

AMENDMENTS TO LB16

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. The members of the board shall be (a) two ~~One of~~
13 ~~such members shall be a~~ journeyman electricians, one of which shall be
14 appointed in accordance with subsection (2) of this section ~~electrician,~~
15 (b) one shall be an electrical contractor or master electrician who shall
16 be appointed in accordance with subsection (3) of this section, (c) one
17 ~~shall be a~~ certified electrical inspector, (d) one shall be a licensed
18 professional electrical engineer, (e) one shall be a representative of a
19 public power district or rural electric cooperative in the state, (f) one
20 ~~shall be a~~ representative of the municipal electric systems in the state,
21 and (g) except as provided in subsection (2) of this section, one shall
22 ~~be a~~ member of any of such groups. The members of the board shall be
23 appointed for staggered terms of five years. Any vacancy occurring in the
24 membership of the board shall be filled by the Governor for the unexpired
25 term. Each member of the board shall serve until a ~~his or her~~ successor
26 is appointed and qualified. The executive director shall be the executive
27 secretary of the board and shall be responsible for all books, records,

1 and transcripts of proceedings of the board.

2 (2) At the expiration of the term of the member serving under
3 subdivision (1)(g) of this section as the member of any such groups on
4 the effective date of this act, such member shall be one of the two
5 journeyman electrician members, shall be affiliated with a nonprofit
6 labor organization for electrical workers holding a certificate of
7 exemption under section 501(c)(5) of the Internal Revenue Code, and shall
8 be selected from a list of journeyman electricians recommended by such
9 organization.

10 (3) At the expiration of the term of the electrical contractor or
11 master electrician member serving under subdivision (1)(b) of this
12 section on the effective date of this act, the electrical contractor or
13 master electrician member shall be affiliated with a nonprofit labor
14 organization for electrical workers holding a certificate of exemption
15 under section 501(c)(5) of the Internal Revenue Code and shall be
16 selected from a list of electrical contractors or master electricians
17 recommended by such organization.

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

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

28 (2)(a) Subject to subdivision (b) of this subsection, the board
29 shall issue a license to an individual upon application if:

30 (i)(A) The applicant holds (I) a credential in another state that
31 has a reciprocal credentialing agreement with the State of Nebraska for

1 such credential as determined by the board, (II) a military occupational
2 specialty in the United States Military as defined in section 6 of this
3 act, or (III) a license with a prerequisite of apprentice registration
4 and successful completion of an apprenticeship training program
5 registered by the United States Department of Labor; and

6 (B) Such credential, military occupational specialty, or license is
7 for an occupation with a similar scope of practice, as determined by the
8 board;

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

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

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

16 (v) The applicant's credential, military occupational specialty, or
17 license has not been revoked because of negligence or intentional
18 misconduct related to the applicant's work in the occupation;

19 (vi) The applicant has not surrendered a credential, military
20 occupational specialty, or license because of negligence or intentional
21 misconduct related to the applicant's work in the occupation in any
22 state, in the United States Military, or in an apprenticeship training
23 program;

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

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

3 (b) Prior to issuance of a license under this subsection:

4 (i) The board shall require an applicant to demonstrate that such
5 applicant is a Nebraska resident by providing one of the following items
6 that is current at the time of application:

7 (A) A Nebraska motor vehicle operator's license or state
8 identification card;

9 (B) A Nebraska residential utility bill with the applicant's name
10 and address;

11 (C) Documentation of ownership or lease of a residence in Nebraska;

12 (D) Documentation of employment in the State of Nebraska or a
13 notarized letter of the promise of employment in Nebraska for the
14 applicant or the applicant's spouse; or

15 (E) Any verifiable documentation demonstrating Nebraska residency as
16 determined by the board; and

17 (ii) The board may require an applicant to pass a jurisprudential
18 examination specific to relevant state statutes and administrative rules
19 and regulations that regulate the occupation if issuance of a license in
20 this state requires a person to pass such an examination.

21 (c)(i) Except as otherwise provided in subdivision (ii) of this
22 subdivision, the board shall approve or deny a license under this
23 subsection in writing within sixty days after receiving a complete
24 application under this subsection or within five business days after the
25 next meeting of the board that is held after receiving a complete
26 application under this subsection, whichever is sooner.

27 (ii) The board may delay the approval or denial of a license under
28 this subsection past the deadline prescribed in subdivision (i) of this
29 subdivision if the approval or denial is delayed because of the
30 requirement to complete a criminal background check or a disciplinary
31 history review, but the board shall approve or deny such license in

1 writing within five business days after receiving the results of the
2 background check and the disciplinary history review or within five
3 business days after the next meeting of the board after receiving such
4 results, whichever is sooner. The board shall document in writing each
5 case in which approval or denial of an application is not provided within
6 sixty days after receipt of the complete application.

7 (d) For a license that has a prerequisite of apprentice registration
8 under the State Electrical Act the board shall grant credit toward
9 requirements for such license for completion of any portion of an
10 apprenticeship training program registered by the United States
11 Department of Labor.

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

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

19 Sec. 3. Section 84-933, Revised Statutes Cumulative Supplement,
20 2022, is amended to read:

21 84-933 Sections 84-933 to 84-948 and sections 5 to 10 of this act
22 shall be known and may be cited as the Occupational Board Reform Act.

23 Sec. 4. Section 84-934, Revised Statutes Cumulative Supplement,
24 2022, is amended to read:

25 84-934 For purposes of the Occupational Board Reform Act, the
26 definitions in sections 84-935 to 84-944 and sections 5 and 6 of this act
27 apply.

28 Sec. 5. Potentially disqualifying conviction includes a conviction
29 for:

30 (1) Criminal attempt as provided in section 28-201, conspiracy as
31 provided in section 28-202, or aiding and abetting as provided in section

- 1 28-206, to commit an offense listed in this section;
2 (2) Murder as provided in sections 28-303 or 28-304;
3 (3) Manslaughter as provided in section 28-305;
4 (4) Motor vehicle homicide as provided in section 28-306;
5 (5) Assault in the first or second degree as provided in sections
6 28-308 and 28-309;
7 (6) Terroristic threats as provided in section 28-311.01;
8 (7) Stalking as provided in section 28-311.03;
9 (8) Kidnapping as provided in section 28-313;
10 (9) False imprisonment as provided in sections 28-314 and 28-315;
11 (10) A sexual act subject to criminal penalties as provided in
12 sections 28-317 to 28-322.05;
13 (11) Domestic assault as provided in section 28-323;
14 (12) Robbery as provided in section 28-324;
15 (13) Arson as provided in sections 28-502, 28-503, and 28-504;
16 (14) Fraud subject to criminal penalties as provided in sections
17 28-505, 28-631, 28-638, 28-639, 28-640, and 28-935;
18 (15) Theft as provided in sections 28-511, 28-512, 28-513, and
19 28-515;
20 (16) Forgery as provided in sections 28-602 and 28-603;
21 (17) Incest as provided in section 28-703;
22 (18) Child abuse as provided in section 28-707;
23 (19) Human trafficking, labor trafficking, sex trafficking, labor
24 trafficking of a minor, or sex trafficking of a minor as provided in
25 section 28-831;
26 (20) False reporting as provided in section 28-907;
27 (21) Perjury as provided in section 28-915;
28 (22) Assault on an officer, an emergency responder, certain
29 employees, or a health care professional in the first degree as provided
30 in section 28-929;
31 (23) Assault on an officer, an emergency responder, certain

1 employees, or a health care professional in the second degree as provided
2 in section 28-930;

3 (24) Assault on an officer, an emergency responder, certain
4 employees, or a health care professional in the third degree as provided
5 in section 28-931;

6 (25) Assault on an officer, an emergency responder, certain
7 employees, or a health care professional using a motor vehicle as
8 provided in section 28-931.01;

9 (26) An offense that has as an element the threat to inflict serious
10 bodily injury as defined in section 28-109 or death on another person,
11 the intentional infliction of serious bodily injury as defined in section
12 28-109 on another person, or intentionally causing the death of another
13 person;

14 (27) An offense for which registration is required under the Sex
15 Offender Registration Act; or

16 (28) Any offense under the laws of another jurisdiction that is
17 substantially equivalent to any of the offenses listed in this section.

18 Sec. 6. United States Military means any active duty or reserve
19 duty component of the armed forces of the United States, any state of the
20 United States, or any territory of the United States.

21 Sec. 7. To the extent that an occupational board or lawful
22 occupation is also governed by federal law, federal law shall take
23 precedence over the Occupational Board Reform Act. The act shall not be
24 construed to preempt federal law governing lawful occupations in this
25 state.

26 Sec. 8. Section 84-947 and sections 9 and 10 of this act do not
27 apply to:

28 (1) An occupation regulated by:

29 (a) The Supreme Court;

30 (b) The Department of Banking and Finance;

31 (c) The Board of Engineers and Architects;

- 1 (d) The Real Property Appraiser Board;
- 2 (e) The State Electrical Board;
- 3 (f) The Nebraska Commission on Law Enforcement and Criminal Justice;
- 4 or
- 5 (g) The State Real Estate Commission; or
- 6 (2) A credential issued for:
- 7 (a) A certified public accountant pursuant to the Public Accountancy
- 8 Act;
- 9 (b) An insurance consultant pursuant to sections 44-2606 to 44-2635;
- 10 (c) An insurance producer pursuant to the Insurance Producers
- 11 Licensing Act;
- 12 (d) A managing general agent pursuant to the Managing General Agents
- 13 Act;
- 14 (e) A public adjuster pursuant to the Public Adjusters Licensing
- 15 Act;
- 16 (f) A reinsurance intermediary-broker or reinsurance intermediary-
- 17 manager pursuant to the Reinsurance Intermediary Act;
- 18 (g) A surplus lines producer pursuant to the Surplus Lines Insurance
- 19 Act;
- 20 (h) A utilization review agent pursuant to the Utilization Review
- 21 Act; or
- 22 (i) A viatical settlement broker pursuant to the Viatical
- 23 Settlements Act.

24 Sec. 9. (1) An individual who has a criminal conviction under the
25 laws of Nebraska or any other jurisdiction may submit an application to
26 the appropriate occupational board for an occupational license,
27 government certification, or state recognition of the individual's
28 personal qualifications and may include with the application additional
29 information about the individual's circumstances at the time of
30 application, mitigating factors, and other evidence of rehabilitation,
31 including:

1 (a) The age of the individual when the individual committed the
2 offense;

3 (b) The time elapsed since the offense;

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

5 (d) The completion of the criminal sentence;

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

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

10 (g) Other evidence of rehabilitation;

11 (h) Education and training;

12 (i) Employment history;

13 (j) Employment aspirations;

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

15 (l) Whether the individual is required to be bonded in the
16 occupation; and

17 (m) Any other information the individual deems appropriate.

18 (2) Upon receipt of an application pursuant to subsection (1) of
19 this section, documentation that the applicant is a Nebraska resident in
20 accordance with subdivision (2)(a) of section 10 of this act, and any
21 applicable fees, the appropriate occupational board shall make a
22 determination of whether the individual's criminal history disqualifies
23 the individual from obtaining such occupational license, government
24 certification, or state recognition of the individual's personal
25 qualifications from that occupational board. In making such
26 determination, an individual's criminal history disqualifies the
27 individual from obtaining an occupational license, government
28 certification, or state recognition of the individual's personal
29 qualifications only if:

30 (a) The individual's conviction directly and specifically relates to
31 the duties and responsibilities of the occupation;

1 (b) The individual obtaining such license, certification, or state
2 recognition would pose a direct and substantial risk to public safety
3 because the individual has not been rehabilitated, as evidenced by
4 information described in subsection (1) of this section, to safely
5 perform the duties and responsibilities of the occupation; and

6 (c) Beginning January 1, 2025, the individual has a potentially
7 disqualifying conviction.

8 (3) An individual shall not be required to disclose nor shall
9 consideration be given in a determination under this section to the
10 following:

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

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

15 (c) A conviction that has been sealed, annulled, dismissed,
16 expunged, set aside, or pardoned;

17 (d) A juvenile adjudication;

18 (e) A nonviolent misdemeanor unless it is for an offense expressly
19 listed in section 5 of this act;

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

22 (g) A conviction for which the individual's incarceration ended more
23 than three years before the date of the application, other than a
24 potentially disqualifying conviction.

25 (4) The individual may appeal the determination of the occupational
26 board. The appeal shall be in accordance with the Administrative
27 Procedure Act.

28 Sec. 10. (1) Subject to subsection (2) of this section and except
29 as otherwise provided in section 8 of this act or an occupational
30 licensing compact:

31 (a) An occupational board shall issue an occupational license or

1 government certification to an individual upon application if:

2 (i) The applicant holds a credential in another state or a military
3 occupational specialty in the United States Military for an occupation
4 with a similar scope of practice, as determined by the occupational
5 board;

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

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

11 (iv) The applicant does not have a disqualifying criminal record as
12 determined by the occupational board and verified by a criminal
13 background check. For an applicant applying for a credential regulated by
14 the Uniform Credentialing Act, the criminal background check shall be
15 conducted according to section 38-131;

16 (v) The applicant's credential or military occupational specialty
17 has not been revoked because of negligence or intentional misconduct
18 related to the applicant's work in the occupation;

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

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

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

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

13 (i) The applicant is not applying for a credential for an occupation
14 that requires a credential issued under the Uniform Credentialing Act;

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

17 (iii) The applicant has not had a credential or military
18 occupational specialty revoked because of negligence or intentional
19 misconduct related to the applicant's work in the occupation;

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

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

1 satisfaction of the occupational board; and

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

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

15 (i) The applicant is not applying for a credential for an occupation
16 that requires a credential issued under the Uniform Credentialing Act;

17 (ii) The applicant worked for at least two years in the occupation;

18 (iii) The applicant holds a private certification in the occupation;

19 (iv) The provider of such certification holds the applicant in good
20 standing;

21 (v) The applicant has not had a credential, military occupational
22 specialty, or private certification revoked because of negligence or
23 intentional misconduct related to the applicant's work in the occupation;

24 (vi) The applicant has not surrendered 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 (vii) 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 until the complaint, allegation, or
3 investigation is resolved or the applicant otherwise meets the criteria
4 for an occupational license or government certification to the
5 satisfaction of the occupational board; and

6 (viii) 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:

11 (a) An occupational board shall require an applicant to demonstrate
12 that such applicant is a Nebraska resident by providing one of the
13 following items that is current at the time of application:

14 (i) A Nebraska motor vehicle operator's license or state
15 identification card;

16 (ii) A Nebraska residential utility bill with the applicant's name
17 and address;

18 (iii) Documentation of ownership or lease of a residence in
19 Nebraska;

20 (iv) Documentation of employment in the State of Nebraska or a
21 notarized letter of the promise of employment in Nebraska for the
22 applicant or the applicant's spouse; or

23 (v) Any verifiable documentation demonstrating Nebraska residency as
24 determined by the board; and

25 (b) An occupational board may require an applicant to pass a
26 jurisprudential examination specific to relevant state statutes and
27 administrative rules and regulations that regulate the occupation if
28 issuance of an occupational license or government certification in this
29 state requires a person to pass such an examination.

30 (3)(a) Except as otherwise provided in subdivision (b) of this
31 subsection, an occupational board shall approve or deny an occupational

1 license or government certification in writing within sixty days after
2 receiving a complete application under subsection (1) of this section or
3 within five business days after the next meeting of the occupational
4 board that is held after receiving a complete application under
5 subsection (1) of this section, whichever is sooner.

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

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

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

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

30 (c) Nothing in this section shall be construed to prevent this state
31 from recognizing an occupational credential issued by a private

1 certification organization, foreign province, foreign country,
2 international organization, or other entity.

3 (d) Nothing in this section shall be construed to require a private
4 certification organization to grant or deny private certification to any
5 individual.

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

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

12 Sec. 11. Section 84-940, Revised Statutes Cumulative Supplement,
13 2022, is amended to read:

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

18 (2) Occupational regulation includes any government certification,
19 registration, and occupational license except as otherwise specifically
20 provided in the Occupational Board Reform Act.

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

30 Sec. 12. Section 84-947, Revised Statutes Cumulative Supplement,
31 2022, is amended to read:

1 84-947 (1) The fundamental right of an individual to pursue an
2 occupation includes the right of an individual with a criminal history to
3 obtain an occupational license, government certification, or state
4 recognition of the individual's personal qualifications.

5 (2)(a) An individual who has a criminal conviction under the laws of
6 Nebraska or any other jurisdiction may submit to the appropriate
7 occupational board a preliminary application for an occupational license,
8 government certification, or state recognition of the individual's
9 personal qualifications for a determination as to whether the
10 individual's criminal conviction would disqualify the individual from
11 obtaining the occupational license, government certification, or state
12 recognition of the individual's personal qualifications from that
13 occupational board. The preliminary application may be submitted at any
14 time, including prior to obtaining required education or paying any fee,
15 other than the fee for the preliminary application under subsection (9)
16 {7} of this section.

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

23 (i) The age of the individual when the individual committed the
24 offense;

25 (ii) The time elapsed since the offense;

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

27 (iv) The completion of the criminal sentence;

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

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

- 1 (vii) Other evidence of rehabilitation;
- 2 (viii) Education and training;
- 3 (ix) Employment history;
- 4 (x) Employment aspirations;
- 5 (xi) Family responsibilities at the time of the application;
- 6 (xii) Whether the individual is required to be bonded in the
- 7 occupation; and
- 8 (xiii) Any other information the individual deems appropriate.

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

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

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

27 (c) Beginning January 1, 2025, the individual has a potentially
28 disqualifying conviction.

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

1 (a) The executive director or employee designee of the occupational
2 board issues a preliminary adverse determination after completing the
3 following actions:

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

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

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

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

1 finding that the subsequent criminal conviction would be disqualifying
2 under subsection (3) of this section.

3 (6) An individual shall not be required to disclose nor shall
4 consideration be given in a determination under this section to the
5 following:

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

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

10 (c) A conviction that has been sealed, annulled, dismissed,
11 expunged, set aside, or pardoned;

12 (d) A juvenile adjudication;

13 (e) A nonviolent misdemeanor unless it is for an offense expressly
14 listed in section 5 of this act;

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

17 (g) A conviction for which the individual's incarceration ended more
18 than three years before the date of the application, other than a
19 potentially disqualifying conviction.

20 (7) (5) The individual may appeal the determination of the
21 occupational board. The appeal shall be in accordance with the
22 Administrative Procedure Act.

23 (8) (6) An individual shall not file another preliminary application
24 under this section with the same occupational board within two years
25 after the final decision on the previous preliminary application, except
26 that if the individual has taken action to remedy the disqualification as
27 advised by the occupational board, the individual may file another
28 preliminary application under this section with the same occupational
29 board at any time after six months following after the final decision on
30 the previous preliminary application.

31 (9) (7) An occupational board may charge a fee not to exceed one

1 hundred dollars for each preliminary application filed pursuant to this
2 section. The fee is intended to offset the administrative costs incurred
3 under this section. If an individual's income at the time of the
4 preliminary application is at or below three hundred percent of the
5 federal poverty level, such individual may submit with the preliminary
6 application a request for a waiver of the fee along with supporting
7 documentation to show such individual's income. If the occupational board
8 determines that the individual's income is at or below three hundred
9 percent of the federal poverty level, the occupational board shall waive
10 the fee.

11 Sec. 13. Original sections 81-2103 and 81-2120, Reissue Revised
12 Statutes of Nebraska, and sections 84-933, 84-934, 84-940, and 84-947,
13 Revised Statutes Cumulative Supplement, 2022, are repealed.