

E AND R AMENDMENTS TO LB 538

Introduced by Enrollment and Review

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

3           Section 1. Section 81-1401, Revised Statutes Cumulative  
4 Supplement, 2012, is amended to read:

5           81-1401 For purposes of sections 81-1401 to 81-1414.10,  
6 unless the context otherwise requires:

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

9           (2) Council means the Nebraska Police Standards Advisory  
10 Council;

11           (3) Director means the director of the Nebraska Law  
12 Enforcement Training Center;

13           (4) Felony means a crime punishable by imprisonment for a  
14 term of more than one year or a crime committed outside of Nebraska  
15 which would be punishable by imprisonment for a term of more than  
16 one year if committed in Nebraska;

17           ~~(4)~~ (5) Handgun means any firearm with a barrel less than  
18 sixteen inches in length or any firearm designed to be held and  
19 fired by the use of a single hand;

20           (6) Incapacity means incapable of or lacking the  
21 ability to perform or carry out the usual duties of a law  
22 enforcement officer in accordance with the standards established  
23 by the commission due to physical, mental, or emotional factors.

1 Incapacity does not exist if a law enforcement officer remains  
2 employed as a law enforcement officer, including employment as a  
3 law enforcement officer in a restricted or limited-duty status;

4 ~~(5)~~ (7) Law enforcement agency means the police  
5 department or the town marshal in incorporated municipalities, the  
6 office of sheriff in unincorporated areas, and the Nebraska State  
7 Patrol;

8 ~~(6)(a)~~ (8)(a) Law enforcement officer means any person  
9 who is responsible for the prevention or detection of crime or  
10 the enforcement of the penal, traffic, or highway laws of the  
11 state or any political subdivision of the state for more than one  
12 hundred hours per year and is authorized by law to make arrests and  
13 includes, but is not limited to:

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

16 (ii) A county sheriff;

17 (iii) A full-time, part-time, or reserve employee of a  
18 county sheriff's office;

19 (iv) A full-time, part-time, or reserve employee of a  
20 municipal or village police agency;

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

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

24 (vii) A full-time employee of an organized and paid  
25 fire department of any city of the metropolitan class who is  
26 an authorized arson investigator and whose duties consist of  
27 determining the cause, origin, and circumstances of fires or

1 explosions while on duty in the course of an investigation;

2 (b) Law enforcement officer does not include employees of  
3 the Department of Correctional Services, probation officers under  
4 the Nebraska Probation System, parole officers appointed by the  
5 Parole Administrator, or employees of the Department of Revenue  
6 under section 77-366; and

7 (c) A law enforcement officer shall possess a valid law  
8 enforcement officer certificate or diploma, as established by the  
9 council, in order to be vested with the authority of this section,  
10 but this subdivision does not prohibit an individual from receiving  
11 a conditional appointment as an officer pursuant to subsection (2)  
12 of section 81-1414;

13 ~~(7)~~ (9) Training academy means the training center or  
14 such other council-approved law enforcement training facility  
15 operated and maintained by a law enforcement agency which offers  
16 certification training that meets or exceeds the certification  
17 training curriculum of the training center;

18 ~~(8)~~ (10) Training center means the Nebraska Law  
19 Enforcement Training Center; and

20 ~~(9)~~ (11) Training school means a public or private  
21 institution of higher education, including the University of  
22 Nebraska, the Nebraska state colleges, and the community colleges  
23 of this state, that offers training in a council-approved  
24 pre-certification course.

25 Sec. 2. Section 81-1403, Revised Statutes Cumulative  
26 Supplement, 2012, is amended to read:

27 81-1403 Subject to review and approval by the commission,

1 the council shall:

2 (1) Adopt and promulgate rules and regulations for law  
3 enforcement pre-certification, certification, continuing education,  
4 and training requirements. Such rules and regulations may include  
5 the authority to impose a fine on any individual, political  
6 subdivision, or agency who or which violates sections 81-1401 to  
7 81-1414.10 or any of such rules and regulations. The fine for each  
8 separate violation of sections 81-1401 to 81-1414.10 or of any  
9 rule or regulation adopted and promulgated by the council pursuant  
10 to such sections shall not exceed either (a) a one-time maximum  
11 fine of five hundred dollars or (b) a maximum fine of one hundred  
12 dollars per day until the individual, political subdivision, or  
13 agency complies with such rules or regulations. All fines collected  
14 pursuant to this subdivision shall be remitted to the State  
15 Treasurer for distribution in accordance with Article VII, section  
16 5, of the Constitution of Nebraska;

17 (2) Adopt and promulgate rules and regulations for the  
18 operation of the training center;

19 (3) Recommend to the executive director of the commission  
20 the names of persons to be appointed to the position of director of  
21 the training center;

22 (4) Establish requirements for satisfactory completion  
23 of pre-certification programs, certification programs, and advanced  
24 training programs;

25 (5) Issue certificates or diplomas attesting satisfactory  
26 completion of pre-certification programs, certification programs,  
27 and advanced training programs;

1           (6) Revoke or suspend such certificates or diplomas  
2 according to rules and regulations adopted and promulgated by the  
3 council pursuant to sections 81-1401 to 81-1414.10 for reasons  
4 which shall include, but not be limited to, (a) incompetence, (b)  
5 neglect of duty, (c) physical, mental, or emotional incapacity, and  
6 (d) final conviction of or pleading guilty or nolo contendere to a  
7 felony. The rules and regulations shall provide for the revocation  
8 of a certificate or diploma without a hearing upon the certificate  
9 or diploma holder's final conviction of or pleading guilty or  
10 nolo contendere to a felony. ~~For purposes of this subdivision,~~  
11 ~~felony means a crime punishable by imprisonment for a term of~~  
12 ~~more than one year or a crime committed outside of Nebraska which~~  
13 ~~would be punishable by imprisonment for a term of more than one~~  
14 ~~year if committed in Nebraska.~~ When a law enforcement officer  
15 is separated from his or her agency due to physical, mental,  
16 or emotional incapacity, the law enforcement agency shall report  
17 the separation to the council, and the officer's law enforcement  
18 certificate shall be suspended pursuant to rules and regulations  
19 adopted and promulgated by the council until such time as the  
20 officer demonstrates to the council that the incapacity no longer  
21 prevents the officer from performing the essential duties of a law  
22 enforcement officer. The council shall adopt and promulgate rules  
23 ~~and regulations shall~~ to include a procedure for hearing appeals of  
24 any person who feels that the revocation or suspension of his or  
25 her certificate or diploma was in error;

26           (7) Set the tuition and fees for the training center  
27 and all officers of other training academies not employed by

1 that training academy's agency. The tuition and fees set for the  
2 training center pursuant to this subdivision shall be adjusted  
3 annually pursuant to the training center budget approved by the  
4 Legislature. All other tuition and fees shall be set in order to  
5 cover the costs of administering sections 81-1401 to 81-1414.10.  
6 All tuition and fees shall be remitted to the State Treasurer for  
7 credit to the Nebraska Law Enforcement Training Center Cash Fund;

8 (8) Annually certify any training academies providing  
9 a basic course of law enforcement training which complies with  
10 the qualifications and standards promulgated by the council and  
11 offering training that meets or exceeds training that is offered  
12 by the training center. The council shall set the maximum  
13 and minimum applicant enrollment figures for training academies  
14 training non-agency officers;

15 (9) Extend the programs of the training center throughout  
16 the state on a regional basis;

17 (10) Establish the qualifications, standards, and  
18 continuing education requirements and provide the training required  
19 by section 81-1439; and

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

23 Any administrative fine imposed under this section shall  
24 constitute a debt to the State of Nebraska which may be collected  
25 by lien foreclosure or sued for and recovered in any proper form  
26 of action by the office of the Attorney General in the name  
27 of the State of Nebraska in the district court of the county

1 where the final agency action was taken. All fines imposed by the  
2 council shall be remitted to the State Treasurer for distribution  
3 in accordance with Article VII, section 5, of the Constitution of  
4 Nebraska.

5           Sec. 3. This act becomes operative on January 1, 2014.

6           Sec. 4. Original sections 81-1401 and 81-1403, Revised  
7 Statutes Cumulative Supplement, 2012, are repealed.