

LEGISLATURE OF NEBRASKA  
NINETY-SEVENTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 808**

Introduced by Urban Affairs Committee: Hartnett, 45, Chairperson;  
Connealy, 16; Erdman, 47; Janssen, 15; Preister, 5;  
Quandahl, 31; Redfield, 12

Read first time January 17, 2001

Committee: Urban Affairs

A BILL

1 FOR AN ACT relating to the Volunteer Emergency Responders  
2 Recruitment and Retention Act; to amend sections 35-1301,  
3 35-1303, 35-1309, 35-1311 to 35-1313, 35-1316, 35-1318,  
4 35-1320, 35-1321, 35-1324, 35-1326, 35-1327, 35-1330, and  
5 84-1503, Revised Statutes Supplement, 2000; to change and  
6 eliminate provisions relating to volunteer emergency  
7 responders; to eliminate a board and a fund; to provide  
8 standard criteria for qualified active service; to  
9 transfer powers and duties; to harmonize provisions; to  
10 repeal the original sections; and to outright repeal  
11 sections 35-1304 to 35-1308, 35-1325, and 35-1328,  
12 Revised Statutes Supplement, 2000.  
13 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 35-1301, Revised Statutes Supplement,  
2 2000, is amended to read:

3           35-1301. Sections 35-1301 to 35-1330 and section 4 of  
4 this act shall be known and may be cited as the Volunteer Emergency  
5 Responders Recruitment and Retention Act.

6           Sec. 2. Section 35-1303, Revised Statutes Supplement,  
7 2000, is amended to read:

8           35-1303. For purposes of the Volunteer Emergency  
9 Responders Recruitment and Retention Act:

10           (1) Active emergency responder means a person who has  
11 been approved by the duly constituted authority in control of a  
12 volunteer department as a volunteer member of the department who is  
13 performing service as both a firefighter and on a rescue squad in  
14 the protection of life, health, or property from fire or other  
15 emergency, accident, illness, or calamity in connection with which  
16 the services of such volunteer department are required and whose  
17 services and activities during a year of service meet the minimum  
18 requirements for qualification as an active member of his or her  
19 volunteer department as established by ~~the board~~ section 4 of this  
20 act;

21           (2) Active rescue squad member means a person who has  
22 been approved by the duly constituted authority in control of a  
23 volunteer department as a volunteer member of the department who is  
24 performing service as part of a rescue squad in the protection of  
25 life or health from emergency, accident, illness, or calamity in  
26 connection with which the services of such volunteer department are  
27 required and whose services and activities during a year of service  
28 meet the minimum requirements for qualification as an active member

1 of his or her volunteer department as established by ~~the board~~  
2 section 4 of this act;

3 (3) Active volunteer firefighter means a person who has  
4 been approved by the duly constituted authority in control of a  
5 volunteer department as a volunteer member of the department who is  
6 performing service as a firefighter in the protection of life or  
7 property from fire or other emergency, accident, or calamity in  
8 connection with which the services of such volunteer department are  
9 required and whose services and activities during a year of service  
10 meet the minimum requirements for qualification as an active member  
11 of his or her volunteer department as established by ~~the board~~  
12 section 4 of this act;

13 (4) Annual account means a separate account of a city,  
14 village, or rural or suburban fire protection district conducting a  
15 service award benefit program established for each year of service  
16 in which such program is being conducted to which is credited all  
17 funds, from whatever source, furnished for the purpose of providing  
18 service award benefits to qualifying participants in the service  
19 award benefit program during that year of service, with the funds  
20 in the account to be held in trust and invested for ultimate  
21 payment as service award benefits to those qualifying participants;

22 (5) ~~Board means the Volunteer Service Award Benefit~~  
23 ~~Review Board~~;

24 ~~(6)~~ City of the first class, city of the second class,  
25 village, rural fire protection district, and suburban fire  
26 protection district means such political subdivisions as they are  
27 defined in statute, and when such political subdivisions are  
28 granted authority pursuant to the Volunteer Emergency Responders

1 Recruitment and Retention Act to engage in any conduct authorized  
2 by the act, the use of these terms shall be construed to mean and  
3 include any combination of two or more of these political  
4 subdivisions acting in concert pursuant to an agreement entered  
5 into under the terms of the Interlocal Cooperation Act or the Joint  
6 Public Agency Act;

7           ~~(7)~~ (6) Emergency response services means the services  
8 provided by a volunteer department in the protection of life,  
9 health, or property from fire or other emergency, accident,  
10 illness, or calamity;

11           ~~(8)~~ (7) Nonforfeitable means the unconditional and  
12 legally enforceable right by a participant or beneficiary to  
13 receive service award benefits pursuant to a service award benefit  
14 program at the entitlement age or under the circumstances specified  
15 in the Volunteer Emergency Responders Recruitment and Retention  
16 Act;

17           ~~(9)~~ (8) Participant means an active emergency responder,  
18 active rescue squad member, or active volunteer firefighter who is  
19 currently eligible or who will, upon the completion of the  
20 requirements of the act, be eligible to receive a service award  
21 benefit;

22           ~~(10)~~ (9) Service award benefit program means a program  
23 established, governed, administered, and maintained pursuant to the  
24 act which provides service award benefits for active emergency  
25 responders, active rescue squad members, and active volunteer  
26 firefighters, as provided for in the act, for each year of active  
27 service, as defined by the standard criteria for qualified active  
28 service, and which program meets the length of service award plan

1 requirements of section 457(e)(11) of the Internal Revenue Code as  
2 modified by the Small Business Job Protection Act of 1996;

3 (10) Specified years of service means the total number of  
4 years of service which must be served by a volunteer member of a  
5 volunteer department to qualify that member for a service award  
6 benefit as determined by the governing body of the city, village,  
7 or rural or suburban fire protection district conducting the  
8 program;

9 (11) Standard criteria for qualified active service means  
10 ~~the initial report and any subsequent annual amendments formally~~  
11 ~~adopted by the board pursuant to the Volunteer Emergency Responders~~  
12 ~~Recruitment and Retention Act which establish~~ the minimum annual  
13 service requirements for the qualification of a volunteer member of  
14 a volunteer department as an active emergency responder, active  
15 rescue squad member, or active volunteer firefighter so as to  
16 enable such person to participate in a service award benefit  
17 program as provided in section 4 of this act;

18 (12) Unallocated contributions means that portion of an  
19 annual account representing the proportionate equal shares of (a)  
20 the principal amount of all contributions from whatever source  
21 deposited into the annual account for such year of service and (b)  
22 all income derived therefrom, attributable to participants listed  
23 on the certification list for that year of service who have  
24 subsequently ceased to be volunteers or participants and, in  
25 consequence, failed to qualify for a service award benefit as  
26 provided in section 35-1312 or 35-1313;

27 (13) Volunteer means a person who meets the requirements  
28 necessary to qualify as a bona fide volunteer as defined in section

1 457(e)(11)(B)(i) of the Internal Revenue Code and who, on behalf of  
2 and at the request or with the permission of a city, village, or  
3 rural or suburban fire protection district, engages in activities  
4 related to fire protection, fire suppression, or emergency response  
5 for the purpose of protecting human life, health, or property for  
6 which activities the person receives no remuneration;

7 (14) Volunteer department means any volunteer fire  
8 department or volunteer first-aid, rescue, ambulance, or emergency  
9 squad or volunteer fire company, association, or organization  
10 serving any city, village, or rural or suburban fire protection  
11 district by providing fire protection or emergency response  
12 services for the purpose of protecting human life, health, or  
13 property; and

14 (15) Year of service means the period from July 1 through  
15 the following June 30 in which the services and activities of a  
16 volunteer member of a volunteer department are monitored to  
17 determine if the volunteer qualifies for certification by the duly  
18 constituted authority of the volunteer department as meeting the  
19 standard criteria for qualified active service.

20 Sec. 3. Section 35-1309, Revised Statutes Supplement,  
21 2000, is amended to read:

22 35-1309. (1) After March 1, 2000, any city of the first  
23 class, city of the second class, village, rural fire protection  
24 district, or suburban fire protection district which places its  
25 primary reliance for emergency response services upon a volunteer  
26 department may adopt a service award benefit program as provided in  
27 the Volunteer Emergency Responders Recruitment and Retention Act.  
28 A service award benefit program shall only begin on July 1, 2000,

1 or on July 1 of any subsequent year.

2 (2) No city, village, or fire protection district shall  
3 be required to adopt a service award benefit program. Nothing in  
4 the act shall be construed to mandate the creation of a service  
5 award benefit program in any city, village, or fire protection  
6 district. The act shall not be construed to prohibit any city,  
7 village, or fire protection district from ending or eliminating any  
8 service award benefit program after its adoption, except that a  
9 city, village, or fire protection district may not end its program  
10 or its responsibility under its program with regard to any year of  
11 service completed prior to such elimination.

12 (3) Each service award benefit program shall include  
13 provisions governing the procedures to be followed in the tallying,  
14 recording, verifying, and auditing of points earned by volunteers  
15 and provisions which provide for the collection of such other  
16 information regarding participants as may be requested by the State  
17 Fire Marshal to facilitate administration of the program.

18 ~~(4) The board shall develop a model ordinance or~~  
19 ~~resolution for the adoption of a service award benefit program to~~  
20 ~~be used by cities, villages, and rural and suburban fire protection~~  
21 ~~districts in the creation of their programs.~~

22 Sec. 4. (1) The standard criteria for qualified active  
23 service shall be based on a total of one hundred possible points  
24 per year. A person must accumulate at least fifty points out of  
25 the possible one hundred points during a year of service in order  
26 to qualify as an active emergency responder, active rescue squad  
27 member, or active volunteer firefighter. Points shall be awarded  
28 as provided in this section.

1           (2) A fixed amount of twenty-five points shall be awarded  
2 to a person for responding to ten percent of the emergency response  
3 calls which are (a) dispatched from his or her assigned station or  
4 company during a year of service and (b) relevant to the  
5 appropriate duty category of the person. An emergency response  
6 call shall mean any dispatch involving an emergency activity that  
7 an emergency responder, rescue squad member, or volunteer  
8 firefighter is directed to do by the chief of the fire department  
9 or chief of the ambulance service, or persons authorized to act for  
10 the chiefs. No points shall be awarded for responding to less than  
11 ten percent of the emergency response calls.

12           (3)(a) For courses under twenty hours duration: One  
13 point shall be awarded per two hours, with a maximum of five points  
14 awarded per course.

15           (b) For courses of between twenty hours and forty hours  
16 duration: Five points shall be awarded, plus one point awarded for  
17 each hour after the first twenty hours, with a maximum of ten  
18 points awarded per course.

19           (c) For courses over forty hours duration: Fifteen  
20 points shall be awarded per course.

21           (4) Drills shall mean regular monthly drills used for  
22 instructional and educational purposes, as well as mock emergency  
23 response exercises to evaluate the efficiency or performance by the  
24 personnel of a department. Each drill shall last at least two  
25 hours. One point shall be awarded per drill.

26           (5) For attendance at an official meeting of the  
27 department or mutual aid organization, one point shall be awarded  
28 per meeting.

1           (6) A fixed award of ten points shall be awarded for  
2 completion of a term in one of the following elected or appointed  
3 positions: (a) An elected or appointed position defined in the  
4 department's constitution or bylaws; (b) an elected or appointed  
5 position of a mutual aid organization; or (c) an elected office of  
6 the Nebraska State Volunteer Firefighter's Association or other  
7 organized associations dealing with emergency response services in  
8 Nebraska.

9           (7) For participation in activities of fire prevention  
10 communicated to public, open house, speaking engagements on behalf  
11 of the department, presenting fire or rescue equipment at a parade  
12 or other public event, attendance at the Nebraska State Volunteer  
13 Firefighter's Association Convention, attendance at a meeting of a  
14 governing body of a city, village, or rural or suburban fire  
15 protection district on behalf of the department, or other  
16 activities related to emergency services not covered in this  
17 subsection, one point shall be awarded per activity, but no more  
18 than one point shall be awarded per day.

19           (8) Activities which may qualify a person to receive  
20 points in more than one of the categories described in subsections  
21 (2) through (7) of this section shall only be credited in one  
22 category. For example, if a department conducts a mock disaster  
23 drill, with the public invited to observe, the volunteer  
24 participating in the activity could earn one point for  
25 participating in the drill under subsection (4) of this section or  
26 could earn one point under subsection (7) of this section, but not  
27 one point in both categories.

28           Sec. 5. Section 35-1311, Revised Statutes Supplement,

1 2000, is amended to read:

2           35-1311. Each city, village, or rural or suburban fire  
3 protection district conducting a service award benefit program  
4 shall file with ~~the State Fire Marshal a copy of each certification~~  
5 ~~list for the immediately preceding year of service no later than~~  
6 ~~October 15. No later than January 31, 2001, and no later than each~~  
7 ~~succeeding January 31, each city, village, or rural or suburban~~  
8 ~~fire protection district conducting a service award benefit program~~  
9 ~~shall file with the State Fire Marshal no later than October 15 of~~  
10 ~~each year~~ a report specifying the number of volunteer members of  
11 the volunteer department serving the city, village, or fire  
12 protection district that have accumulated ~~at least one-half of~~ the  
13 number of points necessary to qualify as an active emergency  
14 responder, active rescue squad member, or active volunteer  
15 firefighter during the period from the immediately preceding ~~July 1~~  
16 ~~to December 31~~ year of service. The State Fire Marshal shall  
17 tabulate the total of all such volunteers as reported by all  
18 cities, villages, and rural and suburban fire protection districts  
19 conducting service award benefit programs and shall report the  
20 total number to the Clerk of the Legislature for distribution to  
21 the members of the Legislature no later than February 15, 2001, and  
22 no later than each succeeding February 15.

23           Sec. 6. Section 35-1312, Revised Statutes Supplement,  
24 2000, is amended to read:

25           35-1312. (1) Except as provided in section 35-1313,  
26 service award benefits provided under a service award benefit  
27 program shall be paid to a participant only upon the date he or she  
28 reaches the age of sixty-five or upon July 1 after the first year

1 of service in which such participant was not on the certification  
 2 list of his or her volunteer department, whichever is later, if the  
 3 participant has been an active emergency responder, active rescue  
 4 squad member, or active volunteer firefighter for not less than ten  
 5 consecutive years of service.

6 (2) Upon the completion of ~~ten consecutive~~ the specified  
 7 years of service as determined by the city, village, or rural or  
 8 suburban fire protection district, the participant shall have a  
 9 nonforfeitable interest in the annual accounts of all years of  
 10 service in which such participant is listed on the certification  
 11 list. Such interest is equivalent to a proportionate equal share  
 12 with all other participants listed on the certification list for a  
 13 year of service in (a) the principal amount of all contributions  
 14 deposited into the annual account for such year of service and (b)  
 15 all income derived therefrom.

16 Sec. 7. Section 35-1313, Revised Statutes Supplement,  
 17 2000, is amended to read:

18 35-1313. (1)(a) Service award benefits ~~shall~~ may be paid  
 19 to a participant as provided in subsection (1) of section 35-1312  
 20 notwithstanding that such participant has not been an active  
 21 emergency responder, active rescue squad member, or active  
 22 volunteer firefighter for ~~ten consecutive~~ the specified years of  
 23 service if ~~such participant has qualified as an active emergency~~  
 24 ~~responder, active rescue squad member, or active volunteer~~  
 25 ~~firefighter in ten years of service out of eleven consecutive years~~  
 26 ~~of service if~~ in the ~~year~~ years of service in which such  
 27 participant did not qualify such failure was due (i) to a period  
 28 during ~~the~~ a year of service in the armed forces of the United

1 States upon active duty or (ii) to an injury or disability incurred  
2 by the participant and directly related to the participant's duties  
3 or activities as a volunteer member of the volunteer department.

4 (b) Upon the completion of ~~ten~~ the specified years of  
5 service pursuant to this subsection, the participant shall have a  
6 nonforfeitable interest in the annual accounts of all years of  
7 service in which such participant is listed on the certification  
8 list. Such interest is equivalent to a proportionate equal share  
9 with all other participants listed on the certification list for a  
10 year of service in (i) the principal amount of all contributions  
11 deposited into the annual account for such year of service and (ii)  
12 all income derived therefrom.

13 (2) Service award benefits shall be paid to a participant  
14 as provided in subsection (1) of section 35-1312 notwithstanding  
15 that such participant had not been an active emergency responder,  
16 active rescue squad member, or active volunteer firefighter for ~~ten~~  
17 ~~consecutive~~ the specified years of service if such participant  
18 suffered a permanent disability resulting from an injury incurred  
19 by the participant and directly related to the participant's duties  
20 or activities as a volunteer member of the volunteer department  
21 which disqualified the participant from further service as a  
22 volunteer. At the time such disability is confirmed and certified  
23 to the governing body of the city, village, or rural or suburban  
24 fire protection district conducting the service award benefit  
25 program, the participant shall have a nonforfeitable interest in  
26 the annual accounts of all years of service in which such  
27 participant is listed on the certification list. Such interest is  
28 equivalent to a proportionate equal share with all other

1 participants listed on the certification list for a year of service  
2 in (a) the principal amount of all contributions deposited into the  
3 annual account for such year of service and (b) all income derived  
4 therefrom.

5 (3) Service award benefits shall be paid to the  
6 beneficiary of a participant notwithstanding that such participant  
7 has not been an active emergency responder, active rescue squad  
8 member, or active volunteer firefighter for ~~ten consecutive~~ the  
9 specified years of service if such participant dies in the course  
10 of his or her active service as a volunteer member of a volunteer  
11 department or dies as the result of injuries incurred by the  
12 participant directly related to his or her duties or activities as  
13 a volunteer member of a volunteer department. At the time of the  
14 participant's death, the beneficiary of the participant shall have  
15 a nonforfeitable interest in the annual accounts of all years of  
16 service in which the participant is listed on the certification  
17 list. Such interest is equivalent to a proportionate equal share  
18 with all other participants listed on the certification list for a  
19 year of service in (a) the principal amount of all contributions  
20 deposited into the annual account for such year of service and (b)  
21 all income derived therefrom.

22 (4) Service award benefits shall be paid to the  
23 beneficiary of a participant upon the death of a participant  
24 notwithstanding that such participant had not reached the age of  
25 sixty-five if such participant would have been entitled to receive  
26 service award benefits at age sixty-five pursuant to subsection (1)  
27 of section 35-1312 or subsection (1) or (2) of this section.

28 Sec. 8. Section 35-1316, Revised Statutes Supplement,

1 2000, is amended to read:

2           35-1316.   (1) Each city, village, or rural or suburban  
3 fire protection district conducting a service award benefit program  
4 shall appropriate for the annual account for each year of service  
5 in which such program is in existence a sum ~~equal to not less than~~  
6 ~~one hundred dollars times the number of participants listed on the~~  
7 ~~certification list for that year of service. No later than October~~  
8 ~~15 immediately succeeding the end of the year of service for which~~  
9 ~~such deposit is to be made, the city, village, or rural or suburban~~  
10 ~~fire protection district shall deposit the annual account with the~~  
11 ~~State Treasurer to be determined by the governing body as~~  
12 sufficient to meet the purposes of the program.

13           (2) The total amount of all contributions from all  
14 sources made to any annual account shall not exceed three thousand  
15 dollars times the number of participants listed on the  
16 certification list for the year of service covered by that annual  
17 account. The service award benefit paid to a qualifying  
18 participant or beneficiary shall not include in any participant's  
19 share of an annual account any contributions made to the annual  
20 account for that year of service which are allocable to the  
21 participant or beneficiary in excess of the sum of three thousand  
22 dollars and any income derived from the investment of those excess  
23 sums.

24           (3) No city, village, or rural or suburban fire  
25 protection district conducting a service award benefit program  
26 shall incur any obligation or liability with regard to  
27 contributions into any annual account under such program beyond the  
28 amount of contributions actually appropriated by such local

1 political subdivision for such purpose and actually distributed  
2 into such accounts.

3           Sec. 9.     Section 35-1318, Revised Statutes Supplement,  
4 2000, is amended to read:

5           35-1318.   ~~No participant in a service award benefit~~  
6 ~~program shall participate in or receive a service award benefit~~  
7 ~~from more than one service award benefit program.~~ Any person who  
8 is a paid member of a fire department or other emergency response  
9 organization and who receives retirement benefits in consequence of  
10 such employment shall not be eligible to participate in any service  
11 award benefit program being conducted by the same city, village, or  
12 rural or suburban fire protection district which employs the person  
13 or which contracts for emergency response services with the fire  
14 department or emergency response organization which employs the  
15 person.

16           Sec. 10.  Section 35-1320, Revised Statutes Supplement,  
17 2000, is amended to read:

18           35-1320.   Any city, village, or rural or suburban fire  
19 protection district conducting a service award benefit program  
20 shall, within thirty days after the adoption of a program, provide  
21 all volunteers providing its local political subdivision with  
22 emergency response services with a summary of the program's  
23 provisions, including the program's provisions relating to  
24 participation and the applicable standard criteria for qualified  
25 active service, the manner in which nonforfeitable interests in  
26 annual accounts are obtained, the amount of all contributions to  
27 the annual account, and any other information relating to  
28 participation in the program.   The city, village, or rural or

1 suburban fire protection district shall provide copies of the  
2 summary to all new volunteer members and to any applicant for  
3 membership to the volunteer department. Any material modification  
4 to the program shall be provided in writing to all participants  
5 within thirty days after its adoption by the city, village, or  
6 rural or suburban fire protection district. No later than December  
7 1 of each year following the end of the first full year of service  
8 after the adoption of a service award benefit program, the city,  
9 village, or rural or suburban fire protection district shall  
10 provide to each participant listed in the certification list for  
11 that year of service a summary and copy of the relevant documents  
12 relating to the contributions to the annual account for such year  
13 of service. ~~and any other relevant documents or information~~  
14 ~~provided by the Public Employees Retirement Board, the~~  
15 ~~administrator of the program, or the State Fire Marshal.~~ By  
16 December 1 of each subsequent year, the city, village, or rural or  
17 suburban fire protection district shall provide each participant  
18 who appears for the first time in the certification list for the  
19 immediately preceding year of service with the same information.  
20 All documents relating to any program, the certification lists, the  
21 annual accounts, the investment of the funds of the annual  
22 accounts, the contributions to the account and the income derived  
23 therefrom, and the identity of the administrator of the annual  
24 accounts shall be public records within the meaning of section  
25 84-712.01.

26           Sec. 11. Section 35-1321, Revised Statutes Supplement,  
27 2000, is amended to read:

28           35-1321. ~~(1)~~ Within thirty days after the adoption of a

1 service award benefit program, the city, village, or rural or  
2 suburban fire protection district shall notify the State Fire  
3 Marshal of such fact. ~~and file with the State Fire Marshal copies~~  
4 ~~of the program documentation.~~

5 (2) ~~Within thirty days after the adoption of any material~~  
6 ~~modification to the program, including any change of certification~~  
7 ~~administrator, the city, village, or rural or suburban fire~~  
8 ~~protection district shall notify the State Fire Marshal of such~~  
9 ~~fact and file with the State Fire Marshal copies of the appropriate~~  
10 ~~documentation of the change.~~

11 Sec. 12. Section 35-1324, Revised Statutes Supplement,  
12 2000, is amended to read:

13 35-1324. (1) All deposits made to annual accounts under  
14 any service award benefit program conducted pursuant to the  
15 Volunteer Emergency Responders Recruitment and Retention Act, all  
16 property and rights purchased with such deposits, and all  
17 investment income, property, or rights attributable to such  
18 deposits shall be held in trust for the exclusive benefit of  
19 participants and their beneficiaries by the ~~State of Nebraska city,~~  
20 village, or rural or suburban fire protection district conducting  
21 the program until such time as payments shall be paid under the  
22 terms of a program and the act. All such assets held in trust  
23 shall be invested by the city, village, or rural or suburban fire  
24 protection district conducting the program in certificates of  
25 deposit, in time deposits, and in any securities in which the state  
26 investment officer is authorized to invest pursuant to the Nebraska  
27 Capital Expansion Act and the Nebraska State Funds Investment Act  
28 and as provided in the authorized investment guidelines of the

1 Nebraska Investment Council in effect on the date the investment is  
2 made.

3           (2) The State Treasurer shall be the custodian of the  
4 funds and securities of such service award benefit programs and may  
5 deposit the funds and securities in any financial institution  
6 approved by the Nebraska Investment Council. All disbursements  
7 therefrom shall be paid by him or her only upon vouchers duly  
8 authorized by the Public Employees Retirement Board. The State  
9 Treasurer shall furnish annually to the Public Employees Retirement  
10 Board a sworn statement of the amount of the funds in his or her  
11 custody belonging to service award benefit programs, which  
12 statement shall be as of the calendar year ending December 31 of  
13 each year.

14           (3) All deposits made to annual accounts under service  
15 award benefit programs, all property and rights purchased with the  
16 deposits, and all investment income, property, or rights  
17 attributable to such deposits under the Volunteer Emergency  
18 Responders Recruitment and Retention Act shall not be subject to  
19 garnishment, attachment, levy, the operation of bankruptcy or  
20 insolvency laws, or any other process of law whatsoever and shall  
21 not be assignable.

22           Sec. 13. Section 35-1326, Revised Statutes Supplement,  
23 2000, is amended to read:

24           35-1326. The Public Employees Retirement Board Any city,  
25 village, or rural or suburban fire protection district conducting a  
26 program may enter into an administrative services agreement with an  
27 appropriate organization authorized to conduct business in Nebraska  
28 to administer the service award benefit programs provided for in

1 the Volunteer Emergency Responders Recruitment and Retention Act.  
2 No such agreement shall be entered into unless ~~the board determines~~  
3 ~~that~~ it will result in administrative economy and will be in the  
4 best interests of the state, the participating cities, villages,  
5 and fire protection districts, and the participants in such  
6 programs.

7 Sec. 14. Section 35-1327, Revised Statutes Supplement,  
8 2000, is amended to read:

9 35-1327. The agreement authorized by section 35-1326  
10 shall provide:

11 (1) That the organization shall make all disbursements  
12 under the contract or contracts issued by it, such disbursements to  
13 be made in such manner and amounts as directed by the ~~state~~ city,  
14 village, or rural or suburban fire protection district conducting  
15 the program whether on account of disability, death, the  
16 termination of a program, or the attainment of the appropriate age  
17 by a qualifying participant;

18 (2) That the organization shall include with each  
19 disbursement a statement showing the gross payment, any taxes  
20 withheld, and the net amount paid and an annual statement of  
21 account;

22 (3) That the organization shall furnish to the ~~Public~~  
23 ~~Employees Retirement Board~~ city, village, or district a statement  
24 of all disbursements and withholdings as stipulated in the  
25 agreement on at least an annual basis, as agreed by the parties;

26 (4) Hold-harmless clauses protecting each party thereto  
27 from the negligent acts of the other or for any loss or claim  
28 against one party resulting from release of incorrect or misleading

1 information furnished by the other party;

2 (5) For the right of the ~~state~~ city, village, or  
3 district, either directly or through independent auditors, to  
4 examine and audit the organization's records and accounts relating  
5 to disbursements made under the agreement;

6 (6) Protection to the ~~state~~ city, village, or district  
7 against assignment of the agreement or the subletting of work done  
8 or services furnished under the agreement;

9 (7) For termination of the agreement; and

10 (8) Such other terms as may be agreed upon and which the  
11 ~~Public Employees Retirement Board~~ city, village, or district  
12 determines to be in the best interest of the state, the  
13 participating cities, villages, and fire protection districts, and  
14 the participants in such programs.

15 Sec. 15. Section 35-1330, Revised Statutes Supplement,  
16 2000, is amended to read:

17 35-1330. All unallocated contributions shall be  
18 ~~deposited in the Nebraska Service Award Benefit Expense Fund used~~  
19 by the city, village, or rural or suburban fire protection district  
20 to finance the cost of conducting the program.

21 Sec. 16. Section 84-1503, Revised Statutes Supplement,  
22 2000, is amended to read:

23 84-1503. (1) It shall be the duty of the Public  
24 ~~Employees Retirement Board~~:

25 (a) To administer the retirement systems provided for in  
26 the County Employees Retirement Act, the Judges Retirement Act, the  
27 Nebraska State Patrol Retirement Act, the School Employees  
28 Retirement Act, and the State Employees Retirement Act. The agency

1 for the administration of the retirement systems and under the  
2 direction of the board shall be known and may be cited as the  
3 Nebraska Public Employees Retirement Systems;

4 (b) To appoint a director to administer the systems under  
5 the direction of the board. The appointment shall be subject to  
6 the approval of the Governor and a majority of the Legislature.  
7 The director shall be qualified by training and have at least five  
8 years of experience in the administration of a qualified public or  
9 private employee retirement plan. The director shall not be a  
10 member of the board. The salary of the director shall be set by  
11 the board. The director shall serve without term and may be  
12 removed by the board;

13 (c) To provide for an equitable allocation of expenses  
14 among the retirement systems administered by the board, and all  
15 expenses shall be provided from the investment income earned by the  
16 various retirement funds unless alternative sources of funds to pay  
17 expenses are specified by law;

18 (d) To administer the deferred compensation program  
19 authorized in section 84-1504;

20 (e) To hire an attorney, admitted to the Nebraska State  
21 Bar Association, to advise the board in the administration of the  
22 retirement systems listed in subdivision (a) of this subsection;

23 (f) To adopt and implement procedures for reporting  
24 information by employers, as well as sampling and monitoring  
25 procedures. The information necessary to determine membership  
26 shall be provided by the employer. The board shall adopt and  
27 promulgate rules and regulations and prescribe such forms necessary  
28 to carry out this subdivision; and

1           (g) ~~To administer the service award benefit programs~~  
2 ~~authorized in the Volunteer Emergency Responders Recruitment and~~  
3 ~~Retention Act, and~~

4           ~~(h)~~ To prescribe and furnish forms for the public  
5 retirement system plan reports required to be filed pursuant to  
6 sections 2-3228, 12-101, 14-567, 14-1805.01, 14-2111, 15-1017,  
7 16-1017, 16-1037, 19-3501, 23-1118, 23-3526, 71-1631.02, and 79-987  
8 and to notify the Nebraska Retirement Systems Committee of the  
9 Legislature of the failure of any governmental entity to file such  
10 reports.

11           (2) In administering the retirement systems listed in  
12 subdivision (1)(a) of this section, it shall be the duty of the  
13 board:

14           (a) To determine, based on information provided by the  
15 employer, the prior service annuity, if any, for each person who is  
16 an employee of the county on the date of adoption of the retirement  
17 system;

18           (b) To determine the eligibility of an individual to be a  
19 member of the retirement system and other questions of fact in the  
20 event of a dispute between an individual and the individual's  
21 employer;

22           (c) To adopt and promulgate rules and regulations for the  
23 management of the board;

24           (d) To keep a complete record of all proceedings taken at  
25 any meeting of the board;

26           (e) To obtain, by a competitive, formal, and sealed  
27 bidding process through the materiel division of the Department of  
28 Administrative Services, actuarial services on behalf of the State

1 of Nebraska as may be necessary in the administration and  
2 development of the retirement systems. Any contract for actuarial  
3 services shall contain a provision allowing the actuary, without  
4 prior approval of the board, to perform actuarial studies of the  
5 systems as requested by entities other than the board, if notice,  
6 which does not identify the entity or substance of the request, is  
7 given to the board, all costs are paid by the requesting entity,  
8 results are provided to the board upon being made public, and such  
9 actuarial studies do not interfere with the actuary's ongoing  
10 responsibility to the board. The term of the contract shall be for  
11 up to three years. A competitive, formal, and sealed bidding  
12 process shall be completed at least once in every three years,  
13 unless the board determines that such a process would not be cost  
14 effective under the circumstances and that the actuarial services  
15 performed have been satisfactory, in which case the contract may  
16 also contain an option for renewal without a competitive, formal,  
17 and sealed bidding process for up to three additional years. An  
18 actuary under contract for the State of Nebraska shall be a member  
19 of the American Academy of Actuaries;

20 (f) To direct the State Treasurer to transfer funds, as  
21 an expense of the retirement systems, to the Legislative Council  
22 Retirement Study Fund. Such transfer shall occur beginning on or  
23 after July 31, 1992, and at intervals of not less than ten years  
24 and not more than fifteen years and shall be in such amounts as the  
25 Legislature shall direct, except that up to seventy-five thousand  
26 dollars may be transferred in FY1993-94 to assist in completing the  
27 study authorized in Legislative Resolution 328, Ninety-second  
28 Legislature, Second Session, 1992;

1           (g) To adopt and promulgate rules and regulations to  
2 carry out the provisions of each retirement system described in  
3 subdivision (1)(a) of this section, which shall include, but not be  
4 limited to, the crediting of military service, direct rollover  
5 distributions, and the acceptance of rollovers;

6           (h) To obtain, by a competitive, formal, and sealed  
7 bidding process through the materiel division of the Department of  
8 Administrative Services, auditing services for a separate  
9 compliance audit of the retirement systems to be completed by  
10 December 31, 1997, and every four years thereafter. The compliance  
11 audit shall be in addition to the annual audit conducted by the  
12 Auditor of Public Accounts. The compliance audit shall include,  
13 but not be limited to, an examination of records, files, and other  
14 documents and an evaluation of all policies and procedures to  
15 determine compliance with all state and federal laws. A copy of  
16 the compliance audit shall be given to the Governor, the board, and  
17 the Nebraska Retirement Systems Committee and shall be presented to  
18 the committee at a public hearing;

19           (i) To adopt and promulgate rules and regulations for the  
20 adjustment of contributions or benefits, which shall include, but  
21 not be limited to: (i) The procedures for refunding contributions,  
22 adjusting future contributions or benefit payments, and requiring  
23 additional contributions or repayment of benefits; (ii) the process  
24 for a member, member's beneficiary, employee, or employer to  
25 dispute an adjustment to contributions or benefits; and (iii)  
26 notice provided to all affected persons. All notices shall be sent  
27 prior to an adjustment and shall describe the process for disputing  
28 an adjustment to contributions or benefits; and

1           (j) To administer all retirement system plans in a manner  
2 which will maintain each plan's status as a qualified plan pursuant  
3 to the Internal Revenue Code. The board shall adopt and promulgate  
4 rules and regulations necessary or appropriate to maintain such  
5 status including, but not limited to, rules or regulations which  
6 restrict discretionary or optional contributions to a plan or which  
7 limit distributions from a plan.

8           (3) The board and the Nebraska Investment Council shall  
9 jointly have an analysis made of the investment return that has  
10 been achieved on the assets of each retirement system administered  
11 by the board. The analysis shall be prepared annually as of  
12 January 1. The analysis shall be prepared by an independent  
13 private organization which has demonstrated expertise to perform  
14 this type of analysis and which is unrelated to any organization  
15 offering investment advice or providing investment management  
16 services to the retirement system. The analysis may be waived  
17 jointly by the board and the council for any retirement system with  
18 assets of less than ten million dollars. A copy of the analysis  
19 shall be given to the board, the council, and the Nebraska  
20 Retirement Systems Committee. By March 1 of each year, the  
21 analysis shall be presented to the Nebraska Retirement Systems  
22 Committee.

23           (4) By March 1 of each year, the board shall prepare a  
24 written plan of action and shall present such plan to the Nebraska  
25 Retirement Systems Committee at a public hearing. The plan shall  
26 include, but not be limited to, the board's funding policy, member  
27 education and informational programs, the director's duties and the  
28 limits on his or her authority, an organizational structure of the

1 office of the Nebraska Public Employees Retirement Systems, and the  
2 internal control structure of such office to ensure compliance with  
3 state and federal laws.

4           Sec. 17.     Original sections 35-1301, 35-1303, 35-1309,  
5 35-1311 to 35-1313, 35-1316, 35-1318, 35-1320, 35-1321, 35-1324,  
6 35-1326, 35-1327, 35-1330, and 84-1503, Revised Statutes  
7 Supplement, 2000, are repealed.

8           Sec. 18.     The following sections are outright repealed:  
9 Sections 35-1304 to 35-1308, 35-1325, and 35-1328, Revised Statutes  
10 Supplement, 2000.