

SELECTED NEBRASKA COURT FEES

An LRO Backgrounder



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Introduction

This LRO Backgrounder—*Selected Nebraska Court Fees*—is the third in a series of reports, designed to provide legislative history and pertinent background information on topics regularly before the Legislature.

This report provides information about the general filing fees and costs collected by the state's courts, with particular emphasis on those court fees dedicated to funding specific, legislatively authorized programs. We hope the information provides a better understanding of those fees and their uses and helps legislators and staff as they develop policy, research issues, and answer constituent questions.

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The Legislative Research Office conducts public policy and legal research for legislators and staff. If you have any questions about this report or any other issue, please contact us at (402) 471-0077 or visit us in Room 1201.

Why this Backgrounder?

The genesis for this Backgrounder is a 2012 research request for information regarding revenue generated by court fees. While gathering information in response to the request, staff from the State Court Administrator's Office noted a common misconception regarding court fees. Most people assume court fees finance operation of the courts. They do not. State and county general funds are predominantly used to finance the day-to-day operation of the courts, while many of the fees collected as court costs finance a wide variety of judicial programs, ranging from law enforcement training to indigent defense to judges' retirement.

This Backgrounder does not answer the question: What does it cost an individual to go to court? And the fees discussed in this report are not the sum total of all fees any one individual might pay when going to court.¹ Instead, this Backgrounder highlights court fees dedicated to funding specific, legislatively authorized programs.

Black's Law Dictionary (7th Edition) defines "court costs" as "[t]he charges or fees taxed by the court, such as filing fees, jury fees, courthouse fees, and reporter fees."

Generally, Nebraska's state courts collect fees for filing cases, upon conviction, and under certain circumstances for particular actions (divorces, probate, writs of execution, garnishments, etc.).

An individual appearing before a Nebraska court pays a docket fee, a fee to support the judges' retirement fund, and numerous other fees that are part of one's court costs. The other fees collected by most state courts are the (1) law enforcement improvement fee, (2) court automation fee, (3) legal services fee, (4) indigent defense fee, (5) dispute resolution fee, (6) uniform data analysis fee, (7) Supreme Court education fee, and (8) civil legal services fee. Additionally, a crime victim fee is assessed upon conviction.

Following is a brief legislative summary of certain docket fees, the judges' retirement fee, and the "other" specifically listed fees. Each summary includes information regarding the date of enactment, statutory codification, fee amount, disbursement, significant legislative changes, and if available, revenue generated by the fee. The revenue figures were provided by the Legislative Fiscal Office, except for the fees collected for judges' retirement, which were provided by the Public Employees Retirement Board.

1. Court fees attach for specific actions, such as seeking a guardianship or commencing an action in probate. Fees are also charged for such things as making copies of your court case, using credit cards, and paying witnesses. And none of these assessed costs include the costs of one's attorney.

The docket fee can be thought of as the fee paid to get in the courthouse door. A docket fee is collected in every court, except for proceedings brought under the Nebraska Workers' Compensation Act and the Employment Security Law and for filing a petition for a protection order. The amount of the docket fee varies, depending on the court in which the fee is levied and the type of action.

Unlike fees that support specific programs, most of the docket fee is deposited into the jurisdictions' general fund. Docket fees collected in the Supreme Court, the Court of Appeals, and the county courts are paid into the state General Fund. Docket fees collected in the district courts and separate juvenile courts go primarily to the general fund of the county where the court is situated, although a portion is also credited to the state General Fund. Additionally, a portion of every docket fee is credited to the Nebraska Retirement Fund for Judges (judges' retirement fund).

The docket fee has been charged as long as courts have operated in Nebraska. (In that sense, it is the "original" court cost.) In the General Statutes of Nebraska, 1873, the docket fee for both the Supreme Court and the district court was 75 cents. (At that time, the judicial system was composed of those two courts, plus a probate court and justice of the peace.)

County Court Docket Fee

Enacted: R.S. 1866, ch. 19, sec. 8, p. 164

Codified at: Neb. Rev. Stat. sec. 33-123 (civil); Neb. Rev. Stat. sec. 33-124 (criminal)

Amount of fee: \$20

Credited to: \$2 to Nebraska Retirement Fund for Judges; \$18 to state General Fund

Assessed on: Each civil and criminal case, including juvenile cases, with some exceptions. Those exceptions include domestic relations matters, \$40; filing a foreign judgment or a judgment transferred from another court, \$15; and writs of restitution, garnishment, and examination in aid of execution, \$5 each.

Significant recent legislative changes: Laws 1996, LB 1296 created the \$40 fee for domestic relations matters; Laws 2005, LB 348 raised docket fees by \$2 (from \$18 to \$20) for each civil and criminal case with the increase going to the judges' retirement fund.

District Court Docket Fee

Enacted: R.S. 1866, ch. 19, sec. 2, p. 157

Codified at: Neb. Rev. Stat. sec. 33-106

Amount of fee: \$42

Credited to: \$5 to state General Fund; \$2 to Nebraska Retirement Fund for Judges; \$35 to appropriate county general fund

Assessed on: Each civil and criminal case, including the separate juvenile courts in Douglas, Sarpy, and Lancaster counties, with some exceptions. Those exceptions include proceedings brought under the Nebraska Workers' Compensation Act and the Employment Security Law, criminal appeals to the district court, and actions to obtain a lien to enforce a judgment from another court. The docket fee for criminal appeals is \$27 and the docket fee for obtaining a lien is \$25. There is no docket fee for workers' compensation and employment cases.

Significant recent legislative changes: Laws 2005, LB 348 raised docket fees by \$2 (from \$40 to \$42) for each civil and criminal case and for each criminal case appealed to the district court (from \$25 to \$27), to be used for judges' retirement.

DOCKET FEES

Court of Appeals Docket Fee

Enacted: Laws 1991, LB 732

Codified at: Neb. Rev. Stat. sec. 33-103

Amount of fee: \$100

Credited to: \$50 to Nebraska Retirement Fund for Judges; \$50 to state General Fund

Assessed on: Filing an appeal, original action, or other proceeding.

Significant recent legislative changes: Laws 2005, LB 348 increased the fee to \$100 and credited the additional \$50 to the judges' retirement fund. The bill also created a docket fee of \$50, credited to the judges' retirement fund, for filing a petition for further review to the Supreme Court from the Court of Appeals.

Supreme Court Docket Fee

Enacted: R.S. 1866, ch. 19, sec. 2, p. 157

Codified at: Neb. Rev. Stat. sec. 33-103

Amount of fee: \$100

Credited to: \$50 to Nebraska Retirement Fund for Judges; \$50 to state General Fund

Assessed on: Filing an appeal, original action, or other proceeding.

Significant recent legislative changes: Laws 1982, LB 719 increased the fee from \$20 to \$50; Laws 2005, LB 348 increased the fee to \$100 and credited the additional \$50 to the judges' retirement fund. The bill also created a docket fee of \$50, credited to the judges' retirement fund, for filing a petition for further review to the Supreme Court from the Court of Appeals.

Domestic Relations Docket Fee

Enacted: Laws 1997, LB 729

Codified at: Neb. Rev. Stat. sec. 33-107.02

Amount of fee: \$65

Credited to: \$15 to Legal Aid and Services Fund; \$50 to Parenting Act Fund

Assessed on: Each county or district court proceeding to modify a decree of dissolution or annulment of marriage; a modification of an award of child support; or a modification of child custody, parenting time, visitation, or other access as defined in Neb. Rev. Stat. sec. 43-2922.

Significant recent legislative changes: Laws 1999, LB 19 exempted Title IV-D cases from the fee; Laws 2007, LB 554 raised the fee from \$15 to \$65, with the increase going to the Parenting Act Fund.

Dissolution of Marriage Docket Fee

Enacted: Laws 1986, LB 333

Codified at: Neb. Rev. Stat. sec. 33-106.03

Amount of fee: \$75

Credited to: \$25 to Nebraska Child Abuse Prevention Fund; \$50 to Parenting Act Fund

Assessed on: Divorce decrees issued in district or county court. (The dissolution of marriage docket fee is collected in addition to the docket fee collected in county or district court.)

Significant recent legislative changes: Laws 2002, 2nd Sp. Sess., LB 48 directed the fee (then set at \$25) directly to the Child Abuse Prevention Fund. (It had been credited to the state General Fund.); Laws 2005, LB 554 raised the fee to \$75 and credited the additional \$50 to the Parenting Act Fund.

FEES IN SUPPORT OF SPECIFIC PROGRAMS

While most docket fees are credited to the state and counties' general funds, the other fees collected as court costs in Nebraska are collected for the support of specific, legislatively authorized programs. Following is information about these fees and the programs they support.

Judges' Retirement Fee

Enacted: Laws 1955, c. 83, § 2, p. 245

Codified at: Neb. Rev. Stat. sec. 24-703

Amount of fee: \$6

Credited to: Nebraska Retirement Fund for Judges, administered by the Nebraska Public Employees Retirement Board

Purpose: To help pay for judges' retirement. The judges' retirement fund is composed of money collected via the judges' retirement fee, a portion of the docket fees collected in the various courts, and a percentage of judges' monthly salaries. As originally enacted in 1955, the judges' retirement system applied to Supreme Court and district court judges. The fee was first collected on each civil cause of action or proceeding in the district courts. In 1957, legislation was passed to include county judges in the retirement system beginning in 1961, and the judges' retirement fee was attached to filings in county courts.

Assessed on: Each (1) civil or criminal cause of action, traffic misdemeanor or infraction, and city or village ordinance violation filed in the district courts, county courts, and separate juvenile courts; (2) filing in the district court of orders, awards, or judgments of the Nebraska Workers' Compensation Court or any order, award, or judgment made pursuant to the Nebraska Workers' Compensation Act by the Court of Appeals or Supreme Court; (3) appeal filed in the Court of Appeals; and (4) original action, appeal, or other proceeding filed in the Supreme Court.

Significant recent legislative changes: Laws 2003, LB 320 and LB 760 raised the fee from \$1 to \$5; Laws 2009, LB 414 raised the fee to \$6 from July 1, 2009 to July 1, 2014; Laws 2013, LB 306 eliminated the sunset on the fee increase, establishing it permanently at \$6.

Amount collected from court fees for judges' retirement (includes portion collected from the docket fee and from the separate judges' fee):

2010	2011	2012
\$3,544,164.43	\$3,500,388.81	\$3,450,459.14

Law Enforcement Improvement Fee

Enacted: Laws 1971, LB 929

Codified at: Neb. Rev. Stat. sec. 81-1429

Amount of fee: \$2

Credited to: Law Enforcement Improvement Fund, administered by the Commission on Law Enforcement and Criminal Justice (crime commission)

Purpose: To pay the administrative and operational expenses of the Nebraska Law Enforcement Training Center and other expenses as budgeted by the Legislature for improving law enforcement. LB 929 shifted the then-new law enforcement training center from the administrative control of the Nebraska State Patrol to the crime commission. The fee was not part of LB 929 as originally introduced, but was amended into the bill on General File. The bill's sponsor said the idea for paying for police training by assessing a surcharge on "law breakers" came from similar programs in other states, particularly Iowa.

Assessed on: Each criminal proceeding filed in all courts, including traffic infractions and misdemeanors for violations of state law or city or village ordinances. The fee is not collected in any juvenile court proceeding or when determined to be uncollectible pursuant to Neb. Rev. Stat. sec. 29-2709.

Significant recent legislative changes: Laws 2006, LB 746 removed a termination date and reduced the fee to \$1 beginning January 1, 2007; Laws 2009, LB 35 returned the fee to \$2.

Amount collected from the fee:

2010
\$407,264

2011
\$504,187

2012
\$498,782

Court Automation Fee

Enacted: Laws 1993, LB 832

Codified at: Neb. Rev. Stat. sec. 33-107.03

Amount of fee: \$8

Credited to: Supreme Court Automation Cash Fund, administered by the State Court Administrator

Purpose: To pay for the automation expenses of the court and probation systems. The court automation project was part of a wider state plan (enacted via Laws 1989, LB 814) to electronically connect county and state governments. LB 832 set the fee at \$3 and contained a termination date of June 30, 1997. While debating the bill, senators said they expected court automation to eventually result in savings for the courts, thus negating the need to collect the fee indefinitely. The fee terminated as scheduled but was reinstated during the 2002 special session as lawmakers struggled to find money to fund the operations of state government. Among its projects, the fee was used to create the JUSTICE court database.

Assessed on: Each case filed in county court, separate juvenile court, and district court, including appeals, and for each appeal and original action filed in the Court of Appeals and the Supreme Court.

Significant recent legislative changes: Laws 1997, LB 216 eliminated the fee; Laws 2002, 2nd Sp. Sess., LB 13 re-enacted the fee and set it at \$6; Laws 2009, LB 35 increased the fee to \$8.

Amount collected from the fee:

2010
\$3,267,085

2011
\$3,458,908

2012
\$3,458,232

Legal Services Fee

Enacted: Laws 1997, LB 729

Codified at: Neb. Rev. Stat. sec. 33-107.01

Amount of fee: \$5.25

Credited to: Legal Aid and Services Fund, administered by the Commission on Public Advocacy (Commission)

Purpose: To provide civil legal services to eligible low-income persons. Pro bono legal services are provided through the Commission on Public Advocacy. The Legislature created the commission in 1995 to relieve counties of some of the costs of paying for indigent defendants charged with murder and other violent crimes. LB 729 expanded the commission's duties to include assistance for low-income defendants in civil cases. The commission certifies grant-eligible service providers to deliver free civil legal services to eligible persons within the providers' service areas.

Assessed on: Each case filed in separate juvenile and district courts, including appeals to those courts, and on each case filed in county court, except those filed in Small Claims Court; and for each appeal and original action filed in the Court of Appeals and the Supreme Court.

Significant recent legislative changes: Laws 2002, LB 876 increased the fee from \$2 to \$5; Laws 2005, LB 348 increased the fee from \$5 to \$5.25.

Amount collected from the fee:

2010
\$2,264,325

2011
\$2,183,821

2012
\$2,161,025

Indigent Defense Fee

Enacted: Laws 2003, LB 760

Codified at: Neb. Rev. Stat. sec. 33-156

Amount of fee: \$3

Credited to: Commission on Public Advocacy Operations Cash Fund, administered by the Commission on Public Advocacy (Commission)

Purpose: To provide a cash-funded source for the Commission on Public Advocacy to pay for legal services provided to indigent defendants. Prior to the enactment of LB 760, the commission was largely supported by General Fund appropriations, although counties that incurred criminal trial expenses paid one-third of the commission's actual cost for defending indigent clients. The commission is now entirely funded by court fees.

Assessed on: Each case filed in county and district court, including appeals to district court, and each appeal and original action filed in the Court of Appeals and the Supreme Court.

Significant recent legislative changes: Laws 2005, LB 348 increased the fee from \$2.75 to \$3.

Amount collected from the fee:

2010
\$1,234,168

2011
\$1,190,193

2012
\$1,173,524

SPECIFIC PROGRAM FEES

Dispute Resolution Fee

Enacted: Laws 2003, LB 760

Codified at: Neb. Rev. Stat. sec. 33-155

Amount of fee: \$0.75

Credited to: Dispute Resolution Cash Fund, administered by the State Court Administrator

Purpose: The fee supports the work of the Office of Dispute Resolution. The Legislature created the office in 1991 to provide mediation and dispute resolution services in all 93 counties. Revenue from the fee is dispensed as aid to mediation centers statewide.

Assessed on: Each case and appeal filed in county and district courts and each appeal and original action filed in the Court of Appeals and the Supreme Court.

Significant recent legislative changes: None since enactment.

Amount collected from the fee:

2010	\$310,388
2011	\$298,552
2012	\$293,722

Uniform Data Analysis Fee

Enacted: Laws 2003, LB 46

Codified at: Neb. Rev. Stat. sec. 47-633

Amount of fee: \$1

Credited to: Community Corrections Uniform Data Analysis Cash Fund, administered by the Commission on Law Enforcement and Criminal Justice (crime commission)

Purpose: Laws 2003, LB 46 revamped Nebraska's correctional system. Specifically, the bill established a community corrections program to reduce the increasing costs of incarceration. As part of this reform, LB 46 charged the executive director of the crime commission with overseeing the development of a uniform crime data analysis system. In its 2011 annual report, the crime commission noted the Uniform Data Analysis Fund was being used to provide grants to develop improved case management systems for probation and parole. The fund has also paid for automating pre-sentence investigation reports and for developing an interface for problem-solving courts (e.g., drug courts) to integrate with the Supreme Court's JUSTICE computer system.

Assessed on: Each case and appeal filed in county, district, and separate juvenile courts and each original action and appeal filed in the Court of Appeals and Supreme Court.

Significant recent legislative changes: None since enactment.

Amount collected from the fee:

2010	\$455,264
2011	\$435,095
2012	\$433,513

SPECIFIC PROGRAM FEES

Supreme Court Education Fee

Enacted: Laws 2003, LB 760

Codified at: Neb. Rev. Stat. sec. 33-154

Amount of fee: \$1

Credited to: Supreme Court Education Fund, administered by the State Court Administrator

Purpose: The Supreme Court education fee was established to pay for a mandatory training and education program for judges and other court and probation personnel enacted via Laws 2003, LB 760.

Assessed on: Each case and appeal filed in the county and district courts, and each appeal and original action filed in the Court of Appeals and Supreme Court.

Significant legislative changes: None since enactment.

Amount collected from the fee:	
2010	\$411,786
2011	\$397,408
2012	\$393,844

Civil Legal Services Fee

Enacted: Laws 2006, LB 746

Codified at: Neb. Rev. Stat. sec. 25-3010

Amount of fee: \$1

Credited to: Civil Legal Services Fund, administered by the Commission on Public Advocacy

Purpose: The Legislature established the Civil Legal Services Program via LB 746 in 2006 in an attempt to expand the availability of civil legal services to eligible low-income Nebraskans. The Civil Legal Services Fund is used to make grants to providers of civil legal services for the poor. Originally under the purview of the State Court Administrator, since 2009 the fund has been administered by the Commission on Public Advocacy.

Assessed on: Each criminal proceeding, including traffic infractions and misdemeanors filed in all state courts for violations of state law or city or village ordinances. The fee is not collected in any juvenile court proceeding or when determined to be uncollectible pursuant to Neb. Rev. Stat. sec. 29-2709.

Significant recent legislative changes: None since enactment.

Amount collected from the fee:	
2010	\$253,828
2011	\$246,176
2012	\$244,507

SPECIFIC PROGRAM FEES

Crime Victim Fee

Enacted: Laws 2010, LB 510

Codified at: Neb. Rev. Stat. sec. 33-157

Amount of fee: \$1

Credited to: Victim's Compensation Fund, administered by the Commission on Law Enforcement and Criminal Justice, and the Reentry Cash Fund, administered by the Department of Correctional Services

Purpose: Unlike the other fees discussed in this report, the crime victim fee is assessed only upon conviction. Seventy-five percent of the fee is credited to the Victim's Compensation Fund to compensate for losses and expenses allowable under the Nebraska Crime Victim's Reparations Act. The remaining 25 percent is paid to the Reentry Cash Fund, which is used for tuition, fees, and other costs associated with reentry and reintegration programs for offenders at the incarceration work camp. Additional revenue from prison inmate wages is deposited into both funds

Assessed on: Each misdemeanor or felony conviction in county or district court and each affirmation on appeal. The fee is not collected in any juvenile court proceeding.

Significant recent legislative changes: None since enactment.

Amount collected from the fee:	
2010-2011	2011-2012
\$31,851	\$51,425

Additional Information

A listing of filing fees and courts costs, by court and type of proceeding, can be found at the Nebraska Supreme Court's website, <http://supremecourt.ne.gov/4800/filing-fees-and-court-costs>. Additionally, the Legislature's Fiscal Office's publication, *State Government and Revolving Cash Funds*, contains fiscal and background information pertaining to each of these court fees based on the fund into which they are deposited and their administering agency. Current and past copies are posted on the Fiscal Office's website, <http://www.nebraskalegisature.gov/reports/fiscal.php>. Finally, for a discussion of the limits of enacting court fees and the experience of other states, see *2011-2012 Policy Paper: Courts are not Revenue Centers*, by the Conference of State Court Administrators, <http://cosca.ncsc.dni.us/WhitePapers/CourtsAreNotRevenueCenters-Final.pdf>.