

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 40**

FINAL READING

Introduced by Nordquist, 7.

Read first time January 08, 2015

Committee: Nebraska Retirement Systems

1 A BILL FOR AN ACT relating to retirement; to amend sections 16-1019,  
2 16-1038, 23-2305.01, 23-2322, 24-704.01, 79-904.01, 79-948,  
3 79-9,104, 81-2019.01, 81-2032, 84-1305.02, 84-1324, 84-1503, and  
4 84-1505, Reissue Revised Statutes of Nebraska, and sections 14-2111,  
5 24-710.02, and 48-1401, Revised Statutes Cumulative Supplement,  
6 2014; to eliminate unconstitutional provisions related to payment of  
7 benefits or annuities for civil damages; to grant the Public  
8 Employees Retirement Board certain investigative powers; and to  
9 repeal the original sections.  
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 14-2111, Revised Statutes Cumulative Supplement,  
2 2014, is amended to read:

3 14-2111 (1) The board of directors of any metropolitan utilities  
4 district may also provide benefits for, insurance of, and annuities for  
5 the present and future employees and appointees of the district covering  
6 accident, disease, death, total and permanent disability, and retirement,  
7 all or any of them, under such terms and conditions as the board may deem  
8 proper and expedient from time to time. Any retirement plan adopted by  
9 the board of directors shall be upon some contributory basis requiring  
10 contributions by both the district and the employee or appointee, except  
11 that the district may pay the entire cost of the fund necessary to cover  
12 service rendered prior to the adoption of any new retirement plan. Any  
13 retirement plan shall take into consideration the benefits provided for  
14 employees and appointees of metropolitan utilities districts under the  
15 Social Security Act, and any benefits provided under a contributory  
16 retirement plan shall be supplemental to the benefits provided under the  
17 Social Security Act as defined in section 68-602 if the employees  
18 entitled to vote in a referendum vote in favor of old age and survivors'  
19 insurance coverage. To effectuate any plan adopted pursuant to this  
20 authority, the board of directors of the district is empowered to  
21 establish and maintain reserves and funds, provide for insurance premiums  
22 and costs, and make such delegation as may be necessary to carry into  
23 execution the general powers granted by this section. ~~Payments Except as~~  
24 ~~provided in subsection (4) of this section, payments~~ made to employees  
25 and appointees, under the authority in this section, shall be exempt from  
26 attachment or other legal process and shall not be assignable.

27 (2) Any retirement plan adopted by the board of directors of any  
28 metropolitan utilities district may allow the district to pick up the  
29 employee contribution required by this section for all compensation paid  
30 on or after January 1, 1986, and the contributions so picked up shall be  
31 treated as employer contributions in determining federal tax treatment

1 under the Internal Revenue Code, except that the employer shall continue  
2 to withhold federal income taxes based upon such contributions until the  
3 Internal Revenue Service or the federal courts rule that, pursuant to  
4 section 414(h) of the Internal Revenue Code, such contributions shall not  
5 be included as gross income of the employee until such time as they are  
6 distributed or made available. The employer shall pay the employee  
7 contributions from the same source of funds which is used in paying  
8 earnings to the employees. The employer shall pick up the contributions  
9 by a salary deduction either through a reduction in the cash salary of  
10 the employee or a combination of a reduction in salary and offset against  
11 a future salary increase. Employee contributions picked up shall be  
12 treated in the same manner and to the same extent as employee  
13 contributions made prior to the date picked up.

14 (3)(a) Beginning December 31, 1998, and each December 31 thereafter,  
15 the chairperson of the board shall file with the Public Employees  
16 Retirement Board an annual report on each retirement plan established  
17 pursuant to this section and section 401(a) of the Internal Revenue Code  
18 and shall submit copies of such report to the Auditor of Public Accounts.  
19 The Auditor of Public Accounts may prepare a review of such report  
20 pursuant to section 84-304.02 but is not required to do so. The annual  
21 report shall be in a form prescribed by the Public Employees Retirement  
22 Board and shall contain the following information for each such  
23 retirement plan:

- 24 (i) The number of persons participating in the retirement plan;
- 25 (ii) The contribution rates of participants in the plan;
- 26 (iii) Plan assets and liabilities;
- 27 (iv) The names and positions of persons administering the plan;
- 28 (v) The names and positions of persons investing plan assets;
- 29 (vi) The form and nature of investments;
- 30 (vii) For each defined contribution plan, a full description of  
31 investment policies and options available to plan participants; and

1 (viii) For each defined benefit plan, the levels of benefits of  
2 participants in the plan, the number of members who are eligible for a  
3 benefit, and the total present value of such members' benefits, as well  
4 as the funding sources which will pay for such benefits.

5 If a plan contains no current active participants, the chairperson  
6 may file in place of such report a statement with the Public Employees  
7 Retirement Board indicating the number of retirees still drawing  
8 benefits, and the sources and amount of funding for such benefits.

9 (b) If such retirement plan is a defined benefit plan which was open  
10 to new members on January 1, 2004, in addition to the reports required by  
11 section 13-2402, the board of directors of any metropolitan utilities  
12 district shall cause to be prepared an annual report and shall file the  
13 same with the Public Employees Retirement Board and the Nebraska  
14 Retirement Systems Committee of the Legislature and submit to the Auditor  
15 of Public Accounts a copy of such report. The Auditor of Public Accounts  
16 may prepare a review of such report pursuant to section 84-304.02 but is  
17 not required to do so. If the board of directors does not submit a copy  
18 of the report to the Auditor of Public Accounts within six months after  
19 the end of the plan year, the Auditor of Public Accounts may audit, or  
20 cause to be audited, the metropolitan utilities district. All costs of  
21 the audit shall be paid by the metropolitan utilities district. The  
22 report shall consist of a full actuarial analysis of each such retirement  
23 plan established pursuant to this section. The analysis shall be prepared  
24 by an independent private organization or public entity employing  
25 actuaries who are members in good standing of the American Academy of  
26 Actuaries, and which organization or entity has demonstrated expertise to  
27 perform this type of analysis and is unrelated to any organization  
28 offering investment advice or which provides investment management  
29 services to the retirement plan. The report to the Nebraska Retirement  
30 Systems Committee shall be submitted electronically.

31 ~~(4) If an employee or appointee is convicted of or pleads no contest~~

1 ~~to a felony that is defined as assault, sexual assault, kidnapping, child~~  
2 ~~abuse, false imprisonment, or theft by embezzlement and is found liable~~  
3 ~~for civil damages as a result of such felony, following distribution of~~  
4 ~~the employee's or appointee's benefits or annuities from the retirement~~  
5 ~~plan, the court may order the payment of the employee's or appointee's~~  
6 ~~benefits or annuities under the retirement plan for such civil damages,~~  
7 ~~except that the benefits or annuities to the extent reasonably necessary~~  
8 ~~for the support of the employee or appointee or any of his or her~~  
9 ~~beneficiaries shall be exempt from such payment. Any order for payment of~~  
10 ~~benefits or annuities shall not be stayed on the filing of any appeal of~~  
11 ~~the conviction. If the conviction is reversed on final judgment, all~~  
12 ~~benefits or annuities paid as civil damages shall be forfeited and~~  
13 ~~returned to the employee or appointee. The changes made to this section~~  
14 ~~by Laws 2012, LB916, shall apply to persons convicted of or who have pled~~  
15 ~~no contest to such a felony and who have been found liable for civil~~  
16 ~~damages as a result of such felony prior to, on, or after April 7, 2012.~~

17       Sec. 2. Section 16-1019, Reissue Revised Statutes of Nebraska, is  
18 amended to read:

19       16-1019 (1) ~~The~~ Except as provided in subsection (6) of this  
20 section, the right to any benefits under the retirement system and the  
21 assets of any fund of the retirement system shall not be assignable or  
22 subject to execution, garnishment, attachment, or the operation of any  
23 bankruptcy or insolvency laws, except that the retirement system may  
24 comply with the directions set forth in a qualified domestic relations  
25 order meeting the requirements of section 414(p) of the Internal Revenue  
26 Code. Any payment of benefits subject to such order shall take priority  
27 over any payment made pursuant to subsection (6) of this section. The  
28 city or retirement committee may require appropriate releases from any  
29 person as a condition to complying with any such order. The retirement  
30 system shall not recognize any domestic relations order which alters or  
31 changes benefits, provides for a form of benefit not otherwise provided

1 for by the retirement system, increases benefits not otherwise provided  
2 by the retirement system, or accelerates or defers the time of payment of  
3 benefits. No participant or beneficiary shall have any right to any  
4 specific portion of the assets of the retirement system.

5 (2) The retirement system shall be administered in a manner  
6 necessary to comply with the tax-qualification requirements applicable to  
7 government retirement plans under section 401(a) of the Internal Revenue  
8 Code, including section 401(a)(9) relating to the time and manner in  
9 which benefits are required to be distributed and section 401(a)(9)(G)  
10 relating to incidental death benefit requirements, section 401(a)(16)  
11 relating to compliance with the maximum limitation on the plan benefits  
12 or contributions under section 415, section 401(a)(17) which limits the  
13 amount of compensation which can be taken into account under a retirement  
14 plan, section 401(a)(25) relating to the specification of actuarial  
15 assumptions, section 401(a)(31) relating to direct rollover distributions  
16 from eligible retirement plans, and section 401(a)(37) relating to the  
17 death benefit of a police officer who dies while performing qualified  
18 military service. Any requirements for compliance with section 401(a) of  
19 the Internal Revenue Code may be set forth in any trust or funding medium  
20 for the retirement system. This subsection shall be in full force and  
21 effect only so long as conformity with section 401(a) of the Internal  
22 Revenue Code is required for public retirement systems in order to secure  
23 the favorable income tax treatment extended to sponsors and beneficiaries  
24 of tax-qualified retirement plans.

25 (3) If the retirement committee determines that the retirement  
26 system has previously overpaid or underpaid a benefit payable under the  
27 Police Officers Retirement Act, it shall have the power to correct such  
28 error. In the event of an overpayment, the retirement system may, in  
29 addition to any other remedy that the retirement system may possess,  
30 offset future benefit payments by the amount of the prior overpayment,  
31 together with regular interest thereon.

1 (4) A police officer whose benefit payment is adjusted by the  
2 retirement committee pursuant to subsection (3) of this section may  
3 request a review by the city council of the adjustment made by the  
4 retirement committee.

5 (5) In order to provide the necessary amounts to pay for or fund a  
6 pension plan established under the act, the mayor and council may make a  
7 levy which is within the levy restrictions of section 77-3442.

8 ~~(6) If a member of the retirement system is convicted of or pleads~~  
9 ~~no contest to a felony that is defined as assault, sexual assault,~~  
10 ~~kidnapping, child abuse, false imprisonment, or theft by embezzlement and~~  
11 ~~is found liable for civil damages as a result of such felony, following~~  
12 ~~distribution of the member's benefits or the assets of any fund of the~~  
13 ~~member from the retirement system, the court may order the payment of the~~  
14 ~~member's benefits or the assets of any fund of the member under the~~  
15 ~~retirement system for such civil damages, except that the benefits or~~  
16 ~~assets to the extent reasonably necessary for the support of the member~~  
17 ~~or any of his or her beneficiaries shall be exempt from such payment. Any~~  
18 ~~order for payment of benefits or assets shall not be stayed on the filing~~  
19 ~~of any appeal of the conviction. If the conviction is reversed on final~~  
20 ~~judgment, all benefits or assets paid as civil damages shall be forfeited~~  
21 ~~and returned to the member. The changes made to this section by Laws~~  
22 ~~2012, LB916, shall apply to persons convicted of or who have pled no~~  
23 ~~contest to such a felony and who have been found liable for civil damages~~  
24 ~~as a result of such felony prior to, on, or after April 7, 2012.~~

25 Sec. 3. Section 16-1038, Reissue Revised Statutes of Nebraska, is  
26 amended to read:

27 16-1038 (1) ~~The~~ Except as provided in subsection (6) of this  
28 section, the right to any benefits under the retirement system and the  
29 assets of any fund of the retirement system shall not be assignable or  
30 subject to execution, garnishment, attachment, or the operation of any  
31 bankruptcy or insolvency laws, except that the retirement system may

1 comply with the directions set forth in a qualified domestic relations  
2 order meeting the requirements of section 414(p) of the Internal Revenue  
3 Code. ~~Any payment of benefits subject to such order shall take priority~~  
4 ~~over any payment made pursuant to subsection (6) of this section.~~ The  
5 city or retirement committee may require appropriate releases from any  
6 person as a condition to complying with any such order. The retirement  
7 system shall not recognize any domestic relations order which alters or  
8 changes benefits, provides for a form of benefit not otherwise provided  
9 for by the retirement system, increases benefits not otherwise provided  
10 by the retirement system, or accelerates or defers the time of payment of  
11 benefits. No participant or beneficiary shall have any right to any  
12 specific portion of the assets of the retirement system.

13 (2) The retirement system shall be administered in a manner  
14 necessary to comply with the tax-qualification requirements applicable to  
15 government retirement plans under section 401(a) of the Internal Revenue  
16 Code, including section 401(a)(9) relating to the time and manner in  
17 which benefits are required to be distributed and section 401(a)(9)(G)  
18 relating to incidental death benefit requirements, section 401(a)(16)  
19 relating to compliance with the maximum limitation on the plan benefits  
20 or contributions under section 415, section 401(a)(17) which limits the  
21 amount of compensation which can be taken into account under a retirement  
22 plan, section 401(a)(25) relating to the specification of actuarial  
23 assumptions, section 401(a)(31) relating to direct rollover distribution  
24 from eligible retirement plans, and section 401(a)(37) relating to the  
25 death benefit of a firefighter who dies while performing qualified  
26 military service. Any requirements for compliance with section 401(a) of  
27 the Internal Revenue Code may be set forth in any trust or funding medium  
28 for the retirement system. This subsection shall be in full force and  
29 effect only so long as conformity with section 401(a) of the Internal  
30 Revenue Code is required for public retirement systems in order to secure  
31 the favorable income tax treatment extended to sponsors and beneficiaries

1 of tax-qualified retirement plans.

2 (3) If the retirement committee determines that the retirement  
3 system has previously overpaid or underpaid a benefit payable under  
4 sections 16-1020 to 16-1042, it shall have the power to correct such  
5 error. In the event of an overpayment, the retirement system may, in  
6 addition to any other remedy that the retirement system may possess,  
7 offset future benefit payments by the amount of the prior overpayment,  
8 together with regular interest thereon.

9 (4) A firefighter whose benefit payment is adjusted by the  
10 retirement committee pursuant to subsection (3) of this section may  
11 request a review by the city council of the adjustment made by the  
12 retirement committee.

13 (5) In order to provide the necessary amounts to pay for or fund a  
14 pension plan established under sections 16-1020 to 16-1042, the mayor and  
15 council may make a levy which is within the levy restrictions of section  
16 77-3442.

17 ~~(6) If a member of the retirement system is convicted of or pleads~~  
18 ~~no contest to a felony that is defined as assault, sexual assault,~~  
19 ~~kidnapping, child abuse, false imprisonment, or theft by embezzlement and~~  
20 ~~is found liable for civil damages as a result of such felony, following~~  
21 ~~distribution of the member's benefits or the assets of any fund of the~~  
22 ~~member from the retirement system, the court may order the payment of the~~  
23 ~~member's benefits or the assets of any fund of the member under the~~  
24 ~~retirement system for such civil damages, except that the benefits or~~  
25 ~~assets to the extent reasonably necessary for the support of the member~~  
26 ~~or any of his or her beneficiaries shall be exempt from such payment. Any~~  
27 ~~order for payment of benefits or assets shall not be stayed on the filing~~  
28 ~~of any appeal of the conviction. If the conviction is reversed on final~~  
29 ~~judgment, all benefits or assets paid as civil damages shall be forfeited~~  
30 ~~and returned to the member. The changes made to this section by Laws~~  
31 ~~2012, LB916, shall apply to persons convicted of or who have pled no~~

1 ~~contest to such a felony and who have been found liable for civil damages~~  
2 ~~as a result of such felony prior to, on, or after April 7, 2012.~~

3 Sec. 4. Section 23-2305.01, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5 23-2305.01 (1)(a) If the board determines that the retirement system  
6 has previously received contributions or distributed benefits which for  
7 any reason are not in accordance with the statutory provisions of the  
8 County Employees Retirement Act, the board shall refund contributions,  
9 require additional contributions, adjust benefits, credit dividend  
10 amounts, or require repayment of benefits paid. In the event of an  
11 overpayment of a benefit, the board may, in addition to other remedies,  
12 offset future benefit payments by the amount of the prior overpayment,  
13 together with regular interest or interest credits, whichever is  
14 appropriate, thereon. In the event of an underpayment of a benefit, the  
15 board shall immediately make payment equal to the deficit amount plus  
16 regular interest or interest credits, whichever is appropriate.

17 (b) The board shall have the power, through the director of the  
18 Nebraska Public Employees Retirement Systems or the director's designee,  
19 to make a thorough investigation of any overpayment of a benefit, when in  
20 the judgment of the retirement system such investigation is necessary,  
21 including, but not limited to, circumstances in which benefit payments  
22 are made after the death of a member or beneficiary and the retirement  
23 system is not made aware of such member's or beneficiary's death. In  
24 connection with any such investigation, the board, through the director  
25 or the director's designee, shall have the power to compel the attendance  
26 of witnesses and the production of books, papers, records, and documents,  
27 whether in hardcopy, electronic form, or otherwise, and issue subpoenas  
28 for such purposes. Such subpoenas shall be served in the same manner and  
29 have the same effect as subpoenas from district courts.

30 (2) The board shall adopt and promulgate rules and regulations  
31 implementing this section, which shall include, but not be limited to,

1 the following: (a) The procedures for refunding contributions, adjusting  
2 future contributions or benefit payments, and requiring additional  
3 contributions or repayment of benefits; (b) the process for a member,  
4 member's beneficiary, employee, or employer to dispute an adjustment of  
5 contributions or benefits; and (c) notice provided to all affected  
6 persons. All notices shall be sent prior to an adjustment and shall  
7 describe the process for disputing an adjustment of contributions or  
8 benefits.

9 Sec. 5. Section 23-2322, Reissue Revised Statutes of Nebraska, is  
10 amended to read:

11 23-2322 Annuities ~~(1) Except as provided in subsection (2) of this~~  
12 ~~section, annuities or benefits which any person shall be entitled to~~  
13 ~~receive under the County Employees Retirement Act shall not be subject to~~  
14 ~~garnishment, attachment, levy, the operation of bankruptcy or insolvency~~  
15 ~~laws, or any other process of law whatsoever and shall not be assignable~~  
16 ~~except to the extent that such annuities or benefits are subject to a~~  
17 ~~qualified domestic relations order under the Spousal Pension Rights Act.~~  
18 ~~The payment of any annuities or benefits subject to such order shall take~~  
19 ~~priority over any payment made pursuant to subsection (2) of this~~  
20 ~~section.~~

21 ~~(2) If a member of the retirement system is convicted of or pleads~~  
22 ~~no contest to a felony that is defined as assault, sexual assault,~~  
23 ~~kidnapping, child abuse, false imprisonment, or theft by embezzlement and~~  
24 ~~is found liable for civil damages as a result of such felony, following~~  
25 ~~distribution of the member's annuities or benefits from the retirement~~  
26 ~~system, the court may order the payment of the member's annuities or~~  
27 ~~benefits under the retirement system for such civil damages, except that~~  
28 ~~the annuities or benefits to the extent reasonably necessary for the~~  
29 ~~support of the member or any of his or her beneficiaries shall be exempt~~  
30 ~~from such payment. Any order for payment of annuities or benefits shall~~  
31 ~~not be stayed on the filing of any appeal of the conviction. If the~~

~~1 conviction is reversed on final judgment, all annuities or benefits paid  
2 as civil damages shall be forfeited and returned to the member. The  
3 changes made to this section by Laws 2012, LB916, shall apply to persons  
4 convicted of or who have pled no contest to such a felony and who have  
5 been found liable for civil damages as a result of such felony prior to,  
6 on, or after April 7, 2012.~~

7 Sec. 6. Section 24-704.01, Reissue Revised Statutes of Nebraska, is  
8 amended to read:

9 24-704.01 (1)(a) If the board determines that the retirement system  
10 has previously received contributions or distributed benefits which for  
11 any reason are not in accordance with the Judges Retirement Act, the  
12 board shall refund contributions, require additional contributions,  
13 adjust benefits, or require repayment of benefits paid. In the event of  
14 an overpayment of a benefit, the board may, in addition to other  
15 remedies, offset future benefit payments by the amount of the prior  
16 overpayment, together with regular interest thereon. In the event of an  
17 underpayment of a benefit, the board shall immediately make payment equal  
18 to the deficit amount plus regular interest.

19 (b) The board shall have the power, through the director of the  
20 Nebraska Public Employees Retirement Systems or the director's designee,  
21 to make a thorough investigation of any overpayment of a benefit, when in  
22 the judgment of the retirement system such investigation is necessary,  
23 including, but not limited to, circumstances in which benefit payments  
24 are made after the death of a member or beneficiary and the retirement  
25 system is not made aware of such member's or beneficiary's death. In  
26 connection with any such investigation, the board, through the director  
27 or the director's designee, shall have the power to compel the attendance  
28 of witnesses and the production of books, papers, records, and documents,  
29 whether in hardcopy, electronic form, or otherwise, and issue subpoenas  
30 for such purposes. Such subpoenas shall be served in the same manner and  
31 have the same effect as subpoenas from district courts.

1           (2) The board shall adopt and promulgate rules and regulations  
2 implementing this section, which shall include, but not be limited to,  
3 the following: (a) The procedures for refunding contributions, adjusting  
4 future contributions or benefit payments, and requiring additional  
5 contributions or repayment of benefits; (b) the process for a member,  
6 member's beneficiary, employee, or employer to dispute an adjustment of  
7 contributions or benefits; and (c) notice provided to all affected  
8 persons. All notices shall be sent prior to an adjustment and shall  
9 describe the process for disputing an adjustment of contributions or  
10 benefits.

11           Sec. 7. Section 24-710.02, Revised Statutes Cumulative Supplement,  
12 2014, is amended to read:

13           24-710.02 All ~~(1) Except as provided in subsection (2) of this~~  
14 ~~section, all annuities or benefits which any person shall be entitled to~~  
15 ~~receive under the Judges Retirement Act shall not be subject to~~  
16 ~~garnishment, attachment, levy, the operation of bankruptcy or insolvency~~  
17 ~~laws, or any other process of law whatsoever and shall not be assignable~~  
18 ~~except to the extent that such annuities or benefits are subject to a~~  
19 ~~qualified domestic relations order under the Spousal Pension Rights Act.~~  
20 ~~The payment of any annuities or benefits subject to such order shall take~~  
21 ~~priority over any payment made pursuant to subsection (2) of this~~  
22 ~~section.~~

23           ~~(2) If a member of the retirement system is convicted of or pleads~~  
24 ~~no contest to a felony that is defined as assault, sexual assault,~~  
25 ~~kidnapping, child abuse, false imprisonment, or theft by embezzlement and~~  
26 ~~is found liable for civil damages as a result of such felony, following~~  
27 ~~distribution of the member's annuities or benefits from the retirement~~  
28 ~~system, the court may order the payment of the member's annuities or~~  
29 ~~benefits under the retirement system for such civil damages, except that~~  
30 ~~the annuities or benefits to the extent reasonably necessary for the~~  
31 ~~support of the member or any of his or her beneficiaries shall be exempt~~

1 ~~from such payment. Any order for payment of annuities or benefits shall~~  
2 ~~not be stayed on the filing of any appeal of the conviction. If the~~  
3 ~~conviction is reversed on final judgment, all annuities or benefits paid~~  
4 ~~as civil damages shall be forfeited and returned to the member. The~~  
5 ~~changes made to this section by Laws 2012, LB916, shall apply to persons~~  
6 ~~convicted of or who have pled no contest to such a felony and who have~~  
7 ~~been found liable for civil damages as a result of such felony prior to,~~  
8 ~~on, or after April 7, 2012.~~

9       Sec. 8. Section 48-1401, Revised Statutes Cumulative Supplement,  
10 2014, is amended to read:

11       48-1401 (1) Any county, municipality, or other political  
12 subdivision, instrumentality, or agency of the State of Nebraska, except  
13 any agency subject to sections 84-1504 to 84-1506 or section 85-106,  
14 85-320, or 85-606.01, may enter into an agreement to defer a portion of  
15 any individual's compensation derived from such county, municipality, or  
16 other political subdivision, instrumentality, or agency to a future  
17 period in time pursuant to section 457 of the Internal Revenue Code. Such  
18 deferred compensation plan shall be voluntary and shall be available to  
19 all regular employees and elected officials.

20       (2) The compensation to be deferred may never exceed the total  
21 compensation to be received by the individual from the employer or exceed  
22 the limits established by the Internal Revenue Code for such a plan.

23       (3) All compensation deferred under the plan, all property and  
24 rights purchased with the deferred compensation, and all investment  
25 income attributable to the deferred compensation, property, or rights  
26 shall be held in trust for the exclusive benefit of participants and  
27 their beneficiaries by the county, municipality, or other political  
28 subdivision, instrumentality, or agency until such time as payments are  
29 made under the terms of the deferred compensation plan.

30       (4) The county, municipality, or other political subdivision,  
31 instrumentality, or agency shall designate its treasurer or an equivalent

1 official, including the State Treasurer, to be the custodian of the funds  
2 and securities of the deferred compensation plan.

3 (5) The county, municipality, or other political subdivision,  
4 instrumentality, or agency may invest the compensation to be deferred  
5 under an agreement in or with: (a) Annuities; (b) mutual funds; (c)  
6 banks; (d) savings and loan associations; (e) trust companies qualified  
7 to act as fiduciaries in this state; (f) an organization established for  
8 the purpose of administering public employee deferred compensation  
9 retirement plans and authorized to do business in the State of Nebraska;  
10 or (g) investment advisers as defined in the federal Investment Advisers  
11 Act of 1940.

12 (6) The deferred compensation program shall exist and serve in  
13 addition to, and shall not be a part of, any existing retirement or  
14 pension system provided for state, county, municipal, or other political  
15 subdivision, instrumentality, or agency employees, or any other benefit  
16 program.

17 (7) Any compensation deferred under such a deferred compensation  
18 plan shall continue to be included as regular compensation for the  
19 purpose of computing the retirement, pension, or social security  
20 contributions made or benefits earned by any employee.

21 (8) Any sum so deferred shall not be included in the computation of  
22 any federal or state taxes withheld on behalf of any such individual.

23 (9) The state, county, municipality, or other political subdivision,  
24 instrumentality, or agency shall not be responsible for any investment  
25 results entered into by the individual in the deferred compensation  
26 agreement.

27 (10) ~~All (a) Except as provided in subdivision (b) of this~~  
28 ~~subsection,~~ all compensation deferred under the plan, all property and  
29 rights purchased with the deferred compensation, and all investment  
30 income attributable to the deferred compensation, property, or rights  
31 shall not be subject to garnishment, attachment, levy, the operation of

1 bankruptcy or insolvency laws, or any other process of law whatsoever and  
2 shall not be assignable.

3 ~~(b) If a participant in the deferred compensation plan is convicted~~  
4 ~~of or pleads no contest to a felony that is defined as assault, sexual~~  
5 ~~assault, kidnapping, child abuse, false imprisonment, or theft by~~  
6 ~~embezzlement and is found liable for civil damages as a result of such~~  
7 ~~felony, following distribution of the participant's compensation deferred~~  
8 ~~under the plan, property and rights purchased with the deferred~~  
9 ~~compensation, or investment income attributable to the deferred~~  
10 ~~compensation, property, or rights from the plan, the court may order the~~  
11 ~~payment of such compensation, property and rights, or investment income~~  
12 ~~for such civil damages, except that the compensation, property and~~  
13 ~~rights, or investment income to the extent reasonably necessary for the~~  
14 ~~support of the participant or any of his or her beneficiaries shall be~~  
15 ~~exempt from such payment. Any order for payment of compensation, property~~  
16 ~~and rights, or investment income shall not be stayed on the filing of any~~  
17 ~~appeal of the conviction. If the conviction is reversed on final~~  
18 ~~judgment, all compensation, property and rights, or investment income~~  
19 ~~paid as civil damages shall be forfeited and returned to the participant.~~  
20 ~~The changes made to this section by Laws 2012, LB916, shall apply to~~  
21 ~~persons convicted of or who have pled no contest to such a felony and who~~  
22 ~~have been found liable for civil damages as a result of such felony prior~~  
23 ~~to, on, or after April 7, 2012.~~

24 (11) Nothing contained in this section shall in any way limit,  
25 restrict, alter, amend, invalidate, or nullify any deferred compensation  
26 plan previously instituted by any county, municipality, or other  
27 political subdivision, instrumentality, or agency of the State of  
28 Nebraska, and any such plan is hereby authorized and approved.

29 (12) If a county has not established a deferred compensation plan  
30 pursuant to this section, each individual may require that the county  
31 enter into an agreement with the individual to defer a portion of such

1 individual's compensation and place it under the management and  
2 supervision of the state deferred compensation plan created pursuant to  
3 sections 84-1504 to 84-1506. If such an agreement is made, the county  
4 shall designate the State Treasurer as custodian of such deferred  
5 compensation funds and such deferred compensation funds shall become a  
6 part of the trust administered by the Public Employees Retirement Board  
7 pursuant to sections 84-1504 to 84-1506.

8 (13) For purposes of this section, individual means (a) any person  
9 designated by the county, municipality, or other political subdivision,  
10 instrumentality, or agency of the State of Nebraska, except any agency  
11 subject to sections 84-1504 to 84-1506 or section 85-106, 85-320, or  
12 85-606.01, as a permanent part-time or full-time employee of the county,  
13 municipality, or other political subdivision, instrumentality, or agency  
14 and (b) a person under contract providing services to the county,  
15 municipality, or other political subdivision, instrumentality, or agency  
16 of the State of Nebraska, except any agency subject to sections 84-1504  
17 to 84-1506 or section 85-106, 85-320, or 85-606.01, and who has entered  
18 into a contract with such county, municipality, political subdivision,  
19 instrumentality, or agency to have compensation deferred prior to August  
20 28, 1999.

21 Sec. 9. Section 79-904.01, Reissue Revised Statutes of Nebraska, is  
22 amended to read:

23 79-904.01 (1)(a) If the board determines that the retirement system  
24 has previously received contributions or distributed benefits which for  
25 any reason are not in accordance with the statutory provisions of the  
26 School Employees Retirement Act, the board may refund contributions,  
27 require additional contributions, adjust benefits, or require repayment  
28 of benefits paid. In the event of an overpayment of a benefit, the board  
29 may, in addition to other remedies, offset future benefit payments by the  
30 amount of the prior overpayment, together with regular interest thereon.  
31 In the event of a material underpayment of a benefit, the board shall

1 immediately make payment equal to the deficit amount plus regular  
2 interest.

3 (b) The board shall have the power, through the director of the  
4 Nebraska Public Employees Retirement Systems or the director's designee,  
5 to make a thorough investigation of any overpayment of a benefit, when in  
6 the judgment of the retirement system such investigation is necessary,  
7 including, but not limited to, circumstances in which benefit payments  
8 are made after the death of a member or beneficiary and the retirement  
9 system is not made aware of such member's or beneficiary's death. In  
10 connection with any such investigation, the board, through the director  
11 or the director's designee, shall have the power to compel the attendance  
12 of witnesses and the production of books, papers, records, and documents,  
13 whether in hardcopy, electronic form, or otherwise, and issue subpoenas  
14 for such purposes. Such subpoenas shall be served in the same manner and  
15 have the same effect as subpoenas from district courts.

16 (2) If the board determines that termination of employment has not  
17 occurred and a retirement benefit has been paid to a member of the  
18 retirement system pursuant to section 79-933, such member shall repay the  
19 benefit to the retirement system.

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

30 (4) The board shall not refund contributions made on compensation in  
31 excess of the limitations imposed by subdivision (35) of section 79-902.

1           Sec. 10. Section 79-948, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3           79-948    ~~The (1) Except as provided in subsection (2) of this~~  
4 ~~section, the right of a person to an annuity, an allowance, or any~~  
5 ~~optional benefit under the School Employees Retirement Act, any other~~  
6 ~~right accrued or accruing to any person or persons under such act, the~~  
7 ~~various funds and account created thereby, and all the money,~~  
8 ~~investments, and income thereof shall be exempt from any state, county,~~  
9 ~~municipal, or other local tax, shall not be subject to execution,~~  
10 ~~garnishment, attachment, the operation of bankruptcy or insolvency laws,~~  
11 ~~or any other process of law whatsoever, and shall not be assignable~~  
12 ~~except to the extent that such annuity, allowance, or benefit is subject~~  
13 ~~to a qualified domestic relations order under the Spousal Pension Rights~~  
14 ~~Act. The payment of any annuity, allowance, or benefit subject to such~~  
15 ~~order shall take priority over any payment made pursuant to subsection~~  
16 ~~(2) of this section.~~

17           ~~(2) If a member of the retirement system is convicted of or pleads~~  
18 ~~no contest to a felony that is defined as assault, sexual assault,~~  
19 ~~kidnapping, child abuse, false imprisonment, or theft by embezzlement and~~  
20 ~~is found liable for civil damages as a result of such felony, following~~  
21 ~~distribution of the member's annuity, allowance, or optional benefit from~~  
22 ~~the retirement system, the court may order the payment of such annuity,~~  
23 ~~allowance, or optional benefit under the retirement system for such civil~~  
24 ~~damages, except that the annuities, allowances, or optional benefits to~~  
25 ~~the extent reasonably necessary for the support of the member or any of~~  
26 ~~his or her beneficiaries shall be exempt from such payment. Any order for~~  
27 ~~payment of annuities, allowances, or optional benefits shall not be~~  
28 ~~stayed on the filing of any appeal of the conviction. If the conviction~~  
29 ~~is reversed on final judgment, all annuities, allowances, or optional~~  
30 ~~benefits paid as civil damages shall be forfeited and returned to the~~  
31 ~~member. The changes made to this section by Laws 2012, LB916, shall apply~~

1 ~~to persons convicted of or who have pled no contest to such a felony and~~  
2 ~~who have been found liable for civil damages as a result of such felony~~  
3 ~~prior to, on, or after April 7, 2012.~~

4 Sec. 11. Section 79-9,104, Reissue Revised Statutes of Nebraska, is  
5 amended to read:

6 79-9,104 (1) All ~~Except as provided in subsection (4) of this~~  
7 ~~section,~~ all annuities and other benefits payable under the Class V  
8 School Employees Retirement Act and all accumulated credits of members of  
9 the retirement system shall not be assignable or subject to execution,  
10 garnishment, or attachment except to the extent that such annuity or  
11 benefit is subject to a qualified domestic relations order as such term  
12 is defined in and which meets the requirements of section 414(p) of the  
13 Internal Revenue Code. ~~The payment of any annuity or benefit subject to~~  
14 ~~such order shall take priority over any payment made pursuant to~~  
15 ~~subsection (4) of this section.~~ Payments under such a qualified domestic  
16 relations order shall be made only after the administrator of the  
17 retirement system receives written notice of such order and such  
18 additional information and documentation as the administrator may  
19 require.

20 (2) In lieu of the assignment of a member's future annuity or  
21 benefit to the member's spouse or former spouse, the retirement system  
22 shall permit the spouse or former spouse of a member to receive, pursuant  
23 to a qualified domestic relations order, a single sum payment of a  
24 specified percentage of the member's accumulated contributions on the  
25 condition that upon the payment of such amount the spouse or former  
26 spouse shall have no further interest in the retirement system or in the  
27 remaining benefit of the member under the retirement system.

28 (3) A member's interest and benefits under the retirement system  
29 shall be reduced, either at termination of employment, retirement,  
30 disability, or death, by the actuarial value of the benefit assigned or  
31 paid to the member's spouse, former spouse, or other dependents under a

1 qualified domestic relations order, as determined by the plan actuary on  
2 the basis of the actuarial assumptions then recommended by the actuary  
3 pursuant to section 79-984.

4 ~~(4) If a member of the retirement system is convicted of or pleads~~  
5 ~~no contest to a felony that is defined as assault, sexual assault,~~  
6 ~~kidnapping, child abuse, false imprisonment, or theft by embezzlement and~~  
7 ~~is found liable for civil damages as a result of such felony, following~~  
8 ~~distribution of the member's annuities or benefits from the retirement~~  
9 ~~system, the court may order the payment of the member's annuities or~~  
10 ~~benefits earned under the retirement system for such civil damages,~~  
11 ~~except that the annuities or benefits to the extent reasonably necessary~~  
12 ~~for the support of the member or any of his or her beneficiaries shall be~~  
13 ~~exempt from such payment. Any order for payment of annuities or benefits~~  
14 ~~shall not be stayed on the filing of any appeal of the conviction. If the~~  
15 ~~conviction is reversed on final judgment, all annuities or benefits paid~~  
16 ~~as civil damages shall be forfeited and returned to the member. The~~  
17 ~~changes made to this section by Laws 2012, LB916, shall apply to persons~~  
18 ~~convicted of or who have pled no contest to such a felony and who have~~  
19 ~~been found liable for civil damages as a result of such felony prior to,~~  
20 ~~on, or after April 7, 2012.~~

21 Sec. 12. Section 81-2019.01, Reissue Revised Statutes of Nebraska,  
22 is amended to read:

23 81-2019.01 (1)(a) If the board determines that the retirement system  
24 has previously received contributions or distributed benefits which for  
25 any reason are not in accordance with the statutory provisions of  
26 sections 81-2014 to 81-2036, the board shall refund contributions,  
27 require additional contributions, adjust benefits, or require repayment  
28 of benefits paid. In the event of an overpayment of a benefit, the board  
29 may, in addition to other remedies, offset future benefit payments by the  
30 amount of the prior overpayment, together with regular interest thereon.  
31 In the event of an underpayment of a benefit, the board shall immediately

1 make payment equal to the deficit amount plus regular interest.

2 (b) The board shall have the power, through the director of the  
3 Nebraska Public Employees Retirement Systems or the director's designee,  
4 to make a thorough investigation of any overpayment of a benefit, when in  
5 the judgment of the retirement system such investigation is necessary,  
6 including, but not limited to, circumstances in which benefit payments  
7 are made after the death of a member or beneficiary and the retirement  
8 system is not made aware of such member's or beneficiary's death. In  
9 connection with any such investigation, the board, through the director  
10 or the director's designee, shall have the power to compel the attendance  
11 of witnesses and the production of books, papers, records, and documents,  
12 whether in hardcopy, electronic form, or otherwise, and issue subpoenas  
13 for such purposes. Such subpoenas shall be served in the same manner and  
14 have the same effect as subpoenas from district courts.

15 (2) The board shall adopt and promulgate rules and regulations  
16 implementing this section, which shall include, but not be limited to,  
17 the following: (a) The procedures for refunding contributions, adjusting  
18 future contributions or benefit payments, and requiring additional  
19 contributions or repayment of benefits; (b) the process for a member,  
20 member's beneficiary, employee, or employer to dispute an adjustment of  
21 contributions or benefits; and (c) notice provided to all affected  
22 persons. All notices shall be sent prior to an adjustment and shall  
23 describe the process for disputing an adjustment of contributions or  
24 benefits.

25 Sec. 13. Section 81-2032, Reissue Revised Statutes of Nebraska, is  
26 amended to read:

27 81-2032 All ~~(1) Except as provided in subsection (2) of this~~  
28 ~~section,~~ all annuities or benefits which any person shall be entitled to  
29 receive under the Nebraska State Patrol Retirement Act sections 81-2014  
30 ~~to 81-2036~~ shall not be subject to garnishment, attachment, levy, the  
31 operation of bankruptcy or insolvency laws, or any other process of law

1 whatsoever and shall not be assignable except to the extent that such  
2 annuities or benefits are subject to a qualified domestic relations order  
3 under the Spousal Pension Rights Act. ~~The payment of any annuities or~~  
4 ~~benefits subject to such order shall take priority over any payment made~~  
5 ~~pursuant to subsection (2) of this section.~~

6 ~~(2) If a member of the retirement system is convicted of or pleads~~  
7 ~~no contest to a felony that is defined as assault, sexual assault,~~  
8 ~~kidnapping, child abuse, false imprisonment, or theft by embezzlement and~~  
9 ~~is found liable for civil damages as a result of such felony, following~~  
10 ~~distribution of the member's annuities or benefits from the retirement~~  
11 ~~system, the court may order the payment of the member's annuities or~~  
12 ~~benefits under the retirement system for such civil damages, except that~~  
13 ~~the annuities or benefits to the extent reasonably necessary for the~~  
14 ~~support of the member or any of his or her beneficiaries shall be exempt~~  
15 ~~from such payment. Any order for payment of annuities or benefits shall~~  
16 ~~not be stayed on the filing of any appeal of the conviction. If the~~  
17 ~~conviction is reversed on final judgment, all annuities or benefits paid~~  
18 ~~as civil damages shall be forfeited and returned to the member. The~~  
19 ~~changes made to this section by Laws 2012, LB916, shall apply to persons~~  
20 ~~convicted of or who have pled no contest to such a felony and who have~~  
21 ~~been found liable for civil damages as a result of such felony prior to,~~  
22 ~~on, or after April 7, 2012.~~

23 Sec. 14. Section 84-1305.02, Reissue Revised Statutes of Nebraska,  
24 is amended to read:

25 84-1305.02 (1)(a) If the board determines that the retirement system  
26 has previously received contributions or distributed benefits which for  
27 any reason are not in accordance with the statutory provisions of the  
28 State Employees Retirement Act, the board shall refund contributions,  
29 require additional contributions, adjust benefits, credit dividend  
30 amounts, or require repayment of benefits paid. In the event of an  
31 overpayment of a benefit, the board may, in addition to other remedies,

1 offset future benefit payments by the amount of the prior overpayment,  
2 together with regular interest or interest credits, whichever is  
3 appropriate, thereon. In the event of an underpayment of a benefit, the  
4 board shall immediately make payment equal to the deficit amount plus  
5 regular interest or interest credits, whichever is appropriate.

6 (b) The board shall have the power, through the director of the  
7 Nebraska Public Employees Retirement Systems or the director's designee,  
8 to make a thorough investigation of any overpayment of a benefit, when in  
9 the judgment of the retirement system such investigation is necessary,  
10 including, but not limited to, circumstances in which benefit payments  
11 are made after the death of a member or beneficiary and the retirement  
12 system is not made aware of such member's or beneficiary's death. In  
13 connection with any such investigation, the board, through the director  
14 or the director's designee, shall have the power to compel the attendance  
15 of witnesses and the production of books, papers, records, and documents,  
16 whether in hardcopy, electronic form, or otherwise, and issue subpoenas  
17 for such purposes. Such subpoenas shall be served in the same manner and  
18 have the same effect as subpoenas from district courts.

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

29 Sec. 15. Section 84-1324, Reissue Revised Statutes of Nebraska, is  
30 amended to read:

31 84-1324 All ~~(1) Except as provided in subsection (2) of this~~

1 ~~section, all annuities or benefits which any person shall be entitled to~~  
2 ~~receive under the State Employees Retirement Act shall not be subject to~~  
3 ~~garnishment, attachment, levy, the operation of bankruptcy or insolvency~~  
4 ~~laws, or any other process of law whatsoever and shall not be assignable~~  
5 ~~except to the extent that such annuities or benefits are subject to a~~  
6 ~~qualified domestic relations order under the Spousal Pension Rights Act.~~  
7 ~~The payment of any annuities or benefits subject to such order shall take~~  
8 ~~priority over any payment made pursuant to subsection (2) of this~~  
9 ~~section.~~

10 ~~(2) If a member of the retirement system is convicted of or pleads~~  
11 ~~no contest to a felony that is defined as assault, sexual assault,~~  
12 ~~kidnapping, child abuse, false imprisonment, or theft by embezzlement and~~  
13 ~~is found liable for civil damages as a result of such felony, following~~  
14 ~~distribution of the member's annuities or benefits from the retirement~~  
15 ~~system, the court may order the payment of the member's annuities or~~  
16 ~~benefits under the retirement system for such civil damages, except that~~  
17 ~~the annuities or benefits to the extent reasonably necessary for the~~  
18 ~~support of the member or any of his or her beneficiaries shall be exempt~~  
19 ~~from such payment. Any order for payment of annuities or benefits shall~~  
20 ~~not be stayed on the filing of any appeal of the conviction. If the~~  
21 ~~conviction is reversed on final judgment, all annuities or benefits paid~~  
22 ~~as civil damages shall be forfeited and returned to the member. The~~  
23 ~~changes made to this section by Laws 2012, LB916, shall apply to persons~~  
24 ~~convicted of or who have pled no contest to such a felony and who have~~  
25 ~~been found liable for civil damages as a result of such felony prior to,~~  
26 ~~on, or after April 7, 2012.~~

27 Sec. 16. Section 84-1503, Reissue Revised Statutes of Nebraska, is  
28 amended to read:

29 84-1503 (1) It shall be the duty of the Public Employees Retirement  
30 Board:

31 (a) To administer the retirement systems provided for in the County

1 Employees Retirement Act, the Judges Retirement Act, the Nebraska State  
2 Patrol Retirement Act, the School Employees Retirement Act, and the State  
3 Employees Retirement Act. The agency for the administration of the  
4 retirement systems and under the direction of the board shall be known  
5 and may be cited as the Nebraska Public Employees Retirement Systems;

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

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

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

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

24 (f) To hire an internal auditor to perform the duties described in  
25 section 84-1503.04 who meets the minimum standards as described in  
26 section 84-304.03;

27 (g) To adopt and implement procedures for reporting information by  
28 employers, as well as testing and monitoring procedures in order to  
29 verify the accuracy of such information. The information necessary to  
30 determine membership shall be provided by the employer. The board shall  
31 adopt and promulgate rules and regulations and prescribe such forms

1 necessary to carry out this subdivision. Nothing in this subdivision  
2 shall be construed to require the board to conduct onsite audits of  
3 political subdivisions for compliance with statutes, rules, and  
4 regulations governing the retirement systems listed in subdivision (1)(a)  
5 of this section regarding membership and contributions; and

6 (h) To prescribe and furnish forms for the public retirement system  
7 plan reports required to be filed pursuant to sections 2-3228, 12-101,  
8 14-567, 14-1805.01, 14-2111, 15-1017, 16-1017, 16-1037, 19-3501, 23-1118,  
9 23-3526, 71-1631.02, and 79-987.

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

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

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

18 (c) To adopt and promulgate rules and regulations for the management  
19 of the board;

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

22 (e) To obtain, by a competitive, formal, and sealed bidding process  
23 through the materiel division of the Department of Administrative  
24 Services, actuarial services on behalf of the State of Nebraska as may be  
25 necessary in the administration and development of the retirement  
26 systems, including, but not limited to, preparation of an annual  
27 actuarial valuation report of each of the defined benefit and cash  
28 balance plans administered by the board. Such annual valuation reports  
29 shall be presented by the actuary to the Nebraska Retirement Systems  
30 Committee of the Legislature at a public hearing or hearings. Any  
31 contract for actuarial services shall contain a provision allowing the

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

19 (f) To direct the State Treasurer to transfer funds, as an expense  
20 of the retirement systems, to the Legislative Council Retirement Study  
21 Fund. Such transfer shall occur beginning on or after July 1, 2005, and  
22 at intervals of not less than five years and not more than fifteen years  
23 and shall be in such amounts as the Legislature shall direct;

24 (g) To adopt and promulgate rules and regulations to carry out the  
25 provisions of each retirement system described in subdivision (1)(a) of  
26 this section, which includes, but is not limited to, the crediting of  
27 military service, direct rollover distributions, and the acceptance of  
28 rollovers;

29 (h) To obtain, by a competitive, formal, and sealed bidding process  
30 through the materiel division of the Department of Administrative  
31 Services, auditing services for a separate compliance audit of the

1 retirement systems to be completed by December 31, 2020, and from time to  
2 time thereafter at the request of the Nebraska Retirement Systems  
3 Committee of the Legislature, to be completed not more than every four  
4 years but not less than every ten years. The compliance audit shall be in  
5 addition to the annual audit conducted by the Auditor of Public Accounts.  
6 The compliance audit shall include, but not be limited to, an examination  
7 of records, files, and other documents and an evaluation of all policies  
8 and procedures to determine compliance with all state and federal laws. A  
9 copy of the compliance audit shall be given to the Governor, the board,  
10 and the Nebraska Retirement Systems Committee of the Legislature and  
11 shall be presented to the committee at a public hearing;

12 (i) To adopt and promulgate rules and regulations for the adjustment  
13 of contributions or benefits, which includes, but is not limited to: (i)  
14 The procedures for refunding contributions, adjusting future  
15 contributions or benefit payments, and requiring additional contributions  
16 or repayment of benefits; (ii) the process for a member, member's  
17 beneficiary, employee, or employer to dispute an adjustment to  
18 contributions or benefits; (iii) establishing materiality and de minimus  
19 amounts for agency transactions, adjustments, and inactive account  
20 closures; and (iv) notice provided to all affected persons. Following an  
21 adjustment, a timely notice shall be sent that describes the adjustment  
22 and the process for disputing an adjustment to contributions or benefits;  
23 and

24 (j) To make a thorough investigation through the director or the  
25 director's designee, of any overpayment of a benefit, when in the  
26 judgment of the director such investigation is necessary, including, but  
27 not limited to, circumstances in which benefit payments are made after  
28 the death of a member or beneficiary and the retirement system is not  
29 made aware of such member's or beneficiary's death. In connection with  
30 any such investigation, the board, through the director or the director's  
31 designee, shall have the power to compel the attendance of witnesses and

1 the production of books, papers, records, and documents, whether in  
2 hardcopy, electronic form, or otherwise, and issue subpoenas for such  
3 purposes. Such subpoenas shall be served in the same manner and have the  
4 same effect as subpoenas from district courts; and

5 (k j) To administer all retirement system plans in a manner which  
6 will maintain each plan's status as a qualified plan pursuant to the  
7 Internal Revenue Code, as defined in section 49-801.01, including:  
8 Section 401(a)(9) of the Internal Revenue Code relating to the time and  
9 manner in which benefits are required to be distributed, including the  
10 incidental death benefit distribution requirement of section 401(a)(9)(G)  
11 of the Internal Revenue Code; section 401(a)(25) of the Internal Revenue  
12 Code relating to the specification of actuarial assumptions; section  
13 401(a)(31) of the Internal Revenue Code relating to direct rollover  
14 distributions from eligible retirement plans; section 401(a)(37) of the  
15 Internal Revenue Code relating to the death benefit of a member whose  
16 death occurs while performing qualified military service; and section  
17 401(a) of the Internal Revenue Code by meeting the requirements of  
18 section 414(d) of the Internal Revenue Code relating to the establishment  
19 of retirement plans for governmental employees of a state or political  
20 subdivision thereof. The board shall adopt and promulgate rules and  
21 regulations necessary or appropriate to maintain such status including,  
22 but not limited to, rules or regulations which restrict discretionary or  
23 optional contributions to a plan or which limit distributions from a  
24 plan.

25 (3) By March 31 of each year, the board shall prepare a written plan  
26 of action and shall present such plan to the Nebraska Retirement Systems  
27 Committee of the Legislature at a public hearing. The plan shall include,  
28 but not be limited to, the board's funding policy, the administrative  
29 costs and other fees associated with each fund and plan overseen by the  
30 board, member education and informational programs, the director's duties  
31 and limitations, an organizational structure of the office of the

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

4 Sec. 17. Section 84-1505, Reissue Revised Statutes of Nebraska, is  
5 amended to read:

6 84-1505 (1) All compensation deferred under the plan, all property  
7 and rights purchased with the deferred compensation, and all investment  
8 income attributable to the deferred compensation, property, or rights  
9 shall be held in trust for the exclusive benefit of participants and  
10 their beneficiaries by the State of Nebraska until such time as payments  
11 shall be paid under the terms of the deferred compensation plan. All such  
12 assets held in trust shall be invested by the state investment officer  
13 pursuant to the Nebraska Capital Expansion Act and the Nebraska State  
14 Funds Investment Act.

15 (2) The State Treasurer shall be the custodian of the funds and  
16 securities of the deferred compensation plan and may deposit the funds  
17 and securities in any financial institution approved by the Nebraska  
18 Investment Council. All disbursements therefrom shall be paid by him or  
19 her only upon vouchers duly authorized by the retirement board. The State  
20 Treasurer shall furnish annually to the retirement board a sworn  
21 statement of the amount of the funds in his or her custody belonging to  
22 the deferred compensation plan, which statement shall be as of the  
23 calendar year ending December 31 of each year.

24 (3) ~~All Except as provided in subsection (4) of this section, all~~  
25 compensation deferred under the plan, all property and rights purchased  
26 with the deferred compensation, and all investment income attributable to  
27 the deferred compensation, property, or rights shall not be subject to  
28 garnishment, attachment, levy, the operation of bankruptcy or insolvency  
29 laws, or any other process of law whatsoever and shall not be assignable.

30 (4) ~~If a participant in the deferred compensation plan is convicted~~  
31 ~~of or pleads no contest to a felony that is defined as assault, sexual~~

1 ~~assault, kidnapping, child abuse, false imprisonment, or theft by~~  
2 ~~embezzlement and is found liable for civil damages as a result of such~~  
3 ~~felony, following distribution of the participant's compensation deferred~~  
4 ~~under the plan, property and rights purchased with the deferred~~  
5 ~~compensation, or investment income attributable to the deferred~~  
6 ~~compensation, property, or rights from the plan, the court may order the~~  
7 ~~payment of such compensation, property and rights, or investment income~~  
8 ~~for such civil damages, except that the compensation, property and~~  
9 ~~rights, or investment income to the extent reasonably necessary for the~~  
10 ~~support of the participant or any of his or her beneficiaries shall be~~  
11 ~~exempt from such payment. Any order for payment of compensation, property~~  
12 ~~and rights, or investment income shall not be stayed on the filing of any~~  
13 ~~appeal of the conviction. If the conviction is reversed on final~~  
14 ~~judgment, all compensation, property and rights, or investment income~~  
15 ~~paid as civil damages shall be forfeited and returned to the participant.~~  
16 ~~The changes made to this section by Laws 2012, LB916, shall apply to~~  
17 ~~persons convicted of or who have pled no contest to such a felony and who~~  
18 ~~have been found liable for civil damages as a result of such felony prior~~  
19 ~~to, on, or after April 7, 2012.~~

20       Sec. 18.   Original sections 16-1019, 16-1038, 23-2305.01, 23-2322,  
21 24-704.01, 79-904.01, 79-948, 79-9,104, 81-2019.01, 81-2032, 84-1305.02,  
22 84-1324, 84-1503, and 84-1505, Reissue Revised Statutes of Nebraska, and  
23 sections 14-2111, 24-710.02, and 48-1401, Revised Statutes Cumulative  
24 Supplement, 2014, are repealed.