

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 973

Introduced by Coash, 27.

Read first time January 12, 2012

Committee: Nebraska Retirement Systems

A BILL

1 FOR AN ACT relating to retirement; to amend sections 16-1019,
2 16-1038, 23-2322, 24-710.02, 48-1401, 79-948, 79-9,104,
3 81-2032, 84-1324, and 84-1505, Reissue Revised Statutes
4 of Nebraska, and section 14-2111, Revised Statutes
5 Supplement, 2011; to provide for the use of retirement
6 benefits to pay civil damages for utilities district
7 employees and appointees, police officers, firefighters,
8 county employees, judges, participants in deferred
9 compensation plans, school employees, officers of the
10 Nebraska State Patrol, and state employees as prescribed;
11 and to repeal the original sections.
12 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 14-2111, Revised Statutes Supplement,
2 2011, is amended to read:

3 14-2111 (1) The board of directors of any metropolitan
4 utilities district may also provide benefits for, insurance of, and
5 annuities for the present and future employees and appointees of the
6 district covering accident, disease, death, total and permanent
7 disability, and retirement, all or any of them, under such terms and
8 conditions as the board may deem proper and expedient from time to
9 time. Any retirement plan adopted by the board of directors shall be
10 upon some contributory basis requiring contributions by both the
11 district and the employee or appointee, except that the district may
12 pay the entire cost of the fund necessary to cover service rendered
13 prior to the adoption of any new retirement plan. Any retirement plan
14 shall take into consideration the benefits provided for employees and
15 appointees of metropolitan utilities districts under the Social
16 Security Act, and any benefits provided under a contributory
17 retirement plan shall be supplemental to the benefits provided under
18 the Social Security Act as defined in section 68-602 if the employees
19 entitled to vote in a referendum vote in favor of old age and
20 survivors' insurance coverage. To effectuate any plan adopted
21 pursuant to this authority, the board of directors of the district is
22 empowered to establish and maintain reserves and funds, provide for
23 insurance premiums and costs, and make such delegation as may be
24 necessary to carry into execution the general powers granted by this
25 section. ~~Payments—~~Except as provided in subsection (4) of this

1 section, payments made to employees and appointees, under the
2 authority in this section, shall be exempt from attachment or other
3 legal process and shall not be assignable.

4 (2) Any retirement plan adopted by the board of directors
5 of any metropolitan utilities district may allow the district to pick
6 up the employee contribution required by this section for all
7 compensation paid on or after January 1, 1986, and the contributions
8 so picked up shall be treated as employer contributions in
9 determining federal tax treatment under the Internal Revenue Code,
10 except that the employer shall continue to withhold federal income
11 taxes based upon such contributions until the Internal Revenue
12 Service or the federal courts rule that, pursuant to section 414(h)
13 of the Internal Revenue Code, such contributions shall not be
14 included as gross income of the employee until such time as they are
15 distributed or made available. The employer shall pay the employee
16 contributions from the same source of funds which is used in paying
17 earnings to the employees. The employer shall pick up the
18 contributions by a salary deduction either through a reduction in the
19 cash salary of the employee or a combination of a reduction in salary
20 and offset against a future salary increase. Employee contributions
21 picked up shall be treated in the same manner and to the same extent
22 as employee contributions made prior to the date picked up.

23 (3)(a) Beginning December 31, 1998, and each December 31
24 thereafter, the chairperson of the board shall file with the Public
25 Employees Retirement Board an annual report on each retirement plan

1 established pursuant to this section and section 401(a) of the
2 Internal Revenue Code and shall submit copies of such report to the
3 Auditor of Public Accounts. The Auditor of Public Accounts may
4 prepare a review of such report pursuant to section 84-304.02 but is
5 not required to do so. The annual report shall be in a form
6 prescribed by the Public Employees Retirement Board and shall contain
7 the following information for each such retirement plan:

8 (i) The number of persons participating in the retirement
9 plan;

10 (ii) The contribution rates of participants in the plan;

11 (iii) Plan assets and liabilities;

12 (iv) The names and positions of persons administering the
13 plan;

14 (v) The names and positions of persons investing plan
15 assets;

16 (vi) The form and nature of investments;

17 (vii) For each defined contribution plan, a full
18 description of investment policies and options available to plan
19 participants; and

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

25 If a plan contains no current active participants, the

1 chairperson may file in place of such report a statement with the
2 Public Employees Retirement Board indicating the number of retirees
3 still drawing benefits, and the sources and amount of funding for
4 such benefits.

5 (b) Beginning December 31, 1998, and every four years
6 thereafter, if such retirement plan is a defined benefit plan, the
7 board of directors of any metropolitan utilities district shall cause
8 to be prepared a quadrennial report and shall file the same with the
9 Public Employees Retirement Board and submit to the Auditor of Public
10 Accounts a copy of such report. The Auditor of Public Accounts may
11 prepare a review of such report pursuant to section 84-304.02 but is
12 not required to do so. The report shall consist of a full actuarial
13 analysis of each such retirement plan established pursuant to this
14 section. The analysis shall be prepared by an independent private
15 organization or public entity employing actuaries who are members in
16 good standing of the American Academy of Actuaries, and which
17 organization or entity has demonstrated expertise to perform this
18 type of analysis and is unrelated to any organization offering
19 investment advice or which provides investment management services to
20 the retirement plan.

21 (4) If an employee or appointee 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
24 and is found liable for civil damages as a result of such felony, the
25 court may order the payment of the employee's or appointee's benefits

1 or annuities under the retirement plan for such civil damages, except
2 that the benefits or annuities to the extent reasonably necessary for
3 the support of the employee or appointee or any of his or her
4 beneficiaries shall be exempt from such payment. Any order for
5 payment of benefits or annuities shall not be stayed on the filing of
6 any appeal of the conviction. If the conviction is reversed on final
7 judgment, all benefits or annuities paid as civil damages shall be
8 forfeited and returned to the employee or appointee. The changes made
9 to this section by this legislative bill shall apply to persons
10 convicted of such a felony and found liable for civil damages as a
11 result of such felony prior to, on, or after the effective date of
12 this act.

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

15 16-1019 (1) ~~The~~ Except as provided in subsection (6) of
16 this section, the right to any benefits under the retirement system
17 and the assets of any fund of the retirement system shall not be
18 assignable or subject to execution, garnishment, attachment, or the
19 operation of any bankruptcy or insolvency laws, except that the
20 retirement system may comply with the directions set forth in a
21 qualified domestic relations order meeting the requirements of
22 section 414(p) of the Internal Revenue Code. Any payment of benefits
23 subject to such order shall take priority over any payment made
24 pursuant to subsection (6) of this section. The city or retirement
25 committee may require appropriate releases from any person as a

1 condition to complying with any such order. The retirement system
2 shall not recognize any domestic relations order which alters or
3 changes benefits, provides for a form of benefit not otherwise
4 provided for by the retirement system, increases benefits not
5 otherwise provided by the retirement system, or accelerates or defers
6 the time of payment of benefits. No participant or beneficiary shall
7 have any right to any specific portion of the assets of the
8 retirement system.

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

1 (3) If the retirement committee determines that the
2 retirement system has previously overpaid or underpaid a benefit
3 payable under sections 16-1001 to 16-1019, it shall have the power to
4 correct such error. In the event of an overpayment, the retirement
5 system may, in addition to any other remedy that the retirement
6 system may possess, offset future benefit payments by the amount of
7 the prior overpayment, together with regular interest thereon.

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

12 (5) In order to provide the necessary amounts to pay for
13 or fund a pension plan established under sections 16-1001 to 16-1019,
14 the mayor and council may make a levy which is within the levy
15 restrictions of section 77-3442.

16 (6) If a member of the retirement system is convicted of
17 or pleads no contest to a felony that is defined as assault, sexual
18 assault, kidnapping, child abuse, false imprisonment, or theft by
19 embezzlement and is found liable for civil damages as a result of
20 such felony, the court may order the payment of the member's benefits
21 earned or the assets of any fund of the member under the retirement
22 system for such civil damages, except that the benefits or assets to
23 the extent reasonably necessary for the support of the member or any
24 of his or her beneficiaries shall be exempt from such payment. Any
25 order for payment of benefits or assets shall not be stayed on the

1 filing of any appeal of the conviction. If the conviction is reversed
2 on final judgment, all benefits or assets paid as civil damages shall
3 be forfeited and returned to the member. The changes made to this
4 section by this legislative bill shall apply to persons convicted of
5 such a felony and found liable for civil damages as a result of such
6 felony prior to, on, or after the effective date of this act.

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

9 16-1038 (1) ~~The~~ Except as provided in subsection (6) of
10 this section, the right to any benefits under the retirement system
11 and the assets of any fund of the retirement system shall not be
12 assignable or subject to execution, garnishment, attachment, or the
13 operation of any bankruptcy or insolvency laws, except that the
14 retirement system may comply with the directions set forth in a
15 qualified domestic relations order meeting the requirements of
16 section 414(p) of the Internal Revenue Code. Any payment of benefits
17 subject to such order shall take priority over any payment made
18 pursuant to subsection (6) of this section. The city or retirement
19 committee may require appropriate releases from any person as a
20 condition to complying with any such order. The retirement system
21 shall not recognize any domestic relations order which alters or
22 changes benefits, provides for a form of benefit not otherwise
23 provided for by the retirement system, increases benefits not
24 otherwise provided by the retirement system, or accelerates or defers
25 the time of payment of benefits. No participant or beneficiary shall

1 have any right to any specific portion of the assets of the
2 retirement system.

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

21 (3) If the retirement committee determines that the
22 retirement system has previously overpaid or underpaid a benefit
23 payable under sections 16-1020 to 16-1042, it shall have the power to
24 correct such error. In the event of an overpayment, the retirement
25 system may, in addition to any other remedy that the retirement

1 system may possess, offset future benefit payments by the amount of
2 the prior overpayment, together with regular interest thereon.

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

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

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

1 felony prior to, on, or after the effective date of this act.

2 Sec. 4. Section 23-2322, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 23-2322 All~~-(1)~~ Except as provided in subsection (2) of
5 this section, annuities or benefits which any person shall be
6 entitled to receive under the County Employees Retirement Act shall
7 not be subject to garnishment, attachment, levy, the operation of
8 bankruptcy or insolvency laws, or any other process of law whatsoever
9 and shall not be assignable except to the extent that such annuities
10 or benefits are subject to a qualified domestic relations order under
11 the Spousal Pension Rights Act. The payment of any annuities or
12 benefits subject to such order shall take priority over any payment
13 made pursuant to subsection (2) of this section.

14 (2) If a member of the retirement system is convicted of
15 or pleads no contest to a felony that is defined as assault, sexual
16 assault, kidnapping, child abuse, false imprisonment, or theft by
17 embezzlement and is found liable for civil damages as a result of
18 such felony, the court may order the payment of the member's
19 annuities or benefits earned under the retirement system for such
20 civil damages, except that the annuities or benefits to the extent
21 reasonably necessary for the support of the member or any of his or
22 her beneficiaries shall be exempt from such payment. Any order for
23 payment of annuities or benefits shall not be stayed on the filing of
24 any appeal of the conviction. If the conviction is reversed on final
25 judgment, all annuities or benefits paid as civil damages shall be

1 forfeited and returned to the member. The changes made to this
2 section by this legislative bill shall apply to persons convicted of
3 such a felony and found liable for civil damages as a result of such
4 felony prior to, on, or after the effective date of this act.

5 Sec. 5. Section 24-710.02, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 24-710.02 All-(1) Except as provided in subsection (2) of
8 this section, all annuities or benefits which any person shall be
9 entitled to receive under the Judges Retirement Act shall not be
10 subject to garnishment, attachment, levy, the operation of bankruptcy
11 or insolvency laws, or any other process of law whatsoever and shall
12 not be assignable except to the extent that such annuities or
13 benefits are subject to a qualified domestic relations order under
14 the Spousal Pension Rights Act. The payment of any annuities or
15 benefits subject to such order shall take priority over any payment
16 made pursuant to subsection (2) of this section.

17 (2) If a member of the retirement system is convicted of
18 or pleads no contest to a felony that is defined as assault, sexual
19 assault, kidnapping, child abuse, false imprisonment, or theft by
20 embezzlement and is found liable for civil damages as a result of
21 such felony, the court may order the payment of the member's
22 annuities or benefits earned under the retirement system for such
23 civil damages, except that the annuities or benefits to the extent
24 reasonably necessary for the support of the member or any of his or
25 her beneficiaries shall be exempt from such payment. Any order for

1 payment of annuities or benefits shall not be stayed on the filing of
2 any appeal of the conviction. If the conviction is reversed on final
3 judgment, all annuities or benefits paid as civil damages shall be
4 forfeited and returned to the member. The changes made to this
5 section by this legislative bill shall apply to persons convicted of
6 such a felony and found liable for civil damages as a result of such
7 felony prior to, on, or after the effective date of this act.

8 Sec. 6. Section 48-1401, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 48-1401 (1) Any county, municipality, or other political
11 subdivision, instrumentality, or agency of the State of Nebraska,
12 except any agency subject to sections 84-1504 to 84-1506 or section
13 85-106, 85-320, or 85-606.01, may enter into an agreement to defer a
14 portion of any individual's compensation derived from such county,
15 municipality, or other political subdivision, instrumentality, or
16 agency to a future period in time pursuant to section 457 of the
17 Internal Revenue Code. Such deferred compensation plan shall be
18 voluntary and shall be available to all regular employees and elected
19 officials.

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

24 (3) All compensation deferred under the plan, all
25 property and rights purchased with the deferred compensation, and all

1 investment income attributable to the deferred compensation,
2 property, or rights shall be held in trust for the exclusive benefit
3 of participants and their beneficiaries by the county, municipality,
4 or other political subdivision, instrumentality, or agency until such
5 time as payments are made under the terms of the deferred
6 compensation plan.

7 (4) The county, municipality, or other political
8 subdivision, instrumentality, or agency shall designate its treasurer
9 or an equivalent official, including the State Treasurer, to be the
10 custodian of the funds and securities of the deferred compensation
11 plan.

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

21 (6) The deferred compensation program shall exist and
22 serve in addition to, and shall not be a part of, any existing
23 retirement or pension system provided for state, county, municipal,
24 or other political subdivision, instrumentality, or agency employees,
25 or any other benefit program.

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

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

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

13 ~~(10) All (10)(a) Except as provided in subdivision (b) of~~
14 this subsection, all compensation deferred under the plan, all
15 property and rights purchased with the deferred compensation, and all
16 investment income attributable to the deferred compensation,
17 property, or rights shall not be subject to garnishment, attachment,
18 levy, the operation of bankruptcy or insolvency laws, or any other
19 process of law whatsoever and shall not be assignable.

20 (b) If a participant in the deferred compensation plan is
21 convicted of or pleads no contest to a felony that is defined as
22 assault, sexual assault, kidnapping, child abuse, false imprisonment,
23 or theft by embezzlement and is found liable for civil damages as a
24 result of such felony, the court may order the payment of the
25 participant's compensation deferred under the plan, property and

1 rights purchased with the deferred compensation, or investment income
2 attributable to the deferred compensation, property, or rights for
3 such civil damages, except that the compensation, property and
4 rights, or investment income to the extent reasonably necessary for
5 the support of the participant or any of his or her beneficiaries
6 shall be exempt from such payment. Any order for payment of
7 compensation, property and rights, or investment income shall not be
8 stayed on the filing of any appeal of the conviction. If the
9 conviction is reversed on final judgment, all compensation, property
10 and rights, or investment income paid as civil damages shall be
11 forfeited and returned to the participant. The changes made to this
12 section by this legislative bill shall apply to persons convicted of
13 such a felony and found liable for civil damages as a result of such
14 felony prior to, on, or after the effective date of this act.

15 (11) Nothing contained in this section shall in any way
16 limit, restrict, alter, amend, invalidate, or nullify any deferred
17 compensation plan previously instituted by any county, municipality,
18 or other political subdivision, instrumentality, or agency of the
19 State of Nebraska, and any such plan is hereby authorized and
20 approved.

21 (12) If a county has not established a deferred
22 compensation plan pursuant to this section, each individual may
23 require that the county enter into an agreement with the individual
24 to defer a portion of such individual's compensation and place it
25 under the management and supervision of the state deferred

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

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

20 Sec. 7. Section 79-948, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 79-948 The—(1) Except as provided in subsection (2) of
23 this section, the right of a person to an annuity, an allowance, or
24 any optional benefit under the School Employees Retirement Act, any
25 other right accrued or accruing to any person or persons under such

1 act, the various funds and account created thereby, and all the
2 money, investments, and income thereof shall be exempt from any
3 state, county, municipal, or other local tax, shall not be subject to
4 execution, garnishment, attachment, the operation of bankruptcy or
5 insolvency laws, or any other process of law whatsoever, and shall
6 not be assignable except to the extent that such annuity, allowance,
7 or benefit is subject to a qualified domestic relations order under
8 the Spousal Pension Rights Act. The payment of any annuity,
9 allowance, or benefit subject to such order shall take priority over
10 any payment made pursuant to subsection (2) of this section.

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

1 convicted of such a felony and found liable for civil damages as a
2 result of such felony prior to, on, or after the effective date of
3 this act.

4 Sec. 8. Section 79-9,104, Reissue Revised Statutes of
5 Nebraska, is amended to read:

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

20 (2) In lieu of the assignment of a member's future
21 annuity or benefit to the member's spouse or former spouse, the
22 retirement system shall permit the spouse or former spouse of a
23 member to receive, pursuant to a qualified domestic relations order,
24 a single sum payment of a specified percentage of the member's
25 accumulated contributions on the condition that upon the payment of

1 such amount the spouse or former spouse shall have no further
2 interest in the retirement system or in the remaining benefit of the
3 member under the retirement system.

4 (3) A member's interest and benefits under the retirement
5 system shall be reduced, either at termination of employment,
6 retirement, disability, or death, by the actuarial value of the
7 benefit assigned or paid to the member's spouse, former spouse, or
8 other dependents under a qualified domestic relations order, as
9 determined by the plan actuary on the basis of the actuarial
10 assumptions then recommended by the actuary pursuant to section
11 79-984.

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

1 such a felony and found liable for civil damages as a result of such
2 felony prior to, on, or after the effective date of this act.

3 Sec. 9. Section 81-2032, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 81-2032 ~~All~~ (1) Except as provided in subsection (2) of
6 this section, all annuities or benefits which any person shall be
7 entitled to receive under sections 81-2014 to 81-2036 shall not be
8 subject to garnishment, attachment, levy, the operation of bankruptcy
9 or insolvency laws, or any other process of law whatsoever and shall
10 not be assignable except to the extent that such annuities or
11 benefits are subject to a qualified domestic relations order under
12 the Spousal Pension Rights Act. The payment of any annuities or
13 benefits subject to such order shall take priority over any payment
14 made pursuant to subsection (2) of this section.

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

1 judgment, all annuities or benefits paid as civil damages shall be
2 forfeited and returned to the member. The changes made to this
3 section by this legislative bill shall apply to persons convicted of
4 such a felony and found liable for civil damages as a result of such
5 felony prior to, on, or after the effective date of this act.

6 Sec. 10. Section 84-1324, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 84-1324 ~~All~~ (1) Except as provided in subsection (2) of
9 this section, all annuities or benefits which any person shall be
10 entitled to receive under the State Employees Retirement Act shall
11 not be subject to garnishment, attachment, levy, the operation of
12 bankruptcy or insolvency laws, or any other process of law whatsoever
13 and shall not be assignable except to the extent that such annuities
14 or benefits are subject to a qualified domestic relations order under
15 the Spousal Pension Rights Act. The payment of any annuities or
16 benefits subject to such order shall take priority over any payment
17 made pursuant to subsection (2) of this section.

18 (2) If a member of the retirement system is convicted of
19 or pleads no contest to a felony that is defined as assault, sexual
20 assault, kidnapping, child abuse, false imprisonment, or theft by
21 embezzlement and is found liable for civil damages as a result of
22 such felony, the court may order the payment of the member's
23 annuities or benefits earned under the retirement system for such
24 civil damages, except that the annuities or benefits to the extent
25 reasonably necessary for the support of the member or any of his or

1 her beneficiaries shall be exempt from such payment. Any order for
2 payment of annuities or benefits shall not be stayed on the filing of
3 any appeal of the conviction. If the conviction is reversed on final
4 judgment, all annuities or benefits paid as civil damages shall be
5 forfeited and returned to the member. The changes made to this
6 section by this legislative bill shall apply to persons convicted of
7 such a felony and found liable for civil damages as a result of such
8 felony prior to, on, or after the effective date of this act.

9 Sec. 11. Section 84-1505, Reissue Revised Statutes of
10 Nebraska, is amended to read:

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

20 (2) The State Treasurer shall be the custodian of the
21 funds and securities of the deferred compensation plan and may
22 deposit the funds and securities in any financial institution
23 approved by the Nebraska Investment Council. All disbursements
24 therefrom shall be paid by him or her only upon vouchers duly
25 authorized by the retirement board. The State Treasurer shall furnish

1 annually to the retirement board a sworn statement of the amount of
2 the funds in his or her custody belonging to the deferred
3 compensation plan, which statement shall be as of the calendar year
4 ending December 31 of each year.

5 (3) ~~All~~ Except as provided in subsection (4) of this
6 section, all compensation deferred under the plan, all property and
7 rights purchased with the deferred compensation, and all investment
8 income attributable to the deferred compensation, property, or rights
9 shall not be subject to garnishment, attachment, levy, the operation
10 of bankruptcy or insolvency laws, or any other process of law
11 whatsoever and shall not be assignable.

12 (4) If a participant in the deferred compensation plan is
13 convicted of or pleads no contest to a felony that is defined as
14 assault, sexual assault, kidnapping, child abuse, false imprisonment,
15 or theft by embezzlement and is found liable for civil damages as a
16 result of such felony, the court may order the payment of the
17 participant's compensation deferred under the plan, property and
18 rights purchased with the deferred compensation, or investment income
19 attributable to the deferred compensation, property, or rights for
20 such civil damages, except that the compensation, property and
21 rights, or investment income to the extent reasonably necessary for
22 the support of the participant or any of his or her beneficiaries
23 shall be exempt from such payment. Any order for payment of
24 compensation, property and rights, or investment income shall not be
25 stayed on the filing of any appeal of the conviction. If the

1 conviction is reversed on final judgment, all compensation, property
2 and rights, or investment income paid as civil damages shall be
3 forfeited and returned to the participant. The changes made to this
4 section by this legislative bill shall apply to persons convicted of
5 such a felony and found liable for civil damages as a result of such
6 felony prior to, on, or after the effective date of this act.

7 Sec. 12. Original sections 16-1019, 16-1038, 23-2322,
8 24-710.02, 48-1401, 79-948, 79-9,104, 81-2032, 84-1324, and 84-1505,
9 Reissue Revised Statutes of Nebraska, and section 14-2111, Revised
10 Statutes Supplement, 2011, are repealed.