

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 424**

Introduced by Pankonin, 2.

Read first time January 20, 2009

Committee: Nebraska Retirement Systems

A BILL

1 FOR AN ACT relating to the Judges Retirement Act; to amend  
2 sections 24-703 and 24-703.03, Reissue Revised Statutes  
3 of Nebraska; to change the mandatory contribution rates;  
4 to harmonize provisions; to provide an operative date;  
5 to repeal the original sections; and to declare an  
6 emergency.  
7 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 24-703, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

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

22           (2) (a) Beginning on July 1, 2004, and until July 1, 2009,  
23 each future member who has not elected to make contributions and  
24 receive benefits as provided in section 24-703.03 shall contribute  
25 monthly six percent of his or her monthly compensation to the fund

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

10 (b) Beginning on July 1, 2009, each future member who has  
11 not elected to make contributions and receive benefits as provided  
12 in section 24-703.03 shall contribute monthly XXX percent of his  
13 or her monthly compensation to the fund until the maximum benefit  
14 as limited in subsection (2) of section 24-710 has been earned.  
15 After the maximum benefit as limited in subsection (2) of section  
16 24-710 has been earned, such future member shall make no further  
17 contributions to the fund, except that any time the maximum benefit  
18 is changed, a future member who has previously earned the maximum  
19 benefit as it existed prior to the change shall contribute monthly  
20 XXX percent of his or her monthly compensation to the fund until  
21 the maximum benefit as changed and as limited in subsection (2) of  
22 section 24-710 has been earned.

23 ~~(b)~~ (c) Beginning on July 1, 2004, and until July 1,  
24 2009, a judge who first serves as a judge on or after such date  
25 or a future member who elects to make contributions and receive

1 benefits as provided in section 24-703.03 shall contribute monthly  
 2 eight percent of his or her monthly compensation to the fund  
 3 until the maximum benefit as limited by subsection (2) of section  
 4 24-710 has been earned. After the maximum benefit as limited in  
 5 subsection (2) of section 24-710 has been earned, such judge or  
 6 future member shall contribute monthly four percent of his or her  
 7 monthly compensation to the fund for the remainder of his or her  
 8 active service.

9 (d) Beginning on July 1, 2009, a judge who first serves  
 10 as a judge on or after such date or a future member who elects  
 11 to make contributions and receive benefits as provided in section  
 12 24-703.03 shall contribute monthly XXX percent of his or her  
 13 monthly compensation to the fund until the maximum benefit as  
 14 limited by subsection (2) of section 24-710 has been earned. After  
 15 the maximum benefit as limited in subsection (2) of section 24-710  
 16 has been earned, such judge or future member shall contribute  
 17 monthly XXX percent of his or her monthly compensation to the fund  
 18 for the remainder of his or her active service.

19 ~~(e)~~ (e) It shall be the duty of the Director of  
 20 Administrative Services to make a deduction on the monthly payroll  
 21 of each such future member who is a judge of the Supreme Court,  
 22 a judge of the Court of Appeals, a judge of the district court,  
 23 a judge of a separate juvenile court, a judge of the county  
 24 court, a clerk magistrate of the county court who was an associate  
 25 county judge and a member of the fund at the time of his or her

1 appointment as a clerk magistrate, or a judge of the Nebraska  
2 Workers' Compensation Court showing the amount to be deducted and  
3 its credit to the fund. This shall be done each month. The Director  
4 of Administrative Services and the State Treasurer shall credit the  
5 amount as shown on the payroll and the amounts received from the  
6 various counties to the fund and remit the same to the director in  
7 charge of the judges retirement system who shall keep an accurate  
8 record of the contributions of each judge.

9 (3) A Nebraska Retirement Fund for Judges fee of five  
10 dollars shall be taxed as costs in each (a) civil cause of action,  
11 criminal cause of action, traffic misdemeanor or infraction, and  
12 city or village ordinance violation filed in the district courts,  
13 the county courts, and the separate juvenile courts, (b) filing  
14 in the district court of an order, award, or judgment of the  
15 Nebraska Workers' Compensation Court or any judge thereof pursuant  
16 to section 48-188, (c) appeal or other proceeding filed in the  
17 Court of Appeals, and (d) original action, appeal, or other  
18 proceeding filed in the Supreme Court. In county courts a sum shall  
19 be charged which is equal to ten percent of each fee provided by  
20 sections 33-125, 33-126.02, 33-126.03, and 33-126.06, rounded to  
21 the nearest even dollar. No judges retirement fee shall be charged  
22 for filing a report pursuant to sections 33-126.02 and 33-126.06.  
23 When collected by the clerk of the district or county court, such  
24 fees shall be paid and information submitted to the director in  
25 charge of the judges retirement system on forms prescribed by the

1 board by the clerk within ten days after the close of each calendar  
2 quarter. The board may charge a late administrative processing fee  
3 not to exceed twenty-five dollars if the information is not timely  
4 received or the money is delinquent. In addition, the board may  
5 charge a late fee of thirty-eight thousandths of one percent of the  
6 amount required to be submitted pursuant to this section for each  
7 day such amount has not been received. Such director shall promptly  
8 thereafter remit the same to the State Treasurer for credit to  
9 the fund. No Nebraska Retirement Fund for Judges fee which is  
10 uncollectible for any reason shall be waived by a county judge as  
11 provided in section 29-2709.

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

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

20 (6) Not later than January 1 of each year, the State  
21 Treasurer shall transfer to the fund the amount certified by the  
22 board as being necessary to pay the cost of any benefits accrued  
23 during the fiscal year ending the previous June 30 in excess  
24 of member contributions for that fiscal year and court fees as  
25 provided in subsection (3) of this section and fees pursuant to

1 sections 25-2804, 33-103, 33-103.01, 33-106, 33-106.02, 33-123,  
2 33-125, 33-126.02, 33-126.03, and 33-126.06 and directed to be  
3 remitted to the fund, if any, for that fiscal year plus any  
4 required contributions of the state as provided in subsection (9)  
5 of this section.

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

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

12 (9) Not later than January 1 of each year, the State  
13 Treasurer shall transfer to the fund an amount, determined on  
14 the basis of an actuarial valuation as of the previous June 30  
15 and certified by the board, to fully fund the unfunded accrued  
16 liabilities of the retirement system as of June 30, 1988, by level  
17 payments up to January 1, 2000. Such valuation shall be on the  
18 basis of actuarial assumptions recommended by the actuary, approved  
19 by the board, and kept on file with the board. For the fiscal  
20 year beginning July 1, 2002, and each fiscal year thereafter,  
21 the actuary for the board shall perform an actuarial valuation  
22 of the system using the entry age actuarial cost method. Under  
23 this method, the actuarially required funding rate is equal to the  
24 normal cost rate, plus the contribution rate necessary to amortize  
25 the unfunded actuarial accrued liability on a level payment basis.

1 The normal cost under this method shall be determined for each  
2 individual member on a level percentage of salary basis. The normal  
3 cost amount is then summed for all members. The initial unfunded  
4 actual accrued liability as of July 1, 2002, if any, shall be  
5 amortized over a twenty-five-year period. Prior to July 1, 2006,  
6 changes in the funded actuarial accrued liability due to changes  
7 in benefits, actuarial assumptions, the asset valuation method, or  
8 actuarial gains or losses shall be measured and amortized over a  
9 twenty-five-year period beginning on the valuation date of such  
10 change. Beginning July 1, 2006, any existing unfunded liabilities  
11 shall be reinitialized and amortized over a thirty-year period,  
12 and during each subsequent actuarial valuation, changes in the  
13 funded actuarial accrued liability due to changes in benefits,  
14 actuarial assumptions, the asset valuation method, or actuarial  
15 gains or losses shall be measured and amortized over a thirty-year  
16 period beginning on the valuation date of such change. If the  
17 unfunded actuarial accrued liability under the entry age actuarial  
18 cost method is zero or less than zero on an actuarial valuation  
19 date, then all prior unfunded actuarial accrued liabilities shall  
20 be considered fully funded and the unfunded actuarial accrued  
21 liability shall be reinitialized and amortized over a thirty-year  
22 period as of the actuarial valuation date. If the actuarially  
23 required contribution rate exceeds the rate of all contributions  
24 required pursuant to the Judges Retirement Act, there shall be a  
25 supplemental appropriation sufficient to pay for the differences



1 between the actuarially required contribution rate and the rate of  
2 all contributions required pursuant to the Judges Retirement Act.

3 (10) The state or county shall pick up the member  
4 contributions required by this section for all compensation paid  
5 on or after January 1, 1985, and the contributions so picked up  
6 shall be treated as employer contributions in determining federal  
7 tax treatment under the Internal Revenue Code as defined in section  
8 49-801.01, except that the state or county shall continue to  
9 withhold federal income taxes based upon these contributions until  
10 the Internal Revenue Service or the federal courts rule that,  
11 pursuant to section 414(h) of the code, these contributions shall  
12 not be included as gross income of the member until such time as  
13 they are distributed or made available. The state or county shall  
14 pay these member contributions from the same source of funds which  
15 is used in paying earnings to the member. The state or county  
16 shall pick up these contributions by a compensation deduction  
17 through a reduction in the compensation of the member. Member  
18 contributions picked up shall be treated for all purposes of the  
19 Judges Retirement Act in the same manner and to the extent as  
20 member contributions made prior to the date picked up.

21 Sec. 2. Section 24-703.03, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 24-703.03 Any future member who has not previously  
24 retired prior to July 1, ~~2004~~, 2009, but after July 1, 2004,  
25 may elect to make contributions as provided in subdivision ~~(2)(b)~~

1 (2)(d) of section 24-703 and receive benefits as described in  
2 sections 24-707.01 and 24-708. Such election shall be made by  
3 written notice delivered to the board not later than ninety days  
4 after July 1, ~~2004~~, 2009.

5           Sec. 3. This act becomes operative on July 1, 2009.

6           Sec. 4. Original sections 24-703 and 24-703.03, Reissue  
7 Revised Statutes of Nebraska, are repealed.

8           Sec. 5. Since an emergency exists, this act takes effect  
9 when passed and approved according to law.