

AMENDMENTS TO LB709

Introduced by Government, Military and Veterans Affairs.

1           1. Strike the original sections and insert the following new  
2 sections:

3           Section 1. Section 81-2103, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5           81-2103 (1) There is hereby established an independent agency to be  
6 known as the State Electrical Division which shall be under the  
7 administrative and operative control of the executive director of such  
8 division. The division shall include a seven-member State Electrical  
9 Board appointed by the Governor with the consent of the Legislature. All  
10 members of the board shall be residents of the State of Nebraska. The  
11 board shall direct the efforts of the executive director and set the  
12 policy of the division. Two ~~One~~ of such members shall be a journeyman  
13 electricians, one of which shall be appointed in accordance with  
14 subsection (2) of this section ~~electrician~~, one shall be an electrical  
15 contractor or master electrician who shall be appointed in accordance  
16 with subsection (3) of this section, one shall be a certified electrical  
17 inspector, one shall be a licensed professional electrical engineer, one  
18 shall be a representative of a public power district or rural electric  
19 cooperative in the state, one shall be a representative of the municipal  
20 electric systems in the state, and, except as provided in subsection (2)  
21 of this section, one shall be a member of any of such groups. The members  
22 of the board shall be appointed for staggered terms of five years. Any  
23 vacancy occurring in the membership of the board shall be filled by the  
24 Governor for the unexpired term. Each member of the board shall serve  
25 until a ~~his or her~~ successor is appointed and qualified. The executive  
26 director shall be the executive secretary of the board and shall be  
27 responsible for all books, records, and transcripts of proceedings of the

1 board.

2 (2) At the expiration of the term of the member serving as the  
3 member of any such groups on the effective date of this act, such member  
4 shall be one of the two journeyman electrician members and shall be  
5 affiliated with a nonprofit labor organization for electrical workers  
6 holding a certificate of exemption under 501(c)(5) of the Internal  
7 Revenue Code.

8 (3) At the expiration of the term of the electrical contractor or  
9 master electrician serving on the effective date of this act, the  
10 electrical contractor or master electrician member shall be affiliated  
11 with a nonprofit labor organization for electrical workers holding a  
12 certificate of exemption under 501(c)(5) of the Internal Revenue Code.

13 Sec. 2. Section 81-2120, Reissue Revised Statutes of Nebraska, is  
14 amended to read:

15 81-2120 (1) To the extent that any other state which provides for  
16 the licensing of electricians provides for similar action, the board may  
17 grant licenses, without examination, of the same grade and class to an  
18 electrician who has been licensed by such other state for at least one  
19 year, upon payment by the applicant of the required fee, and upon the  
20 board being furnished with proof that the qualifications of the applicant  
21 are equal to the qualifications of holders of similar licenses in  
22 Nebraska.

23 (2)(a) Subject to subdivision (b) of this section, the board shall  
24 issue a license to an individual upon application if:

25 (i) The applicant holds a credential in another state, a military  
26 occupational specialty in the United States Military as defined in  
27 section 5 of this act, or a license with a prerequisite of apprentice  
28 registration and successful completion of an apprenticeship training  
29 program registered by the United States Department of Labor, and the  
30 credential, military occupational specialty, or license is similar to a  
31 license issued pursuant to the State Electrical Act and is for an

1 occupation with a similar scope of practice, as determined by the board;

2 (ii) The applicant has held the credential, military occupational  
3 specialty, or license for at least one year;

4 (iii) To obtain such credential, military occupational specialty, or  
5 license, the applicant was required to pass an examination or meet  
6 education, training, or experience standards;

7 (iv) The applicant does not have a disqualifying criminal record as  
8 determined by the State Electrical Board;

9 (v) No board in any state or in the United States Military nor any  
10 apprenticeship training program has revoked the applicant's credential,  
11 military occupational specialty, or license because of negligence or  
12 intentional misconduct related to the applicant's work in the occupation;

13 (vi) The applicant did not surrender a credential, military  
14 occupational specialty, or license because of negligence or intentional  
15 misconduct related to the applicant's work in the occupation in any  
16 state, in the United States Military, or in an apprenticeship training  
17 program;

18 (vii) The applicant does not have a complaint, allegation, or  
19 investigation pending before a board in any state or in the United States  
20 Military or an apprenticeship training program that relates to  
21 unprofessional conduct or an alleged crime. If such a complaint,  
22 allegation, or investigation is pending, the State Electrical Board shall  
23 not issue or deny a license to the applicant until the complaint,  
24 allegation, or investigation is resolved or the applicant otherwise meets  
25 the criteria for a license to the satisfaction of the board; and

26 (viii) The applicant has paid all applicable fees required for  
27 issuance of the license in this state.

28 (b) Prior to issuance of a license under this subsection, the board  
29 may require an applicant to pass a jurisprudential examination specific  
30 to relevant state statutes and administrative rules and regulations that  
31 regulate the occupation if a license in this state requires a person to

1 pass such an examination.

2 (c)(i) Except as otherwise provided in subdivision (ii) of this  
3 subdivision, the board shall approve or deny a license under this  
4 subsection in writing within sixty days after receiving a complete  
5 application under this subsection or within five business days after the  
6 next meeting of the board that is held after receiving a complete  
7 application under this subsection, whichever is sooner.

8 (ii) The board may delay the approval or denial of a license under  
9 this subsection past the deadline prescribed in subdivision (i) of this  
10 subdivision if the approval or denial is delayed because of the  
11 requirement to complete a criminal background check or a disciplinary  
12 history review, but the board shall approve or deny such license in  
13 writing within five business days after receiving the results of the  
14 background check and the disciplinary history review or within five  
15 business days after the next meeting of the board after receiving such  
16 results, whichever is sooner. The board shall document in writing each  
17 case in which approval or denial of an application is not provided within  
18 sixty days after receipt of the complete application.

19 (d) The board shall recognize and provide credit toward requirements  
20 for a license for completion of any portion of an apprenticeship training  
21 program registered by the United States Department of Labor for a license  
22 that has a prerequisite of successful completion of a registered  
23 apprenticeship.

24 (e) An applicant may appeal the denial of a license under this  
25 subsection. The appeal shall be in accordance with the Administrative  
26 Procedure Act.

27 (f) A license issued pursuant to this subsection is valid only in  
28 this state and does not make the individual eligible to work in another  
29 state or in the United States Military under an interstate compact or  
30 reciprocity agreement unless otherwise provided by law.

31 Sec. 3. Section 84-933, Revised Statutes Cumulative Supplement,

1 2020, is amended to read:

2 84-933 Sections 84-933 to 84-948 and sections 5 to 8 of this act  
3 shall be known and may be cited as the Occupational Board Reform Act.

4 Sec. 4. Section 84-934, Revised Statutes Cumulative Supplement,  
5 2020, is amended to read:

6 84-934 For purposes of the Occupational Board Reform Act, the  
7 definitions in sections 84-935 to 84-944 and section 5 of this act apply.

8 Sec. 5. United States Military means any active duty or reserve  
9 duty component of the armed forces of the United States, any state of the  
10 United States, or any territory of the United States.

11 Sec. 6. To the extent that an occupational board or lawful  
12 occupation is also governed by federal law, federal law shall take  
13 precedence over the Occupational Board Reform Act. The act shall not be  
14 construed to preempt federal law governing lawful occupations in this  
15 state.

16 Sec. 7. (1) An individual who has a criminal conviction may submit  
17 to the appropriate occupational board an application for an occupational  
18 license, government certification, or state recognition of the  
19 individual's personal qualifications and may include with the application  
20 additional information about the individual's current circumstances,  
21 mitigating factors, and other evidence of rehabilitation, including:

22 (a) The age of the individual when the individual committed the  
23 offense;

24 (b) The time elapsed since the offense;

25 (c) The circumstances and nature of the offense;

26 (d) The completion of the criminal sentence;

27 (e) The completion of, or active participation in, rehabilitative  
28 drug or alcohol treatment;

29 (f) Testimonials and recommendations, which may include a progress  
30 report from the individual's probation or parole officer;

31 (g) Other evidence of rehabilitation;

1       (h) Education and training;

2       (i) Employment history;

3       (j) Employment aspirations;

4       (k) Family responsibilities at the time of application;

5       (l) Whether the individual is required to be bonded in the  
6 occupation; and

7       (m) Other information the individual submits to the appropriate  
8 occupational board.

9       (2) Upon receipt of the application pursuant to subsection (1) of  
10 this section and any applicable fees, the appropriate occupational board  
11 shall make a determination of whether the individual's criminal  
12 conviction disqualifies the individual from obtaining such occupational  
13 license, government certification, or state recognition of the  
14 individual's personal qualifications from that occupational board. In  
15 making such determination, an individual's criminal history shall  
16 disqualify the individual from obtaining an occupational license,  
17 government certification, or state recognition of the individual's  
18 personal qualifications only if:

19       (a) Beginning January 1, 2024, the individual has a felony  
20 conviction expressly listed as a disqualifying offense in the statutes  
21 governing the occupation;

22       (b) The individual's conviction directly and specifically relates to  
23 the duties and responsibilities of the occupation; and

24       (c) The individual obtaining such license, certification, or state  
25 recognition of the individual's personal qualifications would pose a  
26 direct and substantial risk to public safety because the individual has  
27 not been rehabilitated, as evidenced by information described in  
28 subsection (1) of this section, to safely perform the duties and  
29 responsibilities of the occupation.

30       (3) An individual shall not be required to disclose nor shall  
31 consideration be given in a determination under this section to the

1 following:

2 (a) A deferred adjudication, participation in a diversion program,  
3 or an arrest not followed by a conviction;

4 (b) A conviction of an offense for which no sentence of  
5 incarceration is statutorily authorized;

6 (c) A conviction that has been sealed, annulled, dismissed,  
7 expunged, or pardoned;

8 (d) A juvenile adjudication;

9 (e) A nonviolent misdemeanor;

10 (f) A conviction older than three years for which the individual was  
11 not incarcerated; or

12 (g) A conviction for which the individual's incarceration ended more  
13 than three years before the date of the application except for a  
14 conviction of a felony related to:

15 (i) A sexual act subject to criminal penalties as provided in  
16 sections 28-317 to 28-322.05;

17 (ii) Fraud subject to criminal penalties as provided in sections  
18 28-505, 28-631, 28-638, 28-639, 28-640, and 28-935;

19 (iii) Assault in the first or second degree as provided in sections  
20 28-308 and 28-309;

21 (iv) Robbery as provided in section 28-324;

22 (v) Child abuse as provided in section 28-707;

23 (vi) Arson as provided in sections 28-502, 28-503, and 28-504;

24 (vii) Theft as provided in section 28-511;

25 (viii) Kidnapping as provided in section 28-313;

26 (ix) Manslaughter as provided in section 28-305; or

27 (x) Murder as provided in sections 28-303, 28-304, and 28-306.

28 (4) The individual may appeal the determination of the occupational  
29 board. The appeal shall be in accordance with the Administrative  
30 Procedure Act.

31 Sec. 8. (1) Subject to subsection (2) of this section and except as

1 otherwise provided in subsection (6) of this section or an occupational  
2 licensing compact:

3 (a) An occupational board shall issue an occupational license or  
4 government certification to an individual upon application if:

5 (i) The applicant holds a credential in another state or a military  
6 occupational specialty in the United States Military that is similar to  
7 an occupational license or government certification as defined in the  
8 Occupational Board Reform Act and that is for an occupation with a  
9 similar scope of practice, as determined by the occupational board;

10 (ii) The applicant has held the credential or military occupational  
11 specialty for at least one year;

12 (iii) To obtain such credential or specialty, the applicant was  
13 required to pass an examination or meet education, training, or  
14 experience standards;

15 (iv) The applicant does not have a disqualifying criminal record as  
16 determined by the occupational board;

17 (v) No board in any state or in the United States Military has  
18 revoked the applicant's credential or military occupational specialty  
19 because of negligence or intentional misconduct related to the  
20 applicant's work in the occupation;

21 (vi) The applicant did not surrender a credential or military  
22 occupational specialty because of negligence or intentional misconduct  
23 related to the applicant's work in the occupation in any state or in the  
24 United States Military;

25 (vii) The applicant does not have a complaint, allegation, or  
26 investigation pending before a board in any state or in the United States  
27 Military that relates to unprofessional conduct or an alleged crime. If  
28 such a complaint, allegation, or investigation is pending, the  
29 occupational board shall not issue or deny an occupational license or  
30 government certification to the applicant until the complaint,  
31 allegation, or investigation is resolved or the applicant otherwise meets

1 the criteria for an occupational license or government certification to  
2 the satisfaction of the occupational board; and

3 (viii) The applicant has paid all applicable fees required for  
4 issuance of the occupational license or government certification in this  
5 state;

6 (b) If an applicant has work experience for an occupation in a state  
7 or in the United States Military that does not use a credential similar  
8 to an occupational license, a government certification, or a military  
9 occupational specialty to regulate an occupation with a similar scope of  
10 practice to an occupation for which this state requires an occupational  
11 license or government certification to regulate such occupation, as  
12 determined by the occupational board, the occupational board shall issue  
13 an occupational license or government certification to an individual upon  
14 application based on work experience in another state or in the United  
15 States Military if:

16 (i) The applicant worked for at least three years in the occupation;

17 (ii) No board in any state or in the United States Military has  
18 revoked the applicant's credential or military occupational specialty  
19 because of negligence or intentional misconduct related to the  
20 applicant's work in the occupation;

21 (iii) The applicant did not surrender a credential or military  
22 occupational specialty because of negligence or intentional misconduct  
23 related to the applicant's work in the occupation in any state or in the  
24 United States Military;

25 (iv) The applicant does not have a complaint, allegation, or  
26 investigation pending before a board in any state or in the United States  
27 Military that relates to unprofessional conduct or an alleged crime. If  
28 such a complaint, allegation, or investigation is pending, the  
29 occupational board shall not issue or deny an occupational license or  
30 government certification to the applicant until the complaint,  
31 allegation, or investigation is resolved or the applicant otherwise meets

1 the criteria for an occupational license or government certification to  
2 the satisfaction of the occupational board; and

3 (v) The applicant has paid all applicable fees required for issuance  
4 of the occupational license or government certification in this state;  
5 and

6 (c) If an applicant holds a private certification and has work  
7 experience for an occupation in a state or in the United States Military  
8 that does not use an occupational license, a government certification, or  
9 a military occupational specialty to regulate an occupation with a  
10 similar scope of practice to an occupation for which this state requires  
11 an occupational license or government certification to regulate such  
12 occupation, as determined by the occupational board, the occupational  
13 board shall issue an occupational license or government certification to  
14 an individual upon application based on such certification and work  
15 experience in another state or in the United States Military if:

16 (i) The applicant worked for at least two years in the occupation;

17 (ii) The applicant holds a private certification in the occupation;

18 (iii) The provider of such certification holds the applicant in good  
19 standing;

20 (iv) No board in any state or in the United States Military nor any  
21 other entity has revoked the applicant's credential, military  
22 occupational specialty, or private certification because of negligence or  
23 intentional misconduct related to the applicant's work in the occupation;

24 (v) The applicant did not surrender a credential, military  
25 occupational specialty, or private certification because of negligence or  
26 intentional misconduct related to the applicant's work in the occupation  
27 in any state or in the United States Military;

28 (vi) The applicant does not have a complaint, allegation, or  
29 investigation pending before a board in any state or in the United States  
30 Military or another entity that relates to unprofessional conduct or an  
31 alleged crime. If such a complaint, allegation, or investigation is

1 pending, the occupational board shall not issue or deny an occupational  
2 license or government certification to the applicant until the complaint,  
3 allegation, or investigation is resolved or the applicant otherwise meets  
4 the criteria for an occupational license or government certification to  
5 the satisfaction of the occupational board; and

6 (vii) The applicant has paid all applicable fees required for  
7 issuance of the occupational license or government certification in this  
8 state.

9 (2) Prior to issuance of an occupational license or government  
10 certification under subsection (1) of this section, an occupational board  
11 may require an applicant to pass a jurisprudential examination specific  
12 to relevant state statutes and administrative rules and regulations that  
13 regulate the occupation if an occupational license or government  
14 certification in this state requires a person to pass such an  
15 examination.

16 (3)(a) Except as otherwise provided in subdivision (b) of this  
17 subsection, an occupational board shall approve or deny an occupational  
18 license or government certification in writing within sixty days after  
19 receiving a complete application under subsection (1) of this section or  
20 within five business days after the next meeting of the occupational  
21 board that is held after receiving a complete application under  
22 subsection (1) of this section, whichever is sooner.

23 (b) An occupational board may delay the approval or denial of an  
24 occupational license or government certification past the deadline  
25 prescribed in subdivision (a) of this subsection if the approval or  
26 denial is delayed because of the requirement to complete a criminal  
27 background check or a disciplinary history review, but such board shall  
28 approve or deny an occupational license or government certification in  
29 writing within five business days after receiving the results of the  
30 background check and the disciplinary history review or within five  
31 business days after the next meeting of the occupational board after

1 receiving such results, whichever is sooner. Each occupational board  
2 shall document in writing each case in which approval or denial of an  
3 application is not provided within sixty days after receipt of the  
4 complete application.

5 (4) An applicant may appeal the denial of an occupational license or  
6 government certification under this section. The appeal shall be in  
7 accordance with the Administrative Procedure Act.

8 (5)(a) An occupational license or government certification issued  
9 pursuant to this section is valid only in this state and does not make  
10 the individual eligible to work in another state or in the United States  
11 Military under an interstate compact or reciprocity agreement unless  
12 otherwise provided by law.

13 (b) Nothing in this section shall be construed to prevent this state  
14 from entering into a licensing compact or reciprocity agreement with  
15 another state, foreign province, or foreign country.

16 (c) Nothing in this section shall be construed to prevent this state  
17 from recognizing an occupational credential issued by a private  
18 certification organization, foreign province, foreign country,  
19 international organization, or other entity.

20 (d) Nothing in this section shall be construed to require a private  
21 certification organization to grant or deny private certification to any  
22 individual.

23 (e) This section provides a method of obtaining an occupational  
24 license or government certification in addition to and not in conflict  
25 with other methods under other provisions of law.

26 (f) Nothing in this section shall be construed to require an  
27 occupational board to issue an occupational credential in a manner that  
28 violates federal law.

29 (6) This section does not apply to an occupation regulated by the  
30 Supreme Court, the State Electrical Board, or the Nebraska Commission on  
31 Law Enforcement and Criminal Justice or a credential issued for a

1 certified public accountant pursuant to the Public Accountancy Act, a  
2 viatical settlement broker pursuant to the Viatical Settlements Act, an  
3 insurance consultant pursuant to sections 44-2606 to 44-2635, an  
4 insurance producer pursuant to the Insurance Producers Licensing Act, a  
5 managing general agent pursuant to the Managing General Agents Act, a  
6 utilization review agent pursuant to the Utilization Review Act, a  
7 surplus lines producer pursuant to the Surplus Lines Insurance Act, a  
8 reinsurance intermediary-broker or reinsurance intermediary-manager  
9 pursuant to the Reinsurance Intermediary Act, or a public adjuster  
10 pursuant to the Public Adjusters Licensing Act.

11       Sec. 9. Section 84-940, Revised Statutes Cumulative Supplement,  
12 2020, is amended to read:

13       84-940 (1) Occupational regulation means a statute, rule,  
14 regulation, practice, policy, or other state law requiring an individual  
15 to possess certain personal qualifications or to comply with registration  
16 requirements to use an occupational title or work in a lawful occupation.

17       (2) Occupational regulation includes any government certification,  
18 registration, and occupational license.

19       (3) Occupational regulation does not include (a) business licensure,  
20 facility licensure, building permit requirements, or zoning and land-use  
21 regulation except to the extent that the same state laws that require a  
22 business license, a facility license, a building permit, or zoning and  
23 land-use regulation also regulate an individual's personal qualifications  
24 to perform a lawful occupation, ~~or~~ (b) an occupational license  
25 administered by the Supreme Court, or (c) an occupation regulated by the  
26 Nebraska Commission on Law Enforcement and Criminal Justice.

27       Sec. 10. Section 84-947, Revised Statutes Cumulative Supplement,  
28 2020, is amended to read:

29       84-947 (1) The fundamental right of an individual to pursue an  
30 occupation includes the right of an individual with a criminal history to  
31 obtain an occupational license, government certification, or state

1 recognition of the individual's personal qualifications.

2 (2)(a) An individual who has a criminal conviction may submit to the  
3 appropriate occupational board a preliminary application for an  
4 occupational license, government certification, or state recognition of  
5 the individual's personal qualifications for a determination as to  
6 whether the individual's criminal conviction would disqualify the  
7 individual from obtaining the occupational license, government  
8 certification, or state recognition of the individual's personal  
9 qualifications from that occupational board. The preliminary application  
10 may be submitted at any time, including prior to obtaining required  
11 education or paying any fee, other than the fee for the preliminary  
12 application if required under subsection (9) ~~(7)~~ of this section.

13 (b) The individual may include with the preliminary application  
14 additional information about the individual's current circumstances,  
15 mitigating factors, and other evidence of rehabilitation, including:  
16 ~~including the time since the offense, completion of the criminal~~  
17 ~~sentence, other evidence of rehabilitation, testimonials, employment~~  
18 ~~history, and employment aspirations.~~

19 (i) The age of the individual when the individual committed the  
20 offense;

21 (ii) The time elapsed since the offense;

22 (iii) The circumstances and nature of the offense;

23 (iv) The completion of the criminal sentence;

24 (v) The completion of, or active participation in, rehabilitative  
25 drug or alcohol treatment;

26 (vi) Testimonials and recommendations, which may include a progress  
27 report from the individual's probation or parole officer;

28 (vii) Other evidence of rehabilitation;

29 (viii) Education and training;

30 (ix) Employment history;

31 (x) Employment aspirations;

- 1        (xi) Family responsibilities at the time of the application;
- 2        (xii) Whether the individual is required to be bonded in the
- 3        occupation; and
- 4        (xiii) Other information the individual submits to the board.

5        (3) Upon receipt of a preliminary application under subsection (2)  
6 of this section and a fee if required under subsection (9) (7) of this  
7 section, the appropriate occupational board shall make a determination of  
8 whether the individual's criminal conviction would disqualify the  
9 individual from obtaining an occupational license, government  
10 certification, or state recognition of the individual's personal  
11 qualifications from that occupational board in accordance with subsection  
12 (4) of this section. In making such determination, an individual's  
13 criminal history disqualifies the individual from obtaining an  
14 occupational license, government certification, or state recognition of  
15 the individual's personal qualifications only if: -

16        (a) Beginning January 1, 2024, the individual has a felony  
17 conviction expressly listed as a disqualifying offense in the statutes  
18 governing the occupation;

19        (b) The individual's conviction directly and specifically relates to  
20 the duties and responsibilities of the occupation; and

21        (c) The individual obtaining such license, certification, or state  
22 recognition would pose a direct and substantial risk to public safety  
23 because the individual has not been rehabilitated, as evidenced by  
24 information described in subdivision (2)(b) of this section, to safely  
25 perform the duties and responsibilities of the occupation.

26        (4) In determining whether an individual's criminal history is  
27 disqualifying under subsection (3) of this section, the occupational  
28 board shall only make an adverse determination after:

29        (a) The executive director or employee designee of the occupational  
30 board issues a preliminary adverse determination after completing the  
31 following actions:

1        (i) Providing an opportunity for an informal meeting with the  
2 individual, which shall be held in-person, by remote video, or by  
3 teleconference within sixty days after receiving an application for  
4 consideration. The individual shall be allowed to include character  
5 witnesses at such informal meeting. The executive director shall not make  
6 an adverse determination based on an individual's decision not to attend  
7 an informal meeting or not to include character witnesses; and

8        (ii) Issuing and submitting a written preliminary determination to  
9 the appropriate occupational board for consideration and ratification  
10 within sixty days after receiving preliminary application for  
11 consideration or of the informal meeting, whichever is later. A  
12 preliminary adverse decision shall not become final without consideration  
13 and ratification by the appropriate occupational board; and

14        (b) The occupational board ratifies the preliminary adverse  
15 determination and issues a final adverse determination in writing within  
16 ninety days after the issuance of the preliminary adverse determination.

17        ~~(5) (4)~~ The determination of the occupational board shall issue its  
18 determination in writing within ninety days after receiving a preliminary  
19 application under subsection (2) of this section. The determination shall  
20 include findings of fact and conclusions of law, including clear and  
21 convincing evidence for any adverse determination made by the  
22 occupational board. If the occupational board determines that the  
23 individual's criminal conviction would disqualify the individual, the  
24 occupational board may advise the individual of any action the individual  
25 may take to remedy the disqualification. If the occupational board finds  
26 that the individual has been convicted of a subsequent criminal  
27 conviction, the occupational board may rescind a determination upon  
28 finding that the subsequent criminal conviction would be disqualifying  
29 under subsection (3) of this section.

30        (6) An individual shall not be required to disclose nor shall  
31 consideration be given in a determination under this section to the

1 following:

2 (a) A deferred adjudication, participation in a diversion program,  
3 or an arrest not followed by a conviction;

4 (b) A conviction of an offense for which no sentence of  
5 incarceration is statutorily authorized;

6 (c) A conviction that has been sealed, annulled, dismissed,  
7 expunged, or pardoned;

8 (d) A juvenile adjudication;

9 (e) A nonviolent misdemeanor;

10 (f) A conviction older than three years for which the individual was  
11 not incarcerated; or

12 (g) A conviction for which the individual's incarceration ended more  
13 than three years before the date of the application except for a  
14 conviction of a felony related to:

15 (i) A sexual act subject to criminal penalties as provided in  
16 sections 28-317 to 28-322.05;

17 (ii) Fraud subject to criminal penalties as provided in sections  
18 28-505, 28-631, 28-638, 28-639, 28-640, and 28-935;

19 (iii) Assault in the first or second degree as provided in sections  
20 28-308 and 28-309;

21 (iv) Robbery as provided in section 28-324;

22 (v) Child abuse as provided in section 28-707;

23 (vi) Arson as provided in sections 28-502, 28-503, and 28-504;

24 (vii) Theft as provided in section 28-511;

25 (viii) Kidnapping as provided in section 28-313;

26 (ix) Manslaughter as provided in section 28-305; or

27 (x) Murder as provided in sections 28-303, 28-304, and 28-306.

28 (7) ~~(5)~~ The individual may appeal the determination of the  
29 occupational board. The appeal shall be in accordance with the  
30 Administrative Procedure Act.

31 (8) ~~(6)~~ An individual shall not file another preliminary application

1 under this section with the same occupational board within two years  
2 after the final decision on the previous preliminary application, except  
3 that if the individual has taken action to remedy the disqualification as  
4 advised by the occupational board, the individual may file another  
5 preliminary application under this section with the same occupational  
6 board six months after the final decision on the previous preliminary  
7 application.

8 ~~(9)~~ (7) An occupational board may charge a fee not to exceed one  
9 hundred dollars for each preliminary application filed pursuant to this  
10 section. The fee is intended to offset the administrative costs incurred  
11 under this section. If an individual's income at the time of the  
12 preliminary application is at or below three hundred percent of the  
13 federal poverty level, such individual may submit with the preliminary  
14 application a request for a waiver of the application fee along with  
15 supporting documentation to show such individual's income. If the  
16 occupational board determines that the individual's income is at or below  
17 three hundred percent of the federal poverty level, the occupational  
18 board shall waive such individual's application fee.

19 Sec. 11. Original sections 81-2103 and 81-2120, Reissue Revised  
20 Statutes of Nebraska, and sections 84-933, 84-934, 84-940, and 84-947,  
21 Revised Statutes Cumulative Supplement, 2020, are repealed.