

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SEVENTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 551**

Introduced by Wayne, 13.

Read first time January 19, 2021

Committee:

1 A BILL FOR AN ACT relating to law enforcement; to amend sections 48-147,  
2 48-2709, 81-1403, 81-1407, 81-1412.02, and 81-1414, Reissue Revised  
3 Statutes of Nebraska, and sections 23-1701.01, 29-2264, 48-115,  
4 48-126.01, 48-145, 81-1401, 81-1414.07, 81-1456, and 81-1457,  
5 Revised Statutes Cumulative Supplement, 2020; to define and redefine  
6 terms; to change provisions relating to annual and initial training  
7 for law enforcement officers; to change membership of the Nebraska  
8 Police Standards Advisory Council; to provide for certification of  
9 persons certified as law enforcement officers in other states; to  
10 change provisions relating to law enforcement officer certification;  
11 to provide for policies and requirements for investigating law  
12 enforcement officer misconduct; to require law enforcement agencies  
13 to maintain records regarding officer discipline; to make certain  
14 records relating to law enforcement officers public; to create a  
15 public data base; to provide duties for the Nebraska Commission on  
16 Law Enforcement and Criminal Justice; to prohibit chokeholds as  
17 prescribed; to require policies on excessive force and a duty to  
18 intervene; to require accreditation of law enforcement agencies; to  
19 create a fund; to eliminate provisions regarding law enforcement  
20 reserve forces; to harmonize provisions; to repeal the original  
21 sections; and to outright repeal sections 81-1438, 81-1439, 81-1440,  
22 81-1441, 81-1442, 81-1443, 81-1444, 81-1445, and 81-1446, Reissue  
23 Revised Statutes of Nebraska.

1 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 23-1701.01, Revised Statutes Cumulative  
2 Supplement, 2020, is amended to read:

3           23-1701.01 (1) Any candidate for the office of sheriff who does not  
4 have a law enforcement officer certificate or diploma issued by the  
5 Nebraska Commission on Law Enforcement and Criminal Justice shall submit  
6 with the candidate filing form required by section 32-607 a standardized  
7 letter issued by the director of the Nebraska Law Enforcement Training  
8 Center certifying that the candidate has:

9           (a) Within one calendar year prior to the deadline for filing the  
10 candidate filing form, passed a background investigation performed by the  
11 Nebraska Law Enforcement Training Center based on a check of his or her  
12 criminal history record information maintained by the Federal Bureau of  
13 Investigation through the Nebraska State Patrol. The candidate who has  
14 not passed a background investigation shall apply for the background  
15 investigation at least thirty days prior to the filing deadline for the  
16 candidate filing form; and

17           (b) Received a minimum combined score on the reading comprehension  
18 and English language portions of an adult basic education examination  
19 designated by the Nebraska Law Enforcement Training Center.

20           (2) Each sheriff shall attend the Nebraska Law Enforcement Training  
21 Center and receive a certificate attesting to satisfactory completion of  
22 the Sheriff's Certification Course within eight months after taking  
23 office unless such sheriff has already been awarded a certificate by the  
24 Nebraska Commission on Law Enforcement and Criminal Justice attesting to  
25 satisfactory completion of such course or unless such sheriff can  
26 demonstrate to the Nebraska Police Standards Advisory Council that his or  
27 her previous training and education is such that he or she will  
28 professionally discharge the duties of the office. Any sheriff in office  
29 prior to July 19, 1980, shall not be required to obtain a certificate  
30 attesting to satisfactory completion of the Sheriff's Certification  
31 Course but shall otherwise be subject to this section.

1           ~~(3) Each Notwithstanding sections 81-1401 to 81-1414.10, each~~  
2 sheriff shall attend forty ~~twenty~~ hours of continuing education as  
3 provided in section 81-1414.07 ~~in criminal justice and law enforcement~~  
4 ~~courses and at least two hours of anti-bias and implicit bias training~~  
5 ~~designed to minimize apparent or actual racial profiling approved by the~~  
6 ~~council~~ each year following the first year of such sheriff's term of  
7 office. ~~Such continuing education shall be offered through seminars,~~  
8 ~~advanced education which may include college or university classes,~~  
9 ~~conferences, instruction conducted within the sheriff's office, or~~  
10 ~~instruction conducted over the Internet, except that instruction~~  
11 ~~conducted over the Internet shall be limited to ten hours annually, and~~  
12 ~~shall be of a type which has application to and seeks to maintain and~~  
13 ~~improve the skills of the sheriffs in carrying out the responsibilities~~  
14 ~~of their office.~~

15           ~~(4) Unless (3) Notwithstanding section 81-1403, unless a sheriff is~~  
16 able to show good cause for not complying with subsection (2) or (3) of  
17 this section or obtains a waiver of the training requirements from the  
18 council, any sheriff who violates subsection (2) or (3) of this section  
19 shall be punished by a fine equal to such sheriff's monthly salary. Each  
20 month in which such violation occurs shall constitute a separate offense.

21           Sec. 2. Section 29-2264, Revised Statutes Cumulative Supplement,  
22 2020, is amended to read:

23           29-2264 (1) Whenever any person is placed on probation by a court  
24 and satisfactorily completes the conditions of his or her probation for  
25 the entire period or is discharged from probation prior to the  
26 termination of the period of probation, the sentencing court shall issue  
27 an order releasing the offender from probation. Such order in all felony  
28 cases shall provide notice that the person's voting rights are restored  
29 two years after completion of probation. The order shall include  
30 information on restoring other civil rights through the pardon process,  
31 including application to and hearing by the Board of Pardons.

1           (2) Whenever any person is convicted of an offense and is placed on  
2 probation by the court, is sentenced to a fine only, or is sentenced to  
3 community service, he or she may, after satisfactory fulfillment of the  
4 conditions of probation for the entire period or after discharge from  
5 probation prior to the termination of the period of probation and after  
6 payment of any fine and completion of any community service, petition the  
7 sentencing court to set aside the conviction.

8           (3)(a) Except as provided in subdivision (3)(b) of this section,  
9 whenever any person is convicted of an offense and is sentenced other  
10 than as provided in subsection (2) of this section, but is not sentenced  
11 to a term of imprisonment of more than one year, such person may, after  
12 completion of his or her sentence, petition the sentencing court to set  
13 aside the conviction.

14           (b) A petition under subdivision (3)(a) of this section shall be  
15 denied if filed:

16           (i) By any person with a criminal charge pending in any court in the  
17 United States or in any other country;

18           (ii) During any period in which the person is required to register  
19 under the Sex Offender Registration Act;

20           (iii) For any misdemeanor or felony motor vehicle offense under  
21 section 28-306 or the Nebraska Rules of the Road; or

22           (iv) Within two years after a denial of a petition to set aside a  
23 conviction under this subsection.

24           (4) In determining whether to set aside the conviction, the court  
25 shall consider:

26           (a) The behavior of the offender after sentencing;

27           (b) The likelihood that the offender will not engage in further  
28 criminal activity; and

29           (c) Any other information the court considers relevant.

30           (5) The court may grant the offender's petition and issue an order  
31 setting aside the conviction when in the opinion of the court the order

1 will be in the best interest of the offender and consistent with the  
2 public welfare. The order shall:

3 (a) Nullify the conviction;

4 (b) Remove all civil disabilities and disqualifications imposed as a  
5 result of the conviction; and

6 (c) Notify the offender that he or she should consult with an  
7 attorney regarding the effect of the order, if any, on the offender's  
8 ability to possess a firearm under state or federal law.

9 (6) The setting aside of a conviction in accordance with the  
10 Nebraska Probation Administration Act shall not:

11 (a) Require the reinstatement of any office, employment, or position  
12 which was previously held and lost or forfeited as a result of the  
13 conviction;

14 (b) Preclude proof of a plea of guilty whenever such plea is  
15 relevant to the determination of an issue involving the rights or  
16 liabilities of someone other than the offender;

17 (c) Preclude proof of the conviction as evidence of the commission  
18 of the offense whenever the fact of its commission is relevant for the  
19 purpose of impeaching the offender as a witness, except that the order  
20 setting aside the conviction may be introduced in evidence;

21 (d) Preclude use of the conviction for the purpose of determining  
22 sentence on any subsequent conviction of a criminal offense;

23 (e) Preclude the proof of the conviction as evidence of the  
24 commission of the offense in the event an offender is charged with a  
25 subsequent offense and the penalty provided by law is increased if the  
26 prior conviction is proved;

27 (f) Preclude the proof of the conviction to determine whether an  
28 offender is eligible to have a subsequent conviction set aside in  
29 accordance with the Nebraska Probation Administration Act;

30 (g) Preclude use of the conviction as evidence of commission of the  
31 offense for purposes of determining whether an application filed or a

1 license issued under sections 71-1901 to 71-1906.01, the Child Care  
2 Licensing Act, or the Children's Residential Facilities and Placing  
3 Licensure Act or a certificate issued under sections 79-806 to 79-815  
4 should be denied, suspended, or revoked;

5 (h) Preclude use of the conviction as evidence of serious misconduct  
6 or incompetence, neglect of duty, physical, mental, or emotional  
7 incapacity, or final conviction of or pleading guilty or nolo contendere  
8 to a felony or misdemeanor for purposes of determining whether an  
9 application filed or a certificate issued under sections 81-1401 to  
10 81-1414.10 and sections 11, 14 to 16, and 18 to 22 of this act should be  
11 denied, suspended, or revoked;

12 (i) Preclude proof of the conviction as evidence whenever the fact  
13 of the conviction is relevant to a determination of the registration  
14 period under section 29-4005;

15 (j) Relieve a person who is convicted of an offense for which  
16 registration is required under the Sex Offender Registration Act of the  
17 duty to register and to comply with the terms of the act;

18 (k) Preclude use of the conviction for purposes of section 28-1206;

19 (l) Affect the right of a victim of a crime to prosecute or defend a  
20 civil action;

21 (m) Affect the assessment or accumulation of points under section  
22 60-4,182; or

23 (n) Affect eligibility for, or obligations relating to, a commercial  
24 driver's license.

25 (7) For purposes of this section, offense means any violation of the  
26 criminal laws of this state or any political subdivision of this state  
27 including, but not limited to, any felony, misdemeanor, infraction,  
28 traffic infraction, violation of a city or village ordinance, or  
29 violation of a county resolution.

30 (8) Except as otherwise provided for the notice in subsection (1) of  
31 this section, changes made to this section by Laws 2005, LB 713, shall be

1 retroactive in application and shall apply to all persons, otherwise  
2 eligible in accordance with the provisions of this section, whether  
3 convicted prior to, on, or subsequent to September 4, 2005.

4 (9) The changes made to this section by Laws 2018, LB146, and Laws  
5 2020, LB881, shall apply to all persons otherwise eligible under this  
6 section, without regard to the date of the conviction sought to be set  
7 aside.

8 Sec. 3. Section 48-115, Revised Statutes Cumulative Supplement,  
9 2020, is amended to read:

10 48-115 The terms employee and worker are used interchangeably and  
11 have the same meaning throughout the Nebraska Workers' Compensation Act.  
12 Such terms include the plural and all ages and both sexes. For purposes  
13 of the act, employee or worker shall be construed to mean:

14 (1) Every person in the service of the state or of any governmental  
15 agency created by it, including the Nebraska National Guard and members  
16 of the military forces of the State of Nebraska, under any appointment or  
17 contract of hire, expressed or implied, oral or written;

18 (2) Every person in the service of an employer who is engaged in any  
19 trade, occupation, business, or profession as described in section 48-106  
20 under any contract of hire, expressed or implied, oral or written,  
21 including aliens and also including minors. Minors for the purpose of  
22 making election of remedies under the Nebraska Workers' Compensation Act  
23 shall have the same power of contracting and electing as adult employees.

24 As used in subdivisions (1) through (10) ~~(11)~~ of this section, the  
25 terms employee and worker shall not be construed to include any person  
26 whose employment is not in the usual course of the trade, business,  
27 profession, or occupation of his or her employer.

28 If an employee subject to the Nebraska Workers' Compensation Act  
29 suffers an injury on account of which he or she or, in the event of his  
30 or her death, his or her dependents would otherwise have been entitled to  
31 the benefits provided by such act, the employee or, in the event of his



1 or her death, his or her dependents shall be entitled to the benefits  
2 provided under such act, if the injury or injury resulting in death  
3 occurred within this state, or if at the time of such injury (a) the  
4 employment was principally localized within this state, (b) the employer  
5 was performing work within this state, or (c) the contract of hire was  
6 made within this state;

7 (3) Volunteer firefighters of any fire department of any rural or  
8 suburban fire protection district, city, village, or nonprofit  
9 corporation, which fire department is organized under the laws of the  
10 State of Nebraska. Such volunteers shall be deemed employees of such  
11 rural or suburban fire protection district, city, village, or nonprofit  
12 corporation while in the performance of their duties as members of such  
13 department and shall be considered as having entered and as acting in the  
14 regular course and scope of their employment from the instant such  
15 persons commence responding to a call to active duty, whether to a fire  
16 station or other place where firefighting equipment that their company or  
17 unit is to use is located or to any activities that the volunteer  
18 firefighters may be directed to do by the chief of the fire department or  
19 some person authorized to act for such chief. Such volunteers shall be  
20 deemed employees of such rural or suburban fire protection district,  
21 city, village, or nonprofit corporation until their return to the  
22 location from which they were initially called to active duty or until  
23 they engage in any activity beyond the scope of the performance of their  
24 duties, whichever occurs first.

25 Members of such volunteer fire department, before they are entitled  
26 to benefits under the Nebraska Workers' Compensation Act, shall be  
27 recommended by the chief of the fire department or some person authorized  
28 to act for such chief for membership therein to the board of directors of  
29 the rural or suburban fire protection district or nonprofit corporation,  
30 the mayor and city commission, the mayor and council, or the chairperson  
31 and board of trustees, as the case may be, and upon confirmation shall be

1 deemed employees of such entity. Members of such fire department after  
2 confirmation to membership may be removed by a majority vote of the  
3 entity's board of directors or governing body and thereafter shall not be  
4 considered employees of such entity. Firefighters of any fire department  
5 of any rural or suburban fire protection district, nonprofit corporation,  
6 city, or village shall be considered as acting in the performance and  
7 within the course and scope of their employment when performing  
8 activities outside of the corporate limits of their respective districts,  
9 cities, or villages, but only if directed to do so by the chief of the  
10 fire department or some person authorized to act for such chief;

11 (4) Members of the Nebraska Emergency Management Agency, any city,  
12 village, county, or interjurisdictional emergency management  
13 organization, or any state emergency response team, which agency,  
14 organization, or team is regularly organized under the laws of the State  
15 of Nebraska. Such members shall be deemed employees of such agency,  
16 organization, or team while in the performance of their duties as members  
17 of such agency, organization, or team;

18 (5) Any person fulfilling conditions of probation, or community  
19 service as defined in section 29-2277, pursuant to any order of any court  
20 of this state who shall be working for a governmental body, or agency as  
21 defined in section 29-2277, pursuant to any condition of probation, or  
22 community service as defined in section 29-2277. Such person shall be  
23 deemed an employee of the governmental body or agency for the purposes of  
24 the Nebraska Workers' Compensation Act;

25 (6) Volunteer ambulance drivers and attendants and emergency care  
26 providers who are members of an emergency medical service for any county,  
27 city, village, rural or suburban fire protection district, nonprofit  
28 corporation, or any combination of such entities under the authority of  
29 section 13-303. Such volunteers shall be deemed employees of such entity  
30 or combination thereof while in the performance of their duties as  
31 ambulance drivers or attendants or emergency care providers and shall be

1 considered as having entered into and as acting in the regular course and  
2 scope of their employment from the instant such persons commence  
3 responding to a call to active duty, whether to a hospital or other place  
4 where the ambulance they are to use is located or to any activities that  
5 the volunteer ambulance drivers or attendants or emergency care providers  
6 may be directed to do by the chief or some person authorized to act for  
7 such chief of the volunteer ambulance service or emergency care service.  
8 Such volunteers shall be deemed employees of such county, city, village,  
9 rural or suburban fire protection district, nonprofit corporation, or  
10 combination of such entities until their return to the location from  
11 which they were initially called to active duty or until they engage in  
12 any activity beyond the scope of the performance of their duties,  
13 whichever occurs first. Before such volunteer ambulance drivers or  
14 attendants or emergency care providers are entitled to benefits under the  
15 Nebraska Workers' Compensation Act, they shall be recommended by the  
16 chief or some person authorized to act for such chief of the volunteer  
17 ambulance service or emergency care service for membership therein to the  
18 board of directors of the rural or suburban fire protection district or  
19 nonprofit corporation, the governing body of the county, city, or  
20 village, or combination thereof, as the case may be, and upon such  
21 confirmation shall be deemed employees of such entity or combination  
22 thereof. Members of such volunteer ambulance or emergency care service  
23 after confirmation to membership may be removed by majority vote of the  
24 entity's board of directors or governing body and thereafter shall not be  
25 considered employees of such entity. Volunteer ambulance drivers and  
26 attendants and emergency care providers for any county, city, village,  
27 rural or suburban fire protection district, nonprofit corporation, or any  
28 combination thereof shall be considered as acting in the performance and  
29 within the course and scope of their employment when performing  
30 activities outside of the corporate limits of their respective county,  
31 city, village, or district, but only if directed to do so by the chief or

1 some person authorized to act for such chief;

2 ~~(7) Members of a law enforcement reserve force appointed in~~  
3 ~~accordance with section 81-1438. Such members shall be deemed employees~~  
4 ~~of the county or city for which they were appointed;~~

5 ~~(7)~~ (8) Any offender committed to the Department of Correctional  
6 Services who is employed pursuant to section 81-1827. Such offender shall  
7 be deemed an employee of the Department of Correctional Services solely  
8 for purposes of the Nebraska Workers' Compensation Act;

9 ~~(8)~~ (9) An executive officer of a corporation elected or appointed  
10 under the provisions or authority of the charter, articles of  
11 incorporation, or bylaws of such corporation who owns less than twenty-  
12 five percent of the common stock of such corporation or an executive  
13 officer of a nonprofit corporation elected or appointed under the  
14 provisions or authority of the charter, articles of incorporation, or  
15 bylaws of such corporation who receives annual compensation of more than  
16 one thousand dollars from such corporation. Such executive officer shall  
17 be an employee of such corporation under the Nebraska Workers'  
18 Compensation Act.

19 An executive officer of a corporation who owns twenty-five percent  
20 or more of the common stock of such corporation or an executive officer  
21 of a nonprofit corporation who receives annual compensation of one  
22 thousand dollars or less from such corporation shall not be construed to  
23 be an employee of the corporation under the Nebraska Workers'  
24 Compensation Act unless such executive officer elects to bring himself or  
25 herself within the provisions of the act. Such election shall be in  
26 writing and filed with the secretary of the corporation and with the  
27 workers' compensation insurer. Such election shall be effective upon  
28 receipt by the insurer for the current policy and subsequent policies  
29 issued by such insurer and shall remain in effect until the election is  
30 terminated, in writing, by the officer and the termination is filed with  
31 the insurer or until the insurer ceases to provide coverage for the

1 corporation, whichever occurs first. Any such termination of election  
2 shall also be filed with the secretary of the corporation. If insurance  
3 is provided through a master policy or a multiple coordinated policy  
4 pursuant to the Professional Employer Organization Registration Act on or  
5 after January 1, 2012, then such election or termination of election  
6 shall also be filed with the professional employer organization. If  
7 coverage under the master policy or multiple coordinated policy ceases,  
8 then such election shall also be effective for a replacement master  
9 policy or multiple coordinated policy obtained by the professional  
10 employer organization and shall remain in effect for the new policy as  
11 provided in this subdivision. If such an executive officer has not  
12 elected to bring himself or herself within the provisions of the Nebraska  
13 Workers' Compensation Act pursuant to this subdivision and a health,  
14 accident, or other insurance policy covering such executive officer  
15 contains an exclusion of coverage if the executive officer is otherwise  
16 entitled to workers' compensation coverage, such exclusion is null and  
17 void as to such executive officer.

18 It is the intent of the Legislature that the changes made to this  
19 subdivision by Laws 2002, LB 417, shall apply to policies of insurance  
20 against liability arising under the act with an effective date on or  
21 after January 1, 2003, but shall not apply to any such policy with an  
22 effective date prior to January 1, 2003;

23 (9) ~~(10)~~ Each individual employer, partner, limited liability  
24 company member, or self-employed person who is actually engaged in the  
25 individual employer's, partnership's, limited liability company's, or  
26 self-employed person's business on a substantially full-time basis who  
27 elects to bring himself or herself within the provisions of the Nebraska  
28 Workers' Compensation Act. Such election shall be in writing and filed  
29 with the workers' compensation insurer. Such election shall be effective  
30 upon receipt by the insurer for the current policy and subsequent  
31 policies issued by such insurer and shall remain in effect until the

1 election is terminated, in writing, by such person and the termination is  
2 filed with the insurer or until the insurer ceases to provide coverage  
3 for the business, whichever occurs first. If insurance is provided  
4 through a master policy or a multiple coordinated policy pursuant to the  
5 Professional Employer Organization Registration Act on or after January  
6 1, 2012, then such election or termination of election shall also be  
7 filed with the professional employer organization. If coverage under the  
8 master policy or multiple coordinated policy ceases, then such election  
9 shall also be effective for a replacement master policy or multiple  
10 coordinated policy obtained by the professional employer organization and  
11 shall remain in effect for the new policy as provided in this  
12 subdivision. If any such person who is actually engaged in the business  
13 on a substantially full-time basis has not elected to bring himself or  
14 herself within the provisions of the Nebraska Workers' Compensation Act  
15 pursuant to this subdivision and a health, accident, or other insurance  
16 policy covering such person contains an exclusion of coverage if such  
17 person is otherwise entitled to workers' compensation coverage, such  
18 exclusion shall be null and void as to such person; and

19 (10) ~~(11)~~ An individual lessor of a commercial motor vehicle leased  
20 to a motor carrier and driven by such individual lessor who elects to  
21 bring himself or herself within the provisions of the Nebraska Workers'  
22 Compensation Act. Such election is made if he or she agrees in writing  
23 with the motor carrier to have the same rights as an employee only for  
24 purposes of workers' compensation coverage maintained by the motor  
25 carrier. For an election under this subdivision, the motor carrier's  
26 principal place of business must be in this state and the motor carrier  
27 must be authorized to self-insure liability under the Nebraska Workers'  
28 Compensation Act. Such an election shall (a) be effective from the date  
29 of such written agreement until such agreement is terminated, (b) be  
30 enforceable against such self-insured motor carrier in the same manner  
31 and to the same extent as claims arising under the Nebraska Workers'

1 Compensation Act by employees of such self-insured motor carrier, and (c)  
2 not be deemed to be a contract of insurance for purposes of Chapter 44.  
3 Section 48-111 shall apply to the individual lessor and the self-insured  
4 motor carrier with respect to personal injury or death caused to such  
5 individual lessor by accident or occupational disease arising out of and  
6 in the course of performing services for such self-insured motor carrier  
7 in connection with such lease while such election is effective.

8 Sec. 4. Section 48-126.01, Revised Statutes Cumulative Supplement,  
9 2020, is amended to read:

10 48-126.01 (1)(a) In determining the compensation to be paid any  
11 member of the military forces of this state, ~~any member of a law~~  
12 ~~enforcement reserve force,~~ or any member of the Nebraska Emergency  
13 Management Agency, any city, village, county, or interjurisdictional  
14 emergency management organization, or any state emergency response team,  
15 which military forces, ~~law enforcement reserve force,~~ or emergency  
16 management agency, organization, or team is organized under the laws of  
17 the State of Nebraska, or any person fulfilling conditions of probation,  
18 or community service as defined in section 29-2277, pursuant to any order  
19 of any court of this state who shall be working for a governmental body,  
20 or agency as defined in section 29-2277, pursuant to any condition of  
21 probation, or community service as defined in section 29-2277, for  
22 injuries resulting in disability or death received in the performance of  
23 his or her duties as a member of such military forces, ~~reserve force,~~  
24 agency, organization, or team, or pursuant to an order of any court, the  
25 wages of such a member or person shall be taken to be those received by  
26 him or her from his or her regular employer, and he or she shall receive  
27 such proportion thereof as he or she is entitled to under the provisions  
28 of section 48-121.

29 (b) If a member or person under subdivision (1)(a) of this section  
30 is not regularly employed by some other person, for the purpose of such  
31 determination, it shall be deemed and assumed that he or she is receiving

1 income from his or her business or from other employment equivalent to  
2 wages in an amount one and one-half times the maximum weekly income  
3 benefit specified in section 48-121.01.

4 (c) If the wages received for the performance of duties as a member  
5 of such military forces, ~~reserve force~~, agency, organization, or team  
6 exceed the wages received from a regular employer, such member shall be  
7 entitled to a rate of compensation based upon wages received as a member  
8 of such military forces, ~~reserve force~~, agency, organization, or team.

9 (2) In determining the compensation rate to be paid any member of a  
10 volunteer fire department in any rural or suburban fire protection  
11 district, city, village, or nonprofit corporation or any member of a  
12 volunteer emergency medical service, which fire department or emergency  
13 medical service is organized under the laws of the State of Nebraska, for  
14 injuries resulting in disability or death received in the performance of  
15 his or her duties as a member of such fire department or emergency  
16 medical service, it shall be deemed and assumed that his or her wages are  
17 in an amount one and one-half times the maximum weekly income benefit  
18 specified in section 48-121.01 or the wages received by such member from  
19 his or her regular employment, whichever is greater. Any member of such  
20 volunteer fire department or volunteer emergency medical service shall  
21 not lose his or her volunteer status under the Nebraska Workers'  
22 Compensation Act if such volunteer receives reimbursement for expenses,  
23 reasonable benefits, or a nominal fee, a nominal per call fee, a nominal  
24 per shift fee, or combination thereof. It shall be conclusively presumed  
25 that a fee is nominal if the fee does not exceed twenty percent of the  
26 amount that otherwise would be required to hire a permanent employee for  
27 the same services.

28 Sec. 5. Section 48-145, Revised Statutes Cumulative Supplement,  
29 2020, is amended to read:

30 48-145 To secure the payment of compensation under the Nebraska  
31 Workers' Compensation Act:



1           (1) Every employer in the occupations described in section 48-106,  
2 except the State of Nebraska and any governmental agency created by the  
3 state, shall either (a) insure and keep insured its liability under such  
4 act in some corporation, association, or organization authorized and  
5 licensed to transact the business of workers' compensation insurance in  
6 this state, (b) in the case of an employer who is a lessor of one or more  
7 commercial vehicles leased to a self-insured motor carrier, be a party to  
8 an effective agreement with the self-insured motor carrier under section  
9 48-115.02, (c) be a member of a risk management pool authorized and  
10 providing group self-insurance of workers' compensation liability  
11 pursuant to the Intergovernmental Risk Management Act, or (d) with  
12 approval of the Nebraska Workers' Compensation Court, self-insure its  
13 workers' compensation liability.

14           An employer seeking approval to self-insure shall make application  
15 to the compensation court in the form and manner as the compensation  
16 court may prescribe, meet such minimum standards as the compensation  
17 court shall adopt and promulgate by rule and regulation, and furnish to  
18 the compensation court satisfactory proof of financial ability to pay  
19 direct the compensation in the amount and manner when due as provided for  
20 in the Nebraska Workers' Compensation Act. Approval is valid for the  
21 period prescribed by the compensation court unless earlier revoked  
22 pursuant to this subdivision or subsection (1) of section 48-146.02.  
23 Notwithstanding subdivision (1)(d) of this section, a professional  
24 employer organization shall not be eligible to self-insure its workers'  
25 compensation liability. The compensation court may by rule and regulation  
26 require the deposit of an acceptable security, indemnity, trust, or bond  
27 to secure the payment of compensation liabilities as they are incurred.  
28 The agreement or document creating a trust for use under this section  
29 shall contain a provision that the trust may only be terminated upon the  
30 consent and approval of the compensation court. Any beneficial interest  
31 in the trust principal shall be only for the benefit of the past or

1 present employees of the self-insurer and any persons to whom the self-  
2 insurer has agreed to pay benefits under subdivision (10) ~~(11)~~ of section  
3 48-115 and section 48-115.02. Any limitation on the termination of a  
4 trust and all other restrictions on the ownership or transfer of  
5 beneficial interest in the trust assets contained in such agreement or  
6 document creating the trust shall be enforceable, except that any  
7 limitation or restriction shall be enforceable only if authorized and  
8 approved by the compensation court and specifically delineated in the  
9 agreement or document. The trustee of any trust created to satisfy the  
10 requirements of this section may invest the trust assets in the same  
11 manner authorized under subdivisions (1)(a) through (i) of section  
12 30-3209 for corporate trustees holding retirement or pension funds for  
13 the benefit of employees or former employees of cities, villages, school  
14 districts, or governmental or political subdivisions, except that the  
15 trustee shall not invest trust assets into stocks, bonds, or other  
16 obligations of the trustor. If, as a result of such investments, the  
17 value of the trust assets is reduced below the acceptable trust amount  
18 required by the compensation court, then the trustor shall deposit  
19 additional trust assets to account for the shortfall.

20 Notwithstanding any other provision of the Nebraska Workers'  
21 Compensation Act, a three-judge panel of the compensation court may,  
22 after notice and hearing, revoke approval as a self-insurer if it finds  
23 that the financial condition of the self-insurer or the failure of the  
24 self-insurer to comply with an obligation under the act poses a serious  
25 threat to the public health, safety, or welfare. The Attorney General,  
26 when requested by the administrator of the compensation court, may file a  
27 motion pursuant to section 48-162.03 for an order directing a self-  
28 insurer to appear before a three-judge panel of the compensation court  
29 and show cause as to why the panel should not revoke approval as a self-  
30 insurer pursuant to this subdivision. The Attorney General shall be  
31 considered a party for purposes of such motion. The Attorney General may

1 appear before the three-judge panel and present evidence that the  
2 financial condition of the self-insurer or the failure of the self-  
3 insurer to comply with an obligation under the act poses a serious threat  
4 to the public health, safety, or welfare. The presiding judge shall rule  
5 on a motion of the Attorney General pursuant to this subdivision and, if  
6 applicable, shall appoint judges of the compensation court to serve on  
7 the three-judge panel. The presiding judge shall not serve on such panel.  
8 Appeal from a revocation pursuant to this subdivision shall be in  
9 accordance with section 48-185. No such appeal shall operate as a  
10 supersedeas unless the self-insurer executes to the compensation court a  
11 bond with one or more sureties authorized to do business within the State  
12 of Nebraska in an amount determined by the three-judge panel to be  
13 sufficient to satisfy the obligations of the self-insurer under the act;

14 (2) An approved self-insurer shall furnish to the State Treasurer an  
15 annual amount equal to two and one-half percent of the prospective loss  
16 costs for like employment but in no event less than twenty-five dollars.  
17 Prospective loss costs is defined in section 48-151. The compensation  
18 court is the sole judge as to the prospective loss costs that shall be  
19 used. All money which a self-insurer is required to pay to the State  
20 Treasurer, under this subdivision, shall be computed and tabulated under  
21 oath as of January 1 and paid to the State Treasurer immediately  
22 thereafter. The compensation court or designee of the compensation court  
23 may audit the payroll of a self-insurer at the compensation court's  
24 discretion. All money paid by a self-insurer under this subdivision shall  
25 be credited to the General Fund;

26 (3) Every employer who fails, neglects, or refuses to comply with  
27 the conditions set forth in subdivision (1) or (2) of this section shall  
28 be required to respond in damages to an employee for personal injuries,  
29 or when personal injuries result in the death of an employee, then to his  
30 or her dependents; and

31 (4) Any security, indemnity, trust, or bond provided by a self-

1 insurer pursuant to subdivision (1) of this section shall be deemed a  
2 surety for the purposes of the payment of valid claims of the self-  
3 insurer's employees and the persons to whom the self-insurer has agreed  
4 to pay benefits under the Nebraska Workers' Compensation Act pursuant to  
5 subdivision (10) ~~(11)~~ of section 48-115 and section 48-115.02 as  
6 generally provided in the act.

7 Sec. 6. Section 48-147, Reissue Revised Statutes of Nebraska, is  
8 amended to read:

9 48-147 Nothing in the Nebraska Workers' Compensation Act shall  
10 affect any existing contract for employers liability insurance, or affect  
11 the organization of any mutual or other insurance company, or any  
12 arrangement existing between employers and employees, providing for  
13 payment to such employees, their families, dependents, or  
14 representatives, sick, accident, or death benefits in addition to the  
15 compensation provided for by such act; but liability for compensation  
16 under such act shall not be reduced or affected by any insurance of the  
17 injured employee, or any contribution or other benefit whatsoever, due to  
18 or received by the person entitled to such compensation, and the person  
19 so entitled shall, irrespective of any insurance or other contract, have  
20 the right to recover the same directly from the employer, and in addition  
21 thereto, the right to enforce in his or her own name in the manner  
22 provided in section 48-146 the liability of any insurer who may, in whole  
23 or in part, have insured the liability for such compensation. Payment in  
24 whole or in part of such compensation by either the employer or the  
25 insurer, as the case may be, shall, to the extent thereof, be a bar to  
26 recovery against the other of the amount so paid. No agreement by an  
27 employee to pay any portion of premium paid by his or her employer or to  
28 contribute to a benefit fund or department maintained by such employer  
29 for the purpose of providing compensation as required by the Nebraska  
30 Workers' Compensation Act shall be valid, and any employer who makes a  
31 deduction for such purpose from the pay of any employee entitled to the

1 benefits of such act shall be guilty of a Class II misdemeanor. Nothing  
2 in this section invalidates or prohibits agreements pursuant to  
3 subdivision (10) ~~(11)~~ of section 48-115 or section 48-115.02.

4 Sec. 7. Section 48-2709, Reissue Revised Statutes of Nebraska, is  
5 amended to read:

6 48-2709 (1) The responsibility to obtain workers' compensation  
7 coverage for employees covered by the professional employer agreement and  
8 for other employees of the client shall be allocated in the professional  
9 employer agreement to the client, the professional employer organization,  
10 or both, in accordance with this section. If any such responsibility is  
11 allocated to the professional employer organization, the professional  
12 employer organization shall:

13 (a) Advise the client of the provisions of subdivisions (8) ~~(9)~~ and  
14 (9) ~~(10)~~ of section 48-115;

15 (b) Advise the client of its obligation to obtain an additional  
16 workers' compensation insurance policy if the professional employer  
17 organization's policy limits coverage to co-employees as specified in the  
18 professional employer agreement; and

19 (c) Provide the client with the name of the insurer providing  
20 coverage, the policy number, claim notification instructions, and any  
21 itemized charges that are to be made for workers' compensation coverage  
22 within ten days after enrollment.

23 (2)(a) If all employees of the client are not covered employees  
24 under the professional employer agreement, then a workers' compensation  
25 insurance policy obtained by the professional employer organization to  
26 cover employees of the client may be written to limit coverage to those  
27 employees who are co-employees of the professional employer organization  
28 and the client. If a professional employer organization's policy limits  
29 coverage to co-employees as specified in the professional employer  
30 agreement, then the client shall obtain an additional workers'  
31 compensation insurance policy. The policy obtained by the client shall be

1 written to cover any and all employees not covered by the professional  
2 employer organization's policy, including any potential new or unknown  
3 employees. All insurance policies issued pursuant to this subsection  
4 shall be subject to and shall comply with the requirements of this  
5 subsection and any rule or regulation adopted by the Department of  
6 Insurance.

7 (b) If all employees of the client are covered employees under the  
8 professional employer agreement, then a workers' compensation insurance  
9 policy obtained by the professional employer organization to cover  
10 employees of the client must be written to cover any and all employees of  
11 the client, including potential new or unknown employees that may not be  
12 covered employees under the agreement.

13 (c) A professional employer organization shall not split coverage  
14 that it obtains for a client between two or more policies.

15 (d) A professional employer organization shall not split coverage  
16 for its direct-hire employees between two or more policies.

17 (e) The Department of Insurance may adopt and promulgate rules and  
18 regulations to implement this subsection.

19 (3) If the professional employer agreement allocates responsibility  
20 to the professional employer organization to obtain workers' compensation  
21 coverage only for co-employees, then the professional employer  
22 organization shall provide the following information to the administrator  
23 of the Nebraska Workers' Compensation Court. Such information shall be  
24 provided for any such professional employer agreement in effect on  
25 January 1, 2012, and prior to the effective date of any new professional  
26 employer agreement or any amendment of an agreement adding such a  
27 provision after January 1, 2012, and shall be provided in a form and  
28 manner prescribed by the administrator:

29 (a) The names and addresses of the client and the professional  
30 employer organization;

31 (b) The effective date of the professional employer agreement;

1 (c) A description of the employees covered under the professional  
2 employer agreement;

3 (d) Evidence that any and all other employees of the client are  
4 covered by a valid workers' compensation insurance policy; and

5 (e) Any other information the administrator may require regarding  
6 workers' compensation coverage of the professional employer organization,  
7 the client, or the covered employees.

8 (4) If workers' compensation coverage for a client's employees  
9 covered by the professional employer agreement and for other employees of  
10 the client is not entirely available in the voluntary market, then  
11 assigned risk workers' compensation coverage written subject to section  
12 44-3,158 may only be written on a single policy that covers all employees  
13 and co-employees of the client. Assigned risk workers' compensation  
14 insurance for the professional employer organization may also be written,  
15 but only on a basis that covers its direct-hire employees and excludes  
16 employees and co-employees of its clients. The Department of Insurance  
17 may adopt and promulgate rules and regulations to implement this  
18 subsection.

19 (5) If a master policy or multiple coordinated policy providing  
20 coverage to a client is obtained by a professional employer organization,  
21 then the professional employer organization shall provide the client with  
22 a notice that the client shall conspicuously post at its workplace. Such  
23 notice shall provide the name and address of the workers' compensation  
24 insurer and the individual to whom claims shall be directed. If more than  
25 one workers' compensation insurer provides coverage for employees and co-  
26 employees of the client, the client shall post such information for all  
27 such workers' compensation insurers.

28 (6) Both the client and the professional employer organization shall  
29 be considered the employer for purposes of coverage under the Nebraska  
30 Workers' Compensation Act. The protection of the exclusive remedy  
31 provision of the act shall apply to the professional employer

1 organization, to the client, and to all covered employees and other  
2 employees of the client regardless of which co-employer obtains such  
3 workers' compensation coverage.

4 (7) If a client receives notice of the cancellation, nonrenewal, or  
5 termination of workers' compensation coverage obtained by the  
6 professional employer organization, then the client may withdraw from the  
7 professional employer agreement without penalty unless the client is  
8 notified by the professional employer organization of replacement  
9 coverage within fifteen days after the notice.

10 (8) A professional employer organization shall not impose any fee  
11 increase on a client based on the actual or anticipated cost of workers'  
12 compensation coverage without giving the client at least thirty days'  
13 advance notice and an opportunity to withdraw from the professional  
14 employer agreement without penalty.

15 (9) The professional employer organization shall not make any  
16 materially inaccurate, misleading, or fraudulent representations to the  
17 client regarding the cost of workers' compensation coverage. If the  
18 professional employer organization charges the client an itemized amount  
19 for workers' compensation coverage, the professional employer  
20 organization shall provide the client with an accurate and concise  
21 description of the basis upon which it was calculated and the services  
22 that are included. A professional employer organization shall not charge  
23 a client an itemized amount for workers' compensation coverage that is  
24 materially inconsistent with the actual amounts that the professional  
25 employer organization is charged by the insurer, given reasonably  
26 anticipated loss-sensitive charges, if applicable, reasonable recognition  
27 of the professional employer organization's costs, and a margin for  
28 profit.

29 Sec. 8. Section 81-1401, Revised Statutes Cumulative Supplement,  
30 2020, is amended to read:

31 81-1401 For purposes of sections 81-1401 to 81-1414.10 and sections



1 11, 14 to 16, and 18 to 22 of this act, unless the context otherwise  
2 requires:

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

5 (2) Council means the Nebraska Police Standards Advisory Council;

6 (3) Director means the director of the Nebraska Law Enforcement  
7 Training Center;

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

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

15 ~~(6) Incapacity means incapable of or lacking the ability to perform~~  
16 ~~or carry out the usual duties of a law enforcement officer in accordance~~  
17 ~~with the standards established by the commission due to physical, mental,~~  
18 ~~or emotional factors. Incapacity does not exist if a law enforcement~~  
19 ~~officer remains employed as a law enforcement officer, including~~  
20 ~~employment as a law enforcement officer in a restricted or limited duty~~  
21 ~~status;~~

22 (6) ~~(7)~~ Law enforcement agency means the police department or the  
23 town marshal in incorporated municipalities, the office of sheriff in  
24 unincorporated areas, and the Nebraska State Patrol;

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

- 1 (i) A full-time or part-time member of the Nebraska State Patrol;
- 2 (ii) A county sheriff;
- 3 (iii) A full-time, ~~or part-time, or reserve~~ employee of a county  
4 sheriff's office;
- 5 (iv) A full-time, ~~or part-time, or reserve~~ employee of a municipal  
6 or village police agency;
- 7 (v) A full-time or part-time Game and Parks Commission conservation  
8 officer;
- 9 (vi) A full-time or part-time deputy state sheriff; or
- 10 (vii) A full-time employee of an organized and paid fire department  
11 of any city of the metropolitan class who is an authorized arson  
12 investigator and whose duties consist of determining the cause, origin,  
13 and circumstances of fires or explosions while on duty in the course of  
14 an investigation;
- 15 (b) 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 (c) A law enforcement officer shall possess a valid law enforcement  
21 officer certificate or diploma, as established by the council, in order  
22 to be vested with the authority of this section, ~~but this subdivision~~  
23 ~~does not prohibit an individual from receiving a conditional appointment~~  
24 ~~as an officer pursuant to subsection (2) of section 81-1414;~~
- 25 (8) Misdemeanor crime of domestic violence has the same meaning as  
26 in section 28-1206;
- 27 (9) Serious misconduct means improper or illegal actions taken by a  
28 law enforcement officer in connection with the officer's official duties  
29 and includes, but is not limited to:
- 30 (a) Conviction of a felony or misdemeanor crime of domestic  
31 violence;

1           (b) Fabrication of evidence;

2           (c) Repeated substantiated allegations of the use of excessive  
3 force;

4           (d) Acceptance of a bribe;

5           (e) Commission of fraud or perjury; or

6           (f) Sexual assault;

7           (10) (9) Training academy means the training center or such other  
8 council-approved law enforcement training facility operated and  
9 maintained by a law enforcement agency which offers certification  
10 training that meets or exceeds the certification training curriculum of  
11 the training center;

12           (11) (10) Training center means the Nebraska Law Enforcement  
13 Training Center; and

14           (12) (11) Training school means a public or private institution of  
15 higher education, including the University of Nebraska, the Nebraska  
16 state colleges, and the community colleges of this state, that offers  
17 training in a council-approved pre-certification course.

18           Sec. 9. Section 81-1403, Reissue Revised Statutes of Nebraska, is  
19 amended to read:

20           81-1403 Subject to review and approval by the commission, the  
21 council shall:

22           (1) Adopt and promulgate rules and regulations for law enforcement  
23 pre-certification, certification, continuing education, and training  
24 requirements. Such rules and regulations may include the authority to  
25 impose a fine on any individual, political subdivision, or agency who or  
26 which violates sections 81-1401 to 81-1414.10 and sections 11, 14 to 16,  
27 and 18 to 22 of this act or any of such rules and regulations adopted and  
28 promulgated thereunder. The fine for each separate violation of such  
29 sections 81-1401 to 81-1414.10 or of any such rule or regulation adopted  
30 and promulgated by the council pursuant to such sections shall not exceed  
31 either (a) a one-time maximum fine of five hundred dollars or (b) a

1 maximum fine of one hundred dollars per day until the individual,  
2 political subdivision, or agency complies with such rules or regulations.  
3 ~~All fines collected pursuant to this subdivision shall be remitted to the~~  
4 ~~State Treasurer for distribution in accordance with Article VII, section~~  
5 ~~5, of the Constitution of Nebraska;~~

6 (2) Adopt and promulgate rules and regulations for the operation of  
7 the training center;

8 (3) Recommend to the executive director of the commission the names  
9 of persons to be appointed to the position of director of the training  
10 center;

11 (4) Establish requirements for satisfactory completion of pre-  
12 certification programs, certification programs, and advanced training  
13 programs;

14 (5) Issue certificates or diplomas attesting satisfactory completion  
15 of pre-certification programs, certification programs, and advanced  
16 training programs;

17 (6) Revoke or suspend such certificates or diplomas according to  
18 rules and regulations adopted and promulgated by the council pursuant to  
19 sections 81-1401 to 81-1414.10 and sections 11, 14 to 16, and 18 to 22 of  
20 this act for reasons which shall include, but not be limited to: 7

21 ~~(a) Final~~ (a) ~~incompetence, (b) neglect of duty, (c) physical,~~  
22 ~~mental, or emotional incapacity, and (d) final conviction of or pleading~~  
23 ~~guilty or nolo contendere to a:~~

24 (i) Felony violation of state or federal law;

25 (ii) Misdemeanor crime of domestic violence; or

26 (iii) Misdemeanor violation of state or federal law, if the  
27 violation has a rational connection with the officer's fitness or  
28 capacity to serve as a law enforcement officer;

29 (b) Serious misconduct; or

30 (c) A violation of the officer's oath of office, code of ethics, or  
31 statutory duties;

1        (7) The council shall adopt and promulgate rules and regulations  
2 that:

3        (a) Provide felony. ~~The rules and regulations shall provide for the~~  
4 ~~revocation of a certificate or diploma without a hearing upon the~~  
5 ~~certificate or diploma holder's final conviction of or pleading guilty or~~  
6 ~~nolo contendere to a felony or misdemeanor described in subdivision (6)~~  
7 ~~of this section; and . When a law enforcement officer is separated from~~  
8 ~~his or her agency due to physical, mental, or emotional incapacity, the~~  
9 ~~law enforcement agency shall report the separation to the council, and~~  
10 ~~the officer's law enforcement certificate shall be suspended pursuant to~~  
11 ~~rules and regulations adopted and promulgated by the council until such~~  
12 ~~time as the officer demonstrates to the council that the incapacity no~~  
13 ~~longer prevents the officer from performing the essential duties of a law~~  
14 ~~enforcement officer. The council shall adopt and promulgate rules and~~  
15 ~~regulations to include~~

16        (b) Include a procedure for hearing appeals of any person who feels  
17 that the revocation or suspension of his or her certificate or diploma  
18 was in error;

19        (8) (7) Set the tuition and fees for the training center and all  
20 officers of other training academies not employed by that training  
21 academy's agency. The tuition and fees set for the training center  
22 pursuant to this subdivision shall be adjusted annually pursuant to the  
23 training center budget approved by the Legislature. All other tuition and  
24 fees shall be set in order to cover the costs of administering sections  
25 81-1401 to 81-1414.10 and sections 11, 14 to 16, and 18 to 22 of this  
26 act. All tuition and fees shall be remitted to the State Treasurer for  
27 credit to the Nebraska Law Enforcement Training Center Cash Fund;

28        (9) (8) Annually certify any training academies providing a basic  
29 course of law enforcement training which complies with the qualifications  
30 and standards promulgated by the council and offering training that meets  
31 or exceeds training that is offered by the training center. The council

1 shall set the maximum and minimum applicant enrollment figures for  
2 training academies training non-agency officers;

3 ~~(10) (9)~~ Extend the programs of the training center throughout the  
4 state on a regional basis; and

5 ~~(10) Establish the qualifications, standards, and continuing~~  
6 ~~education requirements and provide the training required by section~~  
7 ~~81-1439; and~~

8 (11) Do all things necessary to carry out the purpose of the  
9 training center, except that functional authority for budget and  
10 personnel matters shall remain with the commission.

11 Any administrative fine imposed under this section shall constitute  
12 a debt to the State of Nebraska which may be collected by lien  
13 foreclosure or sued for and recovered in any proper form of action by the  
14 office of the Attorney General in the name of the State of Nebraska in  
15 the district court of the county where the final agency action was taken.  
16 All fines imposed by the council shall be remitted to the State Treasurer  
17 for distribution in accordance with Article VII, section 5, of the  
18 Constitution of Nebraska.

19 Sec. 10. Section 81-1407, Reissue Revised Statutes of Nebraska, is  
20 amended to read:

21 81-1407 (1)(a) ~~(1)~~ The Nebraska Police Standards Advisory Council  
22 shall consist of nine ~~seven~~ members appointed by the Governor.

23 (b) Eight ~~Six~~ of the members shall be full-time officers or  
24 employees of a law enforcement agency. Such members ~~and~~ shall include:

25 (i) A ~~one~~ representative chief of police or his or her designee from  
26 a city of the metropolitan ~~or primary~~ class;

27 (ii) A representative chief of police or his or her designee from a  
28 city of the primary class;

29 (iii) A ~~, a~~ representative chief of police or his or her designee  
30 from a city of the first class;

31 (iv) A ~~, a~~ representative chief of police or his or her designee

1 from a city of the second class or village;

2 (v) A  ~~a county sheriff or his or her designee from a county having~~  
3 a population of forty thousand or more;

4 (vi) A  ~~a county sheriff or his or her designee from a county~~  
5 having a population of forty thousand or less;

6 (vii) A  ~~and a member of the Nebraska State Patrol; and~~ -

7 (viii) A sworn law enforcement officer holding the rank of sergeant  
8 or below.

9 (c) The ninth seventh member shall be a member of the Jail Standards  
10 Board or a person from the public at large. ~~The representative chief of~~  
11 ~~police or his or her designee from a city of the metropolitan or primary~~  
12 ~~class shall not be a regular member of the commission.~~

13 (2) Except as otherwise provided in this subsection, the The members  
14 of the council shall serve for terms of four years each. Within ninety  
15 days after the effective date of this act, the Governor shall appoint the  
16 new members added by this legislative bill. Of such members one shall  
17 serve a term of three years and one shall serve a term of four years.  
18 Each succeeding member shall be appointed for a term of four years. Of  
19 ~~the members first appointed, one shall serve for a term of one year, one~~  
20 ~~shall serve for a term of two years, one shall serve for a term of three~~  
21 ~~years, and two shall serve for terms of four years from January 1 next~~  
22 ~~succeeding their appointment. Within ninety days after July 16, 1994, the~~  
23 ~~Governor shall appoint the two additional members who shall serve for~~  
24 ~~terms of four years from January 1 next succeeding their appointment. A~~  
25 member may be reappointed at the expiration of his or her term. Any  
26 vacancy occurring otherwise than by expiration of a term shall be filled,  
27 for the remainder of the unexpired term, in the same manner as the  
28 original appointment. The council shall select one of its members as  
29 chairperson.

30 (3) No member of the council shall serve beyond the time when he or  
31 she holds the office or employment by reason of which he or she was

1 initially eligible for appointment. A member may be removed from the  
2 council for cause upon notice and an opportunity to be heard at a public  
3 hearing before the Governor. After the hearing, the Governor shall file  
4 in the office of the Secretary of State a complete statement of the  
5 charges, his or her findings and disposition, together with a complete  
6 record of the proceedings.

7 Sec. 11. As part of entry-level law enforcement certification, each  
8 training academy shall require completion of:

9 (1) Forty hours of instruction relating to de-escalation. Such forty  
10 hours shall include twenty-four hours relating to mental health and  
11 substance abuse and sixteen hours relating to human behavior and  
12 communicating with a person in a crisis situation; and

13 (2) Eight hours of anti-bias and implicit bias training.

14 Sec. 12. Section 81-1412.02, Reissue Revised Statutes of Nebraska,  
15 is amended to read:

16 81-1412.02 The person in charge of any agency employing law  
17 enforcement officers shall submit to the council a register of full-time  
18 and  ~~, part-time, and reserve~~ law enforcement officers employed by his or  
19 her agency and whether each law enforcement officer passed or failed the  
20 handgun qualification. The council shall adopt and promulgate rules and  
21 regulations governing the submission of agency registers. The register  
22 shall include the name of each law enforcement officer, whether the law  
23 enforcement officer passed or failed the handgun qualification, the name  
24 of the instructor who administered the course, the date of handgun  
25 qualification, and the type of handgun used in handgun qualification. An  
26 agency that fails to submit a handgun qualification register pursuant to  
27 this section shall be subject to a fine of one hundred dollars for each  
28 day of noncompliance. All fines collected under this section shall be  
29 remitted to the State Treasurer for credit to the Law Enforcement  
30 Improvement Fund.

31 Sec. 13. Section 81-1414, Reissue Revised Statutes of Nebraska, is



1 amended to read:

2 81-1414 (1) On and after January 1, 1972, law enforcement officers  
3 already serving under permanent appointment shall not be required to meet  
4 any requirement of subsection (2) of this section as a condition of  
5 tenure or continued employment.

6 (2) On and after January 1, 1972, no person shall receive  
7 appointment as a law enforcement officer unless such person:

8 (a) ~~Has~~ he or she has been awarded a certificate or diploma by the  
9 commission attesting to satisfactory completion of the minimum curriculum  
10 of the training center as established by the council;

11 (b) ~~Has~~ or has been awarded a certificate or diploma attesting to  
12 satisfactory completion of a training program approved by which the  
13 council as finds equivalent to the curriculum in subdivision (1)(a) of  
14 this section; or

15 (c) Is certified as a law enforcement officer in another state and  
16 has applied and been approved as provided in section 16 of this act.

17 (3) ~~The~~ thereto. Any person who has not been awarded such a  
18 certificate or diploma may receive an appointment conditioned on  
19 satisfactory completion of such training if he or she immediately applies  
20 for admission to the training center or any training academy and enrolls  
21 in the next available basic training class. If such training is not  
22 completed within one year after the appointment, the person's employment  
23 shall not be renewed by a political subdivision appointment or otherwise  
24 and such person shall no longer be recognized as a law enforcement  
25 officer, except that in cases of extreme hardship, upon application by  
26 the officer, the council may grant a waiver to allow the officer to  
27 complete the basic training program as soon as is practicable after the  
28 one-year time allowance. Any individual who is not certified in  
29 accordance with this section and has worked as a law enforcement officer  
30 for multiple law enforcement agencies or political subdivisions shall  
31 have his or her time of employment aggregated in order to determine if he

1 ~~or she has worked for more than one year. If that law enforcement~~  
2 ~~officer's aggregate time of employment exceeds one year, that officer~~  
3 ~~shall not be recognized as a law enforcement officer for any political~~  
4 ~~subdivision until he or she has satisfactorily completed such~~  
5 ~~certification training. For purposes of this section, the council shall~~  
6 ~~deem the successful completion of the federal Bureau of Indian Affairs~~  
7 ~~basic police training program as administered by the Federal Law~~  
8 ~~Enforcement Training Center to constitute such equivalent training under~~  
9 subdivision (1)(b) of this section, and officers certified by virtue of  
10 such equivalent training may exercise full law enforcement authority  
11 exclusively on tribal lands.

12 ~~(4) (3)~~ Law enforcement officers who are promoted in rank shall  
13 satisfactorily complete such council-approved training within one year of  
14 such promotion.

15 ~~(5) (4)~~ At the direction of the council, the director shall issue a  
16 certificate or diploma attesting to a compliance with the requirements of  
17 subsection (2), ~~or~~ (3), or (4) of this section to any applicant who  
18 presents evidence of satisfactory completion of a council-approved  
19 training program.

20 Sec. 14. Section 81-1457, Revised Statutes Cumulative Supplement,  
21 2020, is amended to read:

22 ~~81-1457~~ (1) A person who is certified under section 81-1414 and who  
23 seeks employment as a law enforcement officer in this state shall provide  
24 a signed waiver to the prospective employer upon a conditional offer of  
25 employment. The waiver must expressly allow the prospective employer to  
26 contact the person's former employer or employers and obtain from each  
27 copies of any records created under subsections (2), ~~and~~ (3), and (4) of  
28 section 19 of this act or under comparable laws in another jurisdiction  
29 ~~81-1456~~. The prospective employer is responsible for providing the waiver  
30 to each former employer.

31 (2) The waiver required by this section shall be executed on a form

1 provided by the commission ~~Nebraska Commission on Law Enforcement and~~  
2 ~~Criminal Justice~~ to all agencies in this state that employ or administer  
3 oaths of office to law enforcement officers certified by the commission.

4 (3) Within ten calendar days after receipt of the waiver, a former  
5 employer shall provide the prospective employer, along with other  
6 information required or allowed to be provided by law, copies of any  
7 records created under subsections (2), ~~and (3), and (4)~~ of section 19 of  
8 this act ~~81-1456~~. The names and any identifying information in any  
9 records created under subsections (2), ~~and (3), and (4)~~ of this section  
10 of any individual, witness, or law enforcement officer or officers other  
11 than the person who signed the waiver shall be confidential and not  
12 disclosed to the prospective employer.

13 (4) A prospective employer shall not hire as a law enforcement  
14 officer a person to whom subsection (1) of this section applies unless  
15 the prospective employer receives, from each of the person's former  
16 employers that are located in Nebraska, copies of any records created  
17 under subsections (2) and (3) of section 19 of this act ~~81-1456~~.

18 (5) A prospective employer shall not hire as a law enforcement  
19 officer a person to whom subsection (1) of this section applies if such  
20 person's former employer has provided notice to the commission ~~Nebraska~~  
21 ~~Commission on Law Enforcement and Criminal Justice~~ that the person's  
22 separation from the former employer occurred under circumstances that may  
23 justify revocation of the person's certification unless the commission  
24 has reviewed the notification and issued a determination that the person  
25 shall retain such certification.

26 (6) For purposes of this section:

27 (a) Former employer means the law enforcement agency or other agency  
28 that currently employs or previously employed the person as a law  
29 enforcement officer, whether located in Nebraska or in another  
30 jurisdiction; and

31 (b) ~~Incapacity has the same meaning as in section 81-1401;~~

1       ~~(c) Law enforcement agency has the same meaning as in section~~  
2       ~~81-1401;~~

3       ~~(d) Law enforcement officer has the same meaning as in section~~  
4       ~~81-1401; and~~

5       **(b)** ~~(e)~~ Prospective employer means the law enforcement agency or  
6 other agency that is considering hiring the person as a law enforcement  
7 officer.

8       Sec. 15. (1) Prior to hiring a person as a law enforcement officer,  
9 a law enforcement agency shall cause such person to undergo a  
10 psychological evaluation to determine fitness for duty. The cost of such  
11 evaluation shall be the responsibility of the agency.

12       (2) The council may adopt and promulgate rules and regulations to  
13 carry out this section.

14       Sec. 16. (1) A person seeking certification under subdivision (2)  
15 (c) of section 81-1414 shall, in addition to any other applicable  
16 requirements of the commission or of sections 81-1401 to 81-1414.10 and  
17 sections 11, 14 to 16, and 18 to 22 of this act, submit an application to  
18 the council as provided in this section. The application shall be made  
19 under oath and made on a form provided by the council.

20       (2) The applicant shall attest to the following:

21       (a) That the applicant's certification as a law enforcement officer  
22 has not been revoked or suspended in another jurisdiction;

23       (b) That the applicant has not been convicted of or pleaded guilty  
24 or nolo contendere to a:

25       (i) Felony violation of state or federal law;

26       (ii) Misdemeanor crime of domestic violence; or

27       (iii) Misdemeanor violation of state or federal law, if the  
28 violation has a rational connection with the officer's fitness or  
29 capacity to serve as a law enforcement officer;

30       (c) That the applicant has not been separated from employment or  
31 disciplined for serious misconduct or a violation of the officer's oath

1 of office, code of ethics, or statutory duties; and

2 (d) Any other information deemed necessary by the commission.

3 (3) The council shall deny certification to an applicant under this  
4 section if the council finds that the applicant does not meet the  
5 requirements of subsection (2) of this section, has omitted information  
6 required by such subsection, or has provided false or misleading  
7 information in the application.

8 (4) No law enforcement agency or other state or local agency shall  
9 hire as a law enforcement officer a person whose certification is denied  
10 under this section.

11 (5) The council may adopt and promulgate rules and regulations to  
12 establish a process and requirements for approving certifications under  
13 this section.

14 Sec. 17. Section 81-1414.07, Revised Statutes Cumulative Supplement,  
15 2020, is amended to read:

16 81-1414.07 (1) In order to maintain his or her professional status  
17 and serve the law enforcement profession, the community, and the  
18 residents of Nebraska, each law enforcement officer shall attend at least  
19 ~~forty~~ twenty hours of continuing education courses in the areas of  
20 criminal justice and law enforcement ~~and at least two hours of anti-bias~~  
21 ~~and implicit bias training designed to minimize apparent or actual racial~~  
22 ~~profiling~~ during each calendar year beginning on January 1 and ending on  
23 December 31. A law enforcement officer is not required to meet the  
24 continuing education requirements in the year in which he or she first  
25 becomes fully certified.

26 (2) The forty hours of annual continuing education required by this  
27 section shall include:

28 (a) Refresher course on de-escalation, mental health, and substance  
29 abuse issues – One hour;

30 (b) Anti-bias and implicit bias training – Two hours;

31 (c) Scenario- or decision-based training – Four hours;

- 1        (d) Firearms – Two hours;
- 2        (e) Officer wellness – One hour;
- 3        (f) Legal updates, including, but not limited to, legislative
- 4 changes and First Amendment and Fourth Amendment issues – Four hours;
- 5        (g) Defensive tactics and use of force report writing – Eight hours;
- 6        (h) Emergency vehicle operations – Two hours; and
- 7        (i) Training as determined by a law enforcement agency.

8        (3) {2} Continuing education courses may be offered in the form of  
9 seminars, advanced education which may include college or university  
10 classes, conferences, instruction conducted within the law enforcement  
11 officer's law enforcement agency, or instruction conducted over the  
12 Internet. Continuing education , except that instruction conducted over  
13 the Internet shall be limited to ten hours annually, and shall be of a  
14 type which has application to and seeks to maintain and improve the  
15 skills of the law enforcement officer in carrying out his or her duties  
16 and responsibilities.

17        Sec. 18. (1) Each law enforcement agency or agency employing a law  
18 enforcement officer shall have a policy in its standard operating  
19 procedures regarding accepting and investigating complaints of law  
20 enforcement officer misconduct.

21        (2) If an agency receives a complaint of law enforcement misconduct  
22 which could constitute grounds for revocation or suspension under  
23 subdivision (6) of section 81-1403:

24        (a) The agency shall investigate the matter;

25        (b) The investigation shall be carried out by a law enforcement  
26 officer who has at least twenty-four hours of training on how to  
27 investigate such misconduct; and

28        (c) The agency shall complete the investigation within one hundred  
29 days after the complaint. If criminal charges against the officer are  
30 being considered, the one-hundred-day deadline shall be tolled until a  
31 charging decision has been made and the prosecuting attorney has filed

1 charges or declined to file charges.

2 (3) If a law enforcement agency determines that a complaint  
3 investigated under subsection (2) of this section may be grounds for  
4 revocation of a law enforcement officer's certification, the agency may  
5 forward the matter to the commission and the commission shall investigate  
6 such complaint. In conducting such investigation the commission shall  
7 have the power to issue subpoenas. Any investigation shall be completed  
8 within one hundred eighty days after receipt of the complaint. If the  
9 investigation is not completed within one hundred eighty days, the  
10 investigation shall be deemed closed and the officer shall be notified.  
11 The commission may begin a new investigation if new information not  
12 available during the previous investigation is received and an  
13 investigation is warranted.

14 Sec. 19. Section 81-1456, Revised Statutes Cumulative Supplement,  
15 2020, is amended to read:

16 ~~81-1456~~ (1) The chief of police, sheriff, Superintendent of Law  
17 Enforcement and Public Safety, or the head administrator of a law  
18 enforcement agency or an agency employing a law enforcement officer shall  
19 submit a personnel change in status form as approved by the council  
20 ~~Nebraska Police Standards Advisory Council~~ to the director of the  
21 training center ~~Nebraska Law Enforcement Training Center~~ within seven  
22 calendar days after the date a law enforcement officer is hired by the  
23 agency or leaves employment with the agency.

24 (2)(a) (2) Each law enforcement agency or agency employing a law  
25 enforcement officer shall maintain a record regarding the reason or  
26 reasons for, and circumstances surrounding, a separation of service for  
27 each law enforcement officer employed by that agency.

28 (b) Such record shall be retained for five years following a law  
29 enforcement officer's separation from the agency.

30 (c) Each law enforcement agency or agency employing a law  
31 enforcement officer shall, on a quarterly basis, transmit to the

1 commission any records generated under subdivision (2)(a) of this section  
2 in a form and manner prescribed by the commission.

3 (3)(a) (3) Each law enforcement agency or agency employing a law  
4 enforcement officer shall maintain any and all records of officer conduct  
5 which could constitute grounds for revocation or suspension of a law  
6 enforcement certification by the ~~commission Nebraska Commission on Law~~  
7 ~~Enforcement and Criminal Justice.~~ Such record shall include any and all  
8 records of conduct which could constitute grounds for revocation or  
9 suspension under subdivision (6) of section 81-1403 : (a) Incompetence;  
10 (b) neglect of duty; (c) incapacity; (d) dishonesty; (e) a felony  
11 violation of state or federal law; (f) a misdemeanor violation of state  
12 or federal law, if the violation has a rational connection with the  
13 officer's fitness or capacity to serve as a law enforcement officer; or  
14 (g) a violation of the officer's oath of office, code of ethics, or  
15 statutory duties.

16 (b) Such record shall be retained for the duration of the law  
17 enforcement officer's employment with the agency and for ten years  
18 following his or her separation from the agency.

19 (c) Each law enforcement agency or agency employing a law  
20 enforcement officer shall, on a quarterly basis, transmit to the  
21 commission any records generated under subdivision (3)(a) of this section  
22 in a form and manner prescribed by the commission.

23 (4)(a) Each law enforcement agency or agency employing a law  
24 enforcement officer shall maintain a record regarding any officer  
25 discipline, including:

26 (i) The name of the officer;

27 (ii) Disciplinary findings;

28 (iii) Discipline imposed;

29 (iv) Whether there was an appeal or grievance, and if so, the  
30 outcome of the appeal or grievance; and

31 (v) Any other information required by the commission.



1       (b) Such record shall be maintained for a period of ten years  
2 following the date of any disciplinary findings.

3       (c) Each law enforcement agency or agency employing a law  
4 enforcement officer shall, on a quarterly basis, transmit to the  
5 commission any records generated under subdivision (4)(a) of this section  
6 in a form and manner prescribed by the commission.

7       (5) (4) The chief of police, sheriff, Superintendent of Law  
8 Enforcement and Public Safety, or the head administrator of a law  
9 enforcement agency or an agency employing a law enforcement officer shall  
10 make a report to the ~~commission~~ Nebraska Commission on Law Enforcement  
11 and Criminal Justice of any law enforcement officer who is terminated  
12 from employment or allowed to resign in lieu of termination for conduct  
13 described in subdivision (6) of section 81-1403 that could constitute:  
14 (a) Incompetence; (b) neglect of duty; (c) incapacity; (d) dishonesty;  
15 (e) a felony violation of state or federal law; (f) a misdemeanor  
16 violation of state or federal law, if the violation has a rational  
17 connection with the officer's fitness or capacity to serve as a law  
18 enforcement officer; or (g) a violation of the officer's oath of office,  
19 code of ethics, or statutory duties. The report shall include, but not be  
20 limited to, a summary of the allegations pertaining to the officer and  
21 identification of any witnesses relevant to the allegations, and shall be  
22 filed with the commission within thirty calendar days of the termination  
23 or resignation in lieu of termination.

24       (6)(a) The commission shall maintain a public data base of records  
25 transmitted to the commission under subsections (2), (3), (4), and (5) of  
26 this section. The data base shall be posted on the commission's web site  
27 in a modern, open, electronic format that is machine-readable, machine-  
28 searchable, and readily accessible to the public. The commission shall  
29 maintain the records for the same periods as stated in such subsections.

30       (b) All records created under this subsection and sections (2), (3),  
31 (4), and (5) of this section shall be considered public records for

1 purposes of sections 84-712 to 84-712.09.

2 ~~(7) (5) Failure to comply with this section shall constitute neglect~~  
3 ~~of duty.~~

4 ~~(6) For purposes of this section:~~

5 ~~(a) Felony has the same meaning as in section 81-1401;~~

6 ~~(b) Incapacity has the same meaning as in section 81-1401;~~

7 ~~(c) Law enforcement agency has the same meaning as in section~~  
8 ~~81-1401; and~~

9 ~~(d) Law enforcement officer has the same meaning as in section~~  
10 ~~81-1401.~~

11 Sec. 20. (1) Except when the use of deadly force is authorized, a  
12 law enforcement officer shall not intentionally use a chokehold on any  
13 person.

14 (2) A law enforcement officer shall not intentionally use a carotid  
15 restraint control hold on any person unless:

16 (a) Either:

17 (i) The law enforcement officer reasonably believes that the person  
18 will otherwise cause death or bodily injury to any person, including a  
19 law enforcement officer; or

20 (ii) Deadly force is otherwise authorized; and

21 (b) The officer has been trained on the use of such hold.

22 (3) Following use of a carotid restraint control hold, a law  
23 enforcement officer shall create a report of the incident that  
24 articulates in detail the events leading to and following the use of such  
25 hold.

26 (4) For purposes of this section:

27 (a) Bodily injury has the same meaning as in section 28-109;

28 (b) Carotid restraint control hold means utilizing bilateral  
29 pressure to the sides of a person's neck, restricting the flow of  
30 oxygenated blood to the brain; and

31 (c) Chokehold means intentionally applying pressure to the front of

1 the throat and cutting off air flow for a sustained amount of time.

2 Sec. 21. On or before January 1, 2022:

3 (1) Each law enforcement agency shall adopt and provide to the  
4 commission a policy requiring each law enforcement officer of such agency  
5 to intervene when such officer reasonably believes that another law  
6 enforcement officer is engaged in a use of excessive force; and

7 (2) The commission shall develop and distribute a suggested model  
8 written policy for use by law enforcement agencies, but the commission  
9 shall not mandate the adoption of the model policy except for any  
10 particular law enforcement agency which fails to timely create and  
11 provide to the commission a policy for the agency as required by this  
12 section.

13 Sec. 22. (1) On or before January 1, 2023, each law enforcement  
14 agency shall be accredited in a manner approved by the commission. A law  
15 enforcement agency shall not be accredited unless it has adopted written  
16 policies as determined by the commission and met other requirements as  
17 determined by the commission.

18 (2) The commission shall develop accreditation requirements. The  
19 commission may provide its own accreditation program and may approve  
20 accreditations provided by third-party providers.

21 (3) The Nebraska Police Improvement and Professionalism Fund is  
22 created. The fund shall be used to provide grants as provided in  
23 subsection (4) of this section. The State Treasurer shall credit to the  
24 fund any funds transferred or appropriated to the fund by the Legislature  
25 and funds received as gifts or grants or other private or public funds  
26 obtained for the purposes set forth in this section. Any money in the  
27 fund available for investment shall be invested by the state investment  
28 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska  
29 State Funds Investment Act.

30 (4) The commission shall develop a grant program to award grants to  
31 law enforcement agencies and law enforcement officers to pay for costs of

1 accreditation.

2 (5) The commission may adopt and promulgate rules and regulations to  
3 carry out this section.

4 Sec. 23. Original sections 48-147, 48-2709, 81-1403, 81-1407,  
5 81-1412.02, and 81-1414, Reissue Revised Statutes of Nebraska, and  
6 sections 23-1701.01, 29-2264, 48-115, 48-126.01, 48-145, 81-1401,  
7 81-1414.07, 81-1456, and 81-1457, Revised Statutes Cumulative Supplement,  
8 2020, are repealed.

9 Sec. 24. The following sections are outright repealed: Sections  
10 81-1438, 81-1439, 81-1440, 81-1441, 81-1442, 81-1443, 81-1444, 81-1445,  
11 and 81-1446, Reissue Revised Statutes of Nebraska.