 juvenile court, a judge of the county court, a clerk magistrate of
12 the county court who was an associate county judge and a member of
13 the fund at the time of his or her appointment as a clerk magistrate,
14 or a judge of the Nebraska Workers' Compensation Court showing the
15 amount to be deducted and its credit to the fund. The Director of
16 Administrative Services and the State Treasurer shall credit the four
17 percent as shown on the payroll and the amounts received from the
18 various counties to the fund and remit the same to the director in
19 charge of the judges retirement system who shall keep an accurate
20 record of the contributions of each judge.

21 (2)(a) In addition to the contribution required under
22 subdivision (c) of this subsection, beginning on July 1, 2004, each
23 future member who has not elected to make contributions and receive
24 benefits as provided in section 24-703.03 shall contribute monthly
25 six percent of his or her monthly compensation to the fund until the

1 maximum benefit as limited in subsection (2) of section 24-710 has
2 been earned. After the maximum benefit as limited in subsection (2)
3 of section 24-710 has been earned, such future member shall make no
4 further contributions to the fund, except that (i) any time the
5 maximum benefit is changed, a future member who has previously earned
6 the maximum benefit as it existed prior to the change shall
7 contribute monthly six percent of his or her monthly compensation to
8 the fund until the maximum benefit as changed and as limited in
9 subsection (2) of section 24-710 has been earned and (ii) such future
10 member shall continue to make the contribution required under
11 subdivision (c) of this subsection.

12 (b) In addition to the contribution required under
13 subdivision (c) of this subsection, beginning on July 1, 2004, a
14 judge who first serves as a judge on or after such date or a future
15 member who elects to make contributions and receive benefits as
16 provided in section 24-703.03 shall contribute monthly eight percent
17 of his or her monthly compensation to the fund until the maximum
18 benefit as limited by subsection (2) of section 24-710 has been
19 earned. In addition to the contribution required under subdivision
20 (c) of this subsection, after the maximum benefit as limited in
21 subsection (2) of section 24-710 has been earned, such judge or
22 future member shall contribute monthly four percent of his or her
23 monthly compensation to the fund for the remainder of his or her
24 active service.

25 (c) Beginning on July 1, 2009, and until July 1, 2014, a

1 member or judge described in subdivisions (a) and (b) of this
2 subsection shall contribute monthly an additional one percent of his
3 or her monthly compensation to the fund.

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

19 (3) Except as otherwise provided in this subsection, a
20 Nebraska Retirement Fund for Judges fee of ~~five~~six dollars shall be
21 taxed as costs in each (a) civil cause of action, criminal cause of
22 action, traffic misdemeanor or infraction, and city or village
23 ordinance violation filed in the district courts, the county courts,
24 and the separate juvenile courts, (b) filing in the district court of
25 an order, award, or judgment of the Nebraska Workers' Compensation

1 Court or any judge thereof pursuant to section 48-188, (c) appeal or
2 other proceeding filed in the Court of Appeals, and (d) original
3 action, appeal, or other proceeding filed in the Supreme Court.
4 ~~Beginning on July 1, 2009, and until July 1, 2014, such fee shall be~~
5 ~~six dollars.~~ In county courts a sum shall be charged which is equal
6 to ten percent of each fee provided by sections 33-125, 33-126.02,
7 33-126.03, and 33-126.06, rounded to the nearest even dollar. No
8 judges retirement fee shall be charged for filing a report pursuant
9 to sections 33-126.02 and 33-126.06. When collected by the clerk of
10 the district or county court, such fees shall be paid and information
11 submitted to the director in charge of the judges retirement system
12 on forms prescribed by the board by the clerk within ten days after
13 the close of each calendar quarter. The board may charge a late
14 administrative processing fee not to exceed twenty-five dollars if
15 the information is not timely received or the money is delinquent. In
16 addition, the board may charge a late fee of thirty-eight thousandths
17 of one percent of the amount required to be submitted pursuant to
18 this section for each day such amount has not been received. Such
19 director shall promptly thereafter remit the same to the State
20 Treasurer for credit to the fund. No Nebraska Retirement Fund for
21 Judges fee which is uncollectible for any reason shall be waived by a
22 county judge as provided in section 29-2709.

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

1 expenses of administration.

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

6 (6) Not later than January 1 of each year, the State
7 Treasurer shall transfer to the fund the amount certified by the
8 board as being necessary to pay the cost of any benefits accrued
9 during the fiscal year ending the previous June 30 in excess of
10 member contributions for that fiscal year and court fees as provided
11 in subsection (3) of this section and fees pursuant to sections
12 25-2804, 33-103, 33-103.01, 33-106, 33-106.02, 33-123, 33-125,
13 33-126.02, 33-126.03, and 33-126.06 and directed to be remitted to
14 the fund, if any, for that fiscal year plus any required
15 contributions of the state as provided in subsection (9) of this
16 section.

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

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

23 (9) Not later than January 1 of each year, the State
24 Treasurer shall transfer to the fund an amount, determined on the
25 basis of an actuarial valuation as of the previous June 30 and

1 certified by the board, to fully fund the unfunded accrued
2 liabilities of the retirement system as of June 30, 1988, by level
3 payments up to January 1, 2000. Such valuation shall be on the basis
4 of actuarial assumptions recommended by the actuary, approved by the
5 board, and kept on file with the board. For the fiscal year beginning
6 July 1, 2002, and each fiscal year thereafter, the actuary for the
7 board shall perform an actuarial valuation of the system using the
8 entry age actuarial cost method. Under this method, the actuarially
9 required funding rate is equal to the normal cost rate, plus the
10 contribution rate necessary to amortize the unfunded actuarial
11 accrued liability on a level payment basis. The normal cost under
12 this method shall be determined for each individual member on a level
13 percentage of salary basis. The normal cost amount is then summed for
14 all members. The initial unfunded actual accrued liability as of July
15 1, 2002, if any, shall be amortized over a twenty-five-year period.
16 Prior to July 1, 2006, changes in the funded actuarial accrued
17 liability due to changes in benefits, actuarial assumptions, the
18 asset valuation method, or actuarial gains or losses shall be
19 measured and amortized over a twenty-five-year period beginning on
20 the valuation date of such change. Beginning July 1, 2006, any
21 existing unfunded liabilities shall be reinitialized and amortized
22 over a thirty-year period, and during each subsequent actuarial
23 valuation, changes in the funded actuarial accrued liability due to
24 changes in benefits, actuarial assumptions, the asset valuation
25 method, or actuarial gains or losses shall be measured and amortized

1 over a thirty-year period beginning on the valuation date of such
2 change. If the unfunded actuarial accrued liability under the entry
3 age actuarial cost method is zero or less than zero on an actuarial
4 valuation date, then all prior unfunded actuarial accrued liabilities
5 shall be considered fully funded and the unfunded actuarial accrued
6 liability shall be reinitialized and amortized over a thirty-year
7 period as of the actuarial valuation date. If the actuarially
8 required contribution rate exceeds the rate of all contributions
9 required pursuant to the Judges Retirement Act, there shall be a
10 supplemental appropriation sufficient to pay for the differences
11 between the actuarially required contribution rate and the rate of
12 all contributions required pursuant to the Judges Retirement Act.

13 (10) The state or county shall pick up the member
14 contributions required by this section for all compensation paid on
15 or after January 1, 1985, and the contributions so picked up shall be
16 treated as employer contributions in determining federal tax
17 treatment under the Internal Revenue Code as defined in section
18 49-801.01, except that the state or county shall continue to withhold
19 federal income taxes based upon these contributions until the
20 Internal Revenue Service or the federal courts rule that, pursuant to
21 section 414(h) of the code, these contributions shall not be included
22 as gross income of the member until such time as they are distributed
23 or made available. The state or county shall pay these member
24 contributions from the same source of funds which is used in paying
25 earnings to the member. The state or county shall pick up these

1 contributions by a compensation deduction through a reduction in the
2 compensation of the member. Member contributions picked up shall be
3 treated for all purposes of the Judges Retirement Act in the same
4 manner and to the extent as member contributions made prior to the
5 date picked up.

6 Sec. 2. In addition to the fees provided for in sections
7 33-106 and 33-123, the clerk of the court shall collect an additional
8 four dollars in docket fees for all civil cases. The fee shall be
9 remitted to the State Treasurer on forms prescribed by the State
10 Treasurer within ten days after the close of each calendar quarter.
11 The State Treasurer shall credit the fee to the general fund of the
12 county of the judicial district in which the civil case was filed. If
13 more than one county is contained within a judicial district, the
14 State Treasurer shall credit the fee to the general fund of each
15 county in proportion to the number of acres of school lands within
16 each county.

17 Sec. 3. Section 33-117, Revised Statutes Cumulative
18 Supplement, 2010, is amended to read:

19 33-117 (1) ~~The several sheriffs~~ Each sheriff shall charge
20 and collect fees at the rates specified in this section. The rates
21 shall be as follows: (a) Serving a misdemeanor capias with
22 commitment, or bail bond and return, two ~~or~~ traffic, civil, or
23 misdemeanor arrest warrant, twenty-five dollars; (b) servng a felony
24 capias with commitment, bail bond and return, or felony arrest
25 warrant, one hundred dollars; (c) servng a search warrant, two

1 twenty dollars; ~~(e)~~(d) arresting under a search warrant, ~~two~~twenty
2 dollars for each person so arrested; ~~(d)~~(e) unless otherwise
3 specifically listed in subdivisions ~~(f) to (s)~~(g) through (t) of
4 this subsection, serving a summons, subpoena, order of attachment,
5 order of replevin, other order of the court, notice of motion, other
6 notice, other writ or document, or any combination thereof, including
7 any accompanying or attached documents, ~~twelve~~twenty dollars for
8 each person served, except that when more than one person is served
9 at the same time and location in the same case, the service fee shall
10 be ~~twelve~~twenty dollars for the first person served at that time and
11 location and ~~three~~seven dollars and fifty cents for each other
12 person served at that time and location; ~~(e)~~(f) making a return of
13 each summons, subpoena, order of attachment, order of replevin,
14 traffic, misdemeanor, or felony arrest warrant or capias, other order
15 of the court, notice of motion, other notice, or other writ or
16 document, whether served or not, ~~six~~twelve dollars; ~~(f)~~(g) taking
17 and filing a replevin bond or other indemnification to be furnished
18 and approved by the sheriff, ~~one~~dollar; ~~(g)~~fifteen dollars; (h)
19 making a copy of any process, bond, or other paper not otherwise
20 provided for in this section, ~~twenty five~~fifty cents per page; ~~(h)~~
21 (i) traveling each mile actually and necessarily traveled within or
22 without ~~their several counties in their~~his or her county in the
23 performance of his or her official duties, three cents more per mile
24 than the rate provided in section 81-1176, except that the minimum
25 fee shall be fifty cents when the service is made within one mile of

1 the courthouse, and, as far as is expedient, all papers in the hands
 2 of the sheriff at any one time shall be served in one or more trips
 3 by the most direct route or routes and only one mileage fee shall be
 4 charged for a single trip, the total mileage cost to be computed as a
 5 unit for each trip and the combined mileage cost of each trip to be
 6 prorated among the persons or parties liable for the payment of ~~same;~~
 7 ~~(i) the fee;~~ (j) levying a writ or a court order and return thereof,
 8 ~~eighteen~~ thirty-two dollars; ~~(j)~~ (k) summoning a grand jury, not
 9 including mileage to be paid by the county, ~~ten~~ twelve dollars; ~~(k)~~
 10 (l) summoning a petit jury, not including mileage to be paid by the
 11 county, ~~twelve~~ fifteen dollars; ~~(l)~~ (m) summoning a special jury, for
 12 each person impaneled, ~~fifty cents;~~ ~~(m)~~ five dollars; (n) calling a
 13 jury for a trial of a case or cause, ~~fifty cents;~~ ~~(n)~~ five dollars;
 14 (o) executing a writ of restitution or a writ of assistance and
 15 return, ~~eighteen~~ thirty-two dollars; ~~(o)~~ (p) calling an inquest to
 16 appraise lands and tenements levied on by execution, ~~one~~ dollar; ~~(p)~~
 17 fifteen dollars; (q) calling an inquest to appraise goods and
 18 chattels taken by an order of attachment or replevin, ~~one~~ dollar; ~~(q)~~
 19 fifteen dollars; (r) advertising a sale in a newspaper in addition to
 20 the price of printing, ~~one~~ dollar; ~~(r)~~ twenty dollars; (s)
 21 advertising in writing for a sale of real or personal property, ~~five~~
 22 twenty-five dollars; and ~~(s)~~ (t) making deeds for land sold on
 23 execution or order of sale, five dollars.

24 (2)(a) Except as provided in subdivision (b) of this
 25 subsection, the commission due a sheriff on an execution or order of

1 sale, an order of attachment decree, or a sale of real or personal
2 property shall be: For each dollar not exceeding four hundred
3 dollars, ~~six~~ seven cents; for every dollar above four hundred dollars
4 and not exceeding one thousand dollars, ~~four~~ five cents; and for
5 every dollar above one thousand dollars, ~~two~~ three cents.

6 (b) In real estate foreclosure, when any party to the
7 original action purchases the property or when no money is received
8 or disbursed by the sheriff, the commission shall be computed
9 pursuant to subdivision (a) of this subsection but shall not exceed
10 two hundred fifty dollars.

11 (3) The sheriff shall, on the first Tuesday in January,
12 April, July, and October of each year, make a report to the county
13 board showing (a) the different items of fees, except mileage,
14 collected or earned, from whom, at what time, and for what service,
15 (b) the total amount of the fees collected or earned by the officer
16 since the last report, and (c) the amount collected or earned for the
17 current year. He or she shall pay all fees earned to the county
18 treasurer who shall credit the fees to the general fund of the
19 county.

20 (4) Any future adjustment made to the reimbursement rate
21 provided in subsection (1) of this section shall be deemed to apply
22 to all provisions of law which refer to this section for the
23 computation of mileage.

24 (5) Commencing on and after ~~January 1, 1988,~~ July 1,
25 2012, all fees earned pursuant to this section, except fees for

1 mileage, by any constable who is a salaried employee of the State of
2 Nebraska shall be remitted to the clerk of the county court. The
3 clerk of the county court shall pay the same to the General Fund.

4 Sec. 4. Section 60-158, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 60-158 (1) For each identification inspection conducted
7 by the patrol, the fee shall be ~~ten~~twenty dollars, which shall be
8 remitted to the State Treasurer for credit to the Nebraska State
9 Patrol Cash Fund.

10 (2) For each identification inspection conducted by a
11 county sheriff, the fee shall be ~~ten~~twenty dollars, which shall be
12 paid to the county treasurer and credited to the county sheriff's
13 vehicle inspection account within the county general fund.

14 Sec. 5. Section 69-2404, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 69-2404 Any person desiring to purchase, lease, rent, or
17 receive transfer of a handgun shall apply with the chief of police or
18 sheriff of the applicant's place of residence for a certificate. The
19 application may be made in person or by mail. The application form
20 and certificate shall be made on forms approved by the Superintendent
21 of Law Enforcement and Public Safety. The application shall include
22 the applicant's full name, address, date of birth, and country of
23 citizenship. If the applicant is not a United States citizen, the
24 application shall include the applicant's place of birth and his or
25 her alien or admission number. If the application is made in person,

1 the applicant shall also present a current Nebraska motor vehicle
2 operator's license, state identification card, or military
3 identification card, or if the application is made by mail, the
4 application form shall describe the license or card used for
5 identification and be notarized by a notary public who has verified
6 the identification of the applicant through such a license or card.
7 An applicant shall receive a certificate if he or she is twenty-one
8 years of age or older and is not prohibited from purchasing or
9 possessing a handgun by 18 U.S.C. 922. A fee of ~~five~~ten dollars
10 shall be charged for each application for a certificate to cover the
11 cost of a criminal history record check.

12 Sec. 6. Section 83-424, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 83-424 The expenses and fees of sheriffs and other
15 officers incurred in conveying convicted prisoners to any Department
16 of Correctional Services adult correctional facility shall be
17 examined, adjusted, and approved by the county board and paid out of
18 the treasury of the county in which the crime was committed. The
19 county board shall allow expenses and fees at the following rates:
20 (1) For the sheriff, ~~six~~ten dollars per day for time actually
21 necessary in conveying a prisoner to the facility and return; and (2)
22 for each assistant or guard absolutely necessary, ~~six~~ten dollars per
23 day. ~~No allowance for assistance shall be made when only one prisoner~~
24 ~~is conveyed to a facility.~~ The county board shall allow the actual
25 and necessary traveling expenses in going and coming. When the trip

1 is made by automobile, mileage included in such expenses shall be
2 computed at the rate provided in section 33-117 for county sheriffs
3 and deputy county sheriffs for each mile actually and necessarily
4 traveled by the most direct route.

5 Sec. 7. The Revisor of Statutes shall assign section 2 of
6 this act to Chapter 33, article 1.

7 Sec. 8. This act becomes operative on July 1, 2012.

8 Sec. 9. Original sections 60-158, 69-2404, and 83-424,
9 Reissue Revised Statutes of Nebraska, and sections 24-703 and 33-117,
10 Revised Statutes Cumulative Supplement, 2010, are repealed.

11 Sec. 10. Since an emergency exists, this act takes effect
12 when passed and approved according to law.