

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 918

Introduced by Wayne, 13.

Read first time January 04, 2024

Committee: Judiciary

1 A BILL FOR AN ACT relating to law enforcement; to amend sections 4-108,
2 4-111, 23-2306, 81-1410, 81-2016, and 84-1504, Reissue Revised
3 Statutes of Nebraska, and sections 81-1401 and 84-1307, Revised
4 Statutes Cumulative Supplement, 2022; to allow individuals who have
5 received Deferred Action for Childhood Arrivals status to receive
6 law enforcement officer training and certification; to allow such
7 persons to participate in retirement programs for such law
8 enforcement positions; to define a term; to harmonize provisions;
9 and to repeal the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 4-108, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 4-108 (1) Notwithstanding any other provisions of law, unless
4 exempted from verification under section 4-110 or pursuant to federal
5 law, no state agency or political subdivision of the State of Nebraska
6 shall provide public benefits to a person not lawfully present in the
7 United States.

8 (2) Except as provided in section 4-110 or if exempted by federal
9 law, every agency or political subdivision of the State of Nebraska shall
10 verify the lawful presence in the United States of any person who has
11 applied for public benefits administered by an agency or a political
12 subdivision of the State of Nebraska. This section shall be enforced
13 without regard to race, religion, gender, ethnicity, or national origin.

14 (3) On and after October 1, 2009, no employee of a state agency or
15 political subdivision of the State of Nebraska shall be authorized to
16 participate in any retirement system, including, but not limited to, the
17 systems provided for in the Class V School Employees Retirement Act, the
18 County Employees Retirement Act, the Judges Retirement Act, the Nebraska
19 State Patrol Retirement Act, the School Employees Retirement Act, and the
20 State Employees Retirement Act, unless the employee (a) is a United
21 States citizen, ~~or~~ (b) is a qualified alien under the federal Immigration
22 and Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on
23 January 1, 2009, and is lawfully present in the United States, or (c) is
24 an eligible immigrant employed as a law enforcement officer, as such
25 terms are defined in section 81-1401.

26 Sec. 2. Section 4-111, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 4-111 (1) Verification of lawful presence in the United States
29 pursuant to section 4-108 requires that the applicant for public benefits
30 attest in a format prescribed by the Department of Administrative
31 Services that:

1 (a) He or she is a United States citizen;~~or~~

2 (b) He or she is a qualified alien under the federal Immigration and
3 Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on January 1,
4 2009, and is lawfully present in the United States; or -

5 (c) For purposes of attendance at a law enforcement training academy
6 under section 81-1410, certification and employment as a law enforcement
7 officer as defined in section 81-1401, or receipt of any public benefits
8 relating to such attendance, certification, or employment, that he or she
9 is an eligible immigrant as defined in section 81-1401.

10 (2) A state agency or political subdivision of the State of Nebraska
11 may adopt and promulgate rules and regulations or procedures for the
12 electronic filing of the attestation required under subsection (1) of
13 this section if such attestation is substantially similar to the format
14 prescribed by the Department of Administrative Services.

15 (3)(a) The Legislature finds that it is in the best interest of the
16 State of Nebraska to make full use of the skills and talents in the state
17 by ensuring that a person who is work-authorized is able to obtain a
18 professional or commercial license and practice his or her profession.

19 (b) For purposes of a professional or commercial license, the
20 Legislature finds that a person not described in subdivision (1)(a) or
21 (1)(b) of this section who submits (i) an unexpired employment
22 authorization document issued by the United States Department of Homeland
23 Security, Form I-766, and (ii) documentation issued by the United States
24 Department of Homeland Security, the United States Citizenship and
25 Immigration Services, or any other federal agency, such as one of the
26 types of Form I-797 used by the United States Citizenship and Immigration
27 Services, demonstrating that such person is described in section 202(c)
28 (2)(B)(i) through (x) of the federal REAL ID Act of 2005, Public Law
29 109-13, has demonstrated lawful presence pursuant to section 4-108 and is
30 eligible to obtain such license. Such license shall be valid only for the
31 period of time during which such person's employment authorization

1 document is valid. Nothing in this subsection shall affect the
2 requirements to obtain a professional or commercial license that are
3 unrelated to the lawful presence requirements demonstrated pursuant to
4 this subsection.

5 (c) Nothing in this subsection shall be construed to grant
6 eligibility for any public benefits other than obtaining a professional
7 or commercial license.

8 (d) Any person who has complied with the requirements of this
9 subsection shall have his or her employment authorization document
10 verified through the Systematic Alien Verification for Entitlements
11 Program operated by the United States Department of Homeland Security or
12 an equivalent program designated by the United States Department of
13 Homeland Security.

14 (e) The Legislature enacts this subsection pursuant to the authority
15 provided in 8 U.S.C. 1621(d), as such section existed on January 1, 2016.

16 Sec. 3. Section 23-2306, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 23-2306 (1) The membership of the retirement system shall be
19 composed of all persons who are or were employed by member counties and
20 who maintain an account balance with the retirement system.

21 (2) The following employees of member counties are authorized to
22 participate in the retirement system: (a) All permanent full-time
23 employees who have attained the age of eighteen years shall begin
24 participation in the retirement system upon employment and full-time
25 elected officials shall begin participation in the retirement system upon
26 taking office, (b) all permanent part-time employees who have attained
27 the age of eighteen years may exercise the option to begin participation
28 in the retirement system within the first thirty days of employment, and
29 (c) all part-time elected officials may exercise the option to begin
30 participation in the retirement system within thirty days after taking
31 office. An employee who exercises the option to begin participation in

1 the retirement system shall remain in the system until termination or
2 retirement, regardless of any change of status as a permanent or
3 temporary employee.

4 (3) On and after July 1, 2010, no employee of a member county shall
5 be authorized to participate in the retirement system provided for in the
6 County Employees Retirement Act unless the employee (a) is a United
7 States citizen, ~~or~~ (b) is a qualified alien under the federal Immigration
8 and Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on
9 January 1, 2009, and is lawfully present in the United States, or (c) is
10 an eligible immigrant employed as a law enforcement officer, as such
11 terms are defined in section 81-1401.

12 (4)(a) The board may determine that a governmental entity currently
13 participating in the retirement system no longer qualifies, in whole or
14 in part, under section 414(d) of the Internal Revenue Code as a
15 participating employer in a governmental plan.

16 (b)(i) To aid governmental entities in their business decisionmaking
17 process, any governmental entity currently participating in the
18 retirement system contemplating a business transaction that may result in
19 such entity no longer qualifying, in whole or in part, under section
20 414(d) of the Internal Revenue Code may notify the board in writing as
21 soon as reasonably practicable, but no later than one hundred eighty days
22 before the transaction is to occur.

23 (ii) The board when timely notified shall, as soon as is reasonably
24 practicable, obtain from its contracted actuary the cost of any actuarial
25 study necessary to determine the potential funding obligation. The board
26 shall notify the entity of such cost.

27 (iii) If such entity pays the board's contracted actuary pursuant to
28 subdivision (4)(c)(vi) of this section for any actuarial study necessary
29 to determine the potential funding obligation, the board shall, as soon
30 as reasonably practicable following its receipt of the actuarial study,
31 (A) determine whether the entity's contemplated business transaction will

1 cause the entity to no longer qualify under section 414(d) of the
2 Internal Revenue Code, (B) determine whether the contemplated business
3 transaction constitutes a plan termination by the entity, (C) determine
4 the potential funding obligation, (D) determine the administrative costs
5 that will be incurred by the board or the Nebraska Public Employees
6 Retirement Systems in connection with the entity's removal from the
7 retirement system, and (E) notify the entity of such determinations.

8 (iv) Failure to timely notify the board pursuant to subdivision (4)
9 (b)(i) of this section may result in the entity being treated as though
10 the board made a decision pursuant to subdivision (4)(a) of this section.

11 (c) If the board makes a determination pursuant to subdivision (4)
12 (a) of this section, or if the entity engages in the contemplated
13 business transaction reviewed under subdivision (4)(b) of this section
14 that results in the entity no longer qualifying under section 414(d) of
15 the Internal Revenue Code:

16 (i) The board shall notify the entity that it no longer qualifies
17 under section 414(d) of the Internal Revenue Code within ten business
18 days after the determination;

19 (ii) The affected plan members shall be immediately considered fully
20 vested;

21 (iii) The affected plan members shall become inactive within ninety
22 days after the board's determination;

23 (iv) The entity shall pay to the County Employees Retirement Fund an
24 amount equal to any funding obligation;

25 (v) The entity shall pay to the County Employees Cash Balance
26 Retirement Expense Fund an amount equal to any administrative costs
27 incurred by the board or the Nebraska Public Employees Retirement Systems
28 in connection with the entity's removal from the retirement system; and

29 (vi) The entity shall pay directly to the board's contracted actuary
30 an amount equal to the cost of any actuarial study necessary to aid the
31 board in determining the amount of such funding obligation, if not

1 previously paid.

2 (d) For purposes of this subsection:

3 (i) Business transaction means a merger; consolidation; sale of
4 assets, equipment, or facilities; termination of a division, department,
5 section, or subgroup of the entity; or any other business transaction
6 that results in termination of some or all of the entity's workforce; and

7 (ii) Funding obligation means the financial liability of the
8 retirement system to provide benefits for the affected plan members
9 incurred by the retirement system due to the entity's business
10 transaction calculated using the methodology and assumptions recommended
11 by the board's contracted actuary and approved by the board. The
12 methodology and assumptions used must be structured in a way that ensures
13 the entity is financially liable for all the costs of the entity's
14 business transaction, and the retirement system is not financially liable
15 for any of the cost of the entity's business transaction.

16 (e) The board may adopt and promulgate rules and regulations to
17 carry out this subsection including, but not limited to, the methods of
18 notifying the board of pending business transactions, the acceptable
19 methods of payment, and the timing of such payment.

20 (5) Within the first one hundred eighty days of employment, a full-
21 time employee may apply to the board for vesting credit for years of
22 participation in another Nebraska governmental plan, as defined by
23 section 414(d) of the Internal Revenue Code. During the years of
24 participation in the other Nebraska governmental plan, the employee must
25 have been a full-time employee, as defined in the Nebraska governmental
26 plan in which the credit was earned. The board may adopt and promulgate
27 rules and regulations governing the assessment and granting of vesting
28 credit.

29 (6) Any employee who qualifies for membership in the retirement
30 system pursuant to this section may not be disqualified from membership
31 in the retirement system solely because such employee also maintains

1 separate employment which qualifies the employee for membership in
2 another public retirement system, nor may membership in this retirement
3 system disqualify such an employee from membership in another public
4 retirement system solely by reason of separate employment which qualifies
5 such employee for membership in this retirement system.

6 (7) A full-time or part-time employee of a city, village, or
7 township who becomes a county employee pursuant to a merger of services
8 shall receive vesting credit for his or her years of participation in a
9 Nebraska governmental plan, as defined by section 414(d) of the Internal
10 Revenue Code, of the city, village, or township.

11 (8) A full-time or part-time employee of a city, village, fire
12 protection district, or township who becomes a municipal county employee
13 shall receive credit for his or her years of employment with the city,
14 village, fire protection district, or township for purposes of the
15 vesting provisions of this section.

16 (9) A full-time or part-time employee of the state who becomes a
17 county employee pursuant to transfer of assessment function to a county
18 shall not be deemed to have experienced a termination of employment and
19 shall receive vesting credit for his or her years of participation in the
20 State Employees Retirement System of the State of Nebraska.

21 (10) Counties shall ensure that employees authorized to participate
22 in the retirement system pursuant to this section shall enroll and make
23 required contributions to the retirement system immediately upon becoming
24 an employee. Information necessary to determine membership in the
25 retirement system shall be provided by the employer.

26 Sec. 4. Section 81-1401, Revised Statutes Cumulative Supplement,
27 2022, is amended to read:

28 81-1401 For purposes of sections 81-1401 to 81-1414.19, unless the
29 context otherwise requires:

30 (1) Class I railroad means a rail carrier classified as Class I
31 pursuant to 49 C.F.R. part 1201 1-1;

1 (2) Commission means the Nebraska Commission on Law Enforcement and
2 Criminal Justice;

3 (3) Council means the Nebraska Police Standards Advisory Council;

4 (4) Director means the director of the Nebraska Law Enforcement
5 Training Center;

6 (5) Eligible immigrant means a person who has been formally granted
7 and maintains Deferred Action for Childhood Arrivals status by the United
8 States Citizen and Immigration Services;

9 (6) (5) Felony means a crime punishable by imprisonment for a term
10 of more than one year or a crime committed outside of Nebraska which
11 would be punishable by imprisonment for a term of more than one year if
12 committed in Nebraska;

13 (7) (6) Handgun means any firearm with a barrel less than sixteen
14 inches in length or any firearm designed to be held and fired by the use
15 of a single hand;

16 (8) (7) Law enforcement agency means the police department or the
17 town marshal in incorporated municipalities, the office of sheriff in
18 unincorporated areas, the Nebraska State Patrol, and Class I railroad
19 police departments;

20 (9)(a) (8)(a) Law enforcement officer means any person who has
21 successfully completed an entry-level law enforcement certification from
22 a training academy and who is responsible for the prevention or detection
23 of crime or the enforcement of the penal, traffic, or highway laws of the
24 state or any political subdivision of the state for more than one hundred
25 hours per year and is authorized by law to make arrests and includes, but
26 is not limited to:

27 (i) A full-time or part-time member of the Nebraska State Patrol;

28 (ii) A county sheriff;

29 (iii) A full-time or part-time employee of a county sheriff's
30 office;

31 (iv) A full-time or part-time employee of a municipal or village

1 police agency;

2 (v) A full-time or part-time Game and Parks Commission conservation
3 officer;

4 (vi) A full-time or part-time deputy state sheriff;

5 (vii) A full-time employee of an organized and paid fire department
6 of any city of the metropolitan class who is an authorized arson
7 investigator and whose duties consist of determining the cause, origin,
8 and circumstances of fires or explosions while on duty in the course of
9 an investigation;

10 (viii) A member of a law enforcement reserve force appointed in
11 accordance with section 81-1438; or

12 (ix) A full-time Class I railroad police officer;

13 (b) Law enforcement officer includes a noncertified conditional
14 officer;

15 (c) Law enforcement officer does not include employees of the
16 Department of Correctional Services, probation officers under the
17 Nebraska Probation System, parole officers appointed by the Director of
18 Supervision and Services of the Division of Parole Supervision, or
19 employees of the Department of Revenue under section 77-366; and

20 (d) Except for a noncertified conditional officer, a law enforcement
21 officer shall possess a valid law enforcement officer certificate or
22 diploma, as established by the council, in order to be vested with the
23 authority of this section;

24 (10) ~~(9)~~ Misdemeanor crime of domestic violence has the same meaning
25 as in section 28-1206;

26 (11) ~~(10)~~ Noncertified conditional officer means a person appointed
27 pursuant to subsection (6) of section 81-1414;

28 (12) ~~(11)~~ Serious misconduct means improper or illegal actions taken
29 by a law enforcement officer that have a rational connection with the
30 person's fitness or capacity to serve as a law enforcement officer and
31 includes, but is not limited to:

1 (a) Conviction of a felony or misdemeanor crime of domestic
2 violence;

3 (b) Fabrication of evidence;

4 (c) Repeated substantiated allegations of the use of excessive
5 force;

6 (d) Acceptance of a bribe;

7 (e) Commission of fraud or perjury; or

8 (f) Sexual assault;

9 (13) ~~(12)~~ Training academy means:

10 (a) The training center; or

11 (b) Another council-approved law enforcement training facility
12 which:

13 (i) Offers certification training that meets or exceeds the
14 certification training curriculum of the training center; and

15 (ii) Is operated and maintained by a law enforcement agency or by
16 multiple law enforcement agencies pursuant to the Interlocal Cooperation
17 Act.

18 (14) ~~(13)~~ Training center means the Nebraska Law Enforcement
19 Training Center; and

20 (15) ~~(14)~~ Training school means a public or private institution of
21 higher education, including the University of Nebraska, the Nebraska
22 state colleges, and the community colleges of this state, that offers
23 training in a council-approved pre-certification course.

24 Sec. 5. Section 81-1410, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 81-1410 (1) The council shall adopt and promulgate rules and
27 regulations governing the minimum admission requirements for all training
28 academies. Until the rules and regulations become effective, the
29 admission requirements existing on July 13, 2000, pertaining to the
30 training center shall be applicable to all training academies, except the
31 Nebraska State Patrol. The rules and regulations shall establish

1 admission criteria which shall include, but not be limited to, (a)
2 physical, mental, and emotional fitness and (b) disclosure of any
3 criminal history. The council may also adopt a priority system for
4 admission to the training center and the other training academies
5 conducting certification training for officers not employed by that
6 training academy's agency.

7 (2) The council may admit an applicant to any training academy for
8 entry-level law enforcement certification when the applicant meets the
9 following minimum criteria:

10 (a) The applicant (i) is or will be a citizen of the United States
11 prior to the completion of certification or (ii) is an eligible
12 immigrant;

13 (b) The applicant will reach the age of twenty-one years prior to
14 the completion of the training;

15 (c) The applicant has been fingerprinted and a search has been made
16 of local, state, and national fingerprint files for disclosure of any
17 criminal record and the results furnished to the training center;

18 (d) The applicant has a valid motor vehicle operator's or
19 chauffeur's license;

20 (e) The applicant has vision correctable to 20/30 and has no
21 evidence of an irreversible disease which will affect the person's sight;

22 (f) The applicant has been pardoned or has never been convicted by
23 any state or the United States of a crime punishable by imprisonment in a
24 penitentiary for a term of one year or more or by any foreign government
25 of a crime which would be punishable by imprisonment for a term of one
26 year or more if committed in Nebraska or has had a conviction for such an
27 offense overturned or reversed by a court of competent jurisdiction;

28 (g) The applicant possesses good character as determined by a
29 thorough background investigation;

30 (h) The applicant (i)(A) is a high school graduate or (B) possesses
31 a general educational development certificate and (ii) is able to read,

1 write, and understand the English language at the eleventh grade level;

2 (i) The applicant has not been convicted of driving while
3 intoxicated in the two years immediately preceding admission; and

4 (j) The applicant has been examined by a licensed physician one year
5 or less prior to admission and has been certified by the physician to
6 have met the physical requirements, as determined by the council,
7 necessary to fulfill the responsibilities of a law enforcement officer
8 and successfully complete the requirements for training.

9 (3) In all cases in which it is necessary to acquire documents or
10 other information to determine whether or not an applicant meets any of
11 the requirements of subsection (2) of this section, such copies or other
12 information shall be supplied by the applicant at his or her own expense.

13 Sec. 6. Section 81-2016, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 81-2016 (1) Every member of the Nebraska State Patrol who was
16 employed by the State of Nebraska as such, on September 7, 1947, and
17 every person employed as a member of such patrol thereafter, shall be a
18 member of the system, except for those members of the Nebraska State
19 Patrol who elected pursuant to section 60-1304 to remain members of the
20 State Employees Retirement System of the State of Nebraska. On and after
21 July 1, 2010, no employee shall be authorized to participate in the
22 retirement system provided for in the Nebraska State Patrol Retirement
23 Act unless the employee (a) is a United States citizen, ~~or~~ (b) is a
24 qualified alien under the federal Immigration and Nationality Act, 8
25 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and is
26 lawfully present in the United States, or (c) is an eligible immigrant
27 employed as a law enforcement officer, as such terms are defined in
28 section 81-1401.

29 (2) Within the first one hundred eighty days of employment, a member
30 may apply to the board for eligibility and vesting credit for years of
31 participation in another Nebraska governmental plan, as defined by

1 section 414(d) of the Internal Revenue Code. During the years of
2 participation in the other Nebraska governmental plan, the employee must
3 have been a full-time employee, as defined in the Nebraska governmental
4 plan in which the credit was earned.

5 (3) Any officer who qualifies for membership pursuant to subsection
6 (1) of this section may not be disqualified from membership in the
7 retirement system solely because such officer also maintains separate
8 employment which qualifies the officer for membership in another public
9 retirement system, nor may membership in this retirement system
10 disqualify such an officer from membership in another public retirement
11 system solely by reason of separate employment which qualifies such
12 officer for membership in this retirement system.

13 (4) Information necessary to determine membership shall be provided
14 by the Nebraska State Patrol.

15 (5) The board may adopt and promulgate rules and regulations
16 governing the assessment and granting of eligibility and vesting credit.

17 Sec. 7. Section 84-1307, Revised Statutes Cumulative Supplement,
18 2022, is amended to read:

19 84-1307 (1) The membership of the retirement system shall be
20 composed of all persons who are or were employed by the State of Nebraska
21 and who maintain an account balance with the retirement system.

22 (2) The following employees of the State of Nebraska are authorized
23 to participate in the retirement system: (a) All permanent full-time
24 employees who have attained the age of eighteen years shall begin
25 participation in the retirement system upon employment; and (b) all
26 permanent part-time employees who have attained the age of eighteen years
27 may exercise the option to begin participation in the retirement system
28 within the first thirty days of employment. An employee who exercises the
29 option to begin participation in the retirement system pursuant to this
30 section shall remain in the retirement system until his or her
31 termination of employment or retirement, regardless of any change of

1 status as a permanent or temporary employee.

2 (3) On and after July 1, 2010, no employee shall be authorized to
3 participate in the retirement system provided for in the State Employees
4 Retirement Act unless the employee (a) is a United States citizen, ~~or~~ (b)
5 is a qualified alien under the federal Immigration and Nationality Act, 8
6 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and is
7 lawfully present in the United States, or (c) is an eligible immigrant
8 employed as a law enforcement officer, as such terms are defined in
9 section 81-1401.

10 (4) For purposes of this section, (a) permanent full-time employees
11 includes employees of the Legislature or Legislative Council who work
12 one-half or more of the regularly scheduled hours during each pay period
13 of the legislative session and (b) permanent part-time employees includes
14 employees of the Legislature or Legislative Council who work less than
15 one-half of the regularly scheduled hours during each pay period of the
16 legislative session.

17 (5)(a) Within the first one hundred eighty days of employment, a
18 full-time employee may apply to the board for vesting credit for years of
19 participation in another Nebraska governmental plan, as defined by
20 section 414(d) of the Internal Revenue Code. During the years of
21 participation in the other Nebraska governmental plan, the employee must
22 have been a full-time employee, as defined in the Nebraska governmental
23 plan in which the credit was earned. The board may adopt and promulgate
24 rules and regulations governing the assessment and granting of vesting
25 credit.

26 (b) If the contributory retirement plan or contract let pursuant to
27 section 48-609, as such section existed prior to January 1, 2018, is
28 terminated, employees of the Department of Labor who are active
29 participants in such contributory retirement plan or contract on the date
30 of termination of such plan or contract shall be granted vesting credit
31 for their years of participation in such plan or contract.

1 (6) Any employee who qualifies for membership in the retirement
2 system pursuant to this section may not be disqualified for membership in
3 the retirement system solely because such employee also maintains
4 separate employment which qualifies the employee for membership in
5 another public retirement system, nor may membership in this retirement
6 system disqualify such an employee from membership in another public
7 employment system solely by reason of separate employment which qualifies
8 such employee for membership in this retirement system.

9 (7) State agencies shall ensure that employees authorized to
10 participate in the retirement system pursuant to this section shall
11 enroll and make required contributions to the retirement system
12 immediately upon becoming an employee. Information necessary to determine
13 membership in the retirement system shall be provided by the employer.

14 Sec. 8. Section 84-1504, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 84-1504 (1) The Public Employees Retirement Board, on behalf of the
17 state, may contract with any individual to defer a portion of such
18 individual's compensation or with the Legislative Council to defer any
19 other amount that the Legislative Council agrees to credit to an
20 individual's account pursuant to section 457 of the Internal Revenue
21 Code.

22 (2) The compensation to be deferred at the election of the
23 individual and any other amount credited on behalf of such individual by
24 the Legislative Council shall not exceed the total compensation to be
25 received by the individual from the employer or exceed the limits
26 established by the Internal Revenue Code for such a plan.

27 (3) The deferred compensation program shall serve in addition to but
28 not be a part of any existing retirement or pension system provided for
29 state or county employees or any other benefit program.

30 (4) Any compensation deferred at the election of the individual
31 under such a deferred compensation plan shall continue to be included as

1 regular compensation for the purpose of computing the retirement,
2 pension, or social security contributions made or benefits earned by any
3 employee.

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

6 (6) The state, the board, the state investment officer, the agency,
7 or the county shall not be responsible for any investment results entered
8 into by the individual in the deferred compensation agreement.

9 (7) Nothing in this section shall in any way limit, restrict, alter,
10 amend, invalidate, or nullify any deferred compensation plan previously
11 instituted by any instrumentality or agency of the State of Nebraska, and
12 any such plan is hereby authorized and approved.

13 (8) On and after July 1, 2010, no employee of the state or any
14 political subdivision of the state shall be authorized to participate in
15 a deferred compensation plan unless the employee (a) is a United States
16 citizen, ~~or~~ (b) is a qualified alien under the federal Immigration and
17 Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on January 1,
18 2009, and is lawfully present in the United States, or (c) is an eligible
19 immigrant employed as a law enforcement officer, as such terms are
20 defined in section 81-1401.

21 (9) For purposes of this section, individual means (a) any state
22 employee, whether employed on a permanent or temporary basis, full-time
23 or part-time, (b) a person under contract providing services to the state
24 who is not employed by the University of Nebraska or any of the state
25 colleges or community colleges and who has entered into a contract with
26 the state to have compensation deferred prior to August 28, 1999, and (c)
27 any county employee designated as a permanent part-time or full-time
28 employee or elected official whose employer does not offer a deferred
29 compensation plan and who has entered into an agreement pursuant to
30 section 48-1401.

31 Sec. 9. Original sections 4-108, 4-111, 23-2306, 81-1410, 81-2016,

- 1 and 84-1504, Reissue Revised Statutes of Nebraska, and sections 81-1401
- 2 and 84-1307, Revised Statutes Cumulative Supplement, 2022, are repealed.