

## ENGROSSED LEGISLATIVE BILL 38

Introduced by Jacobson, 42.

A BILL FOR AN ACT relating to the Geologists Regulation Act; to amend sections 81-3501, 81-3502, 81-3503, 81-3507, 81-3508, 81-3509, 81-3509.01, 81-3511, 81-3512, 81-3514, 81-3515, 81-3517, 81-3518, 81-3519, 81-3520, 81-3521, 81-3522, 81-3525, 81-3526, 81-3527, 81-3528, 81-3529, 81-3530, 81-3531, 81-3534, 81-3535, 81-3536, 81-3537, 81-3539, 81-3540, and 81-3541, Reissue Revised Statutes of Nebraska; to define, redefine, and eliminate terms; to change, provide, and eliminate provisions relating to prohibited acts, the Board of Geologists, the roster of professional geologists, the code of practice, licensure, certificates of licensure, certificates of authority, certificates of authorization, fees, enrollment of geologist-interns, reciprocity, temporary permits, seals, the practice of geology, violations of the act, examinations, and exempt activities; to harmonize provisions; to repeal the original sections; and to outright repeal sections 81-3505 and 81-3513, Reissue Revised Statutes of Nebraska.

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

**Section 1.** Section 81-3501, Reissue Revised Statutes of Nebraska, is amended to read:

81-3501 Sections 81-3501 to 81-3541 and sections 4, 7, 11, 12, and 32 to 40 of this act shall be known and may be cited as the Geologists Regulation Act.

**Sec. 2.** Section 81-3502, Reissue Revised Statutes of Nebraska, is amended to read:

81-3502 In order to safeguard life, health, and property and to promote the public welfare, the profession of geology is declared to be subject to regulation in the public interest. The practice of geology and use of the title professional geologist is a privilege granted by the state.

**Sec. 3.** Section 81-3503, Reissue Revised Statutes of Nebraska, is amended

to read:

81-3503 For purposes of the Geologists Regulation Act, the definitions found in sections 81-3504 to 81-3519 and sections 4, 7, 11, and 12 of this act shall be used.

**Sec. 4.** Certificate of authorization means a certificate issued by the board to an organization authorizing it to practice or offer to practice geology as provided in section 81-3528.

**Sec. 5.** Section 81-3507, Reissue Revised Statutes of Nebraska, is amended to read:

81-3507 Direct supervision means having professional knowledge relating to and control over the work of another person that constitutes the practice of geology.

**Sec. 6.** Section 81-3508, Reissue Revised Statutes of Nebraska, is amended to read:

81-3508 Emeritus means the status of a professional geologist who relinquishes or does not renew such professional geologist's licensure under the Geologists Regulation Act and who is approved by the board to receive publications and use the honorary title professional geologist emeritus.

**Sec. 7.** Section 81-3511, Reissue Revised Statutes of Nebraska, is amended to read:

Geologic specialty means a branch of geology which has been recognized for the purposes of licensure, including, but not limited to, environmental geology, engineering geology, geophysics, hydrogeology, petroleum geology, mining geology, and structural geology.

**Sec. 8.** Section 81-3509, Reissue Revised Statutes of Nebraska, is amended to read:

81-3509 Geologist means a person who is qualified to practice geology by reason of special knowledge and use of the earth sciences and the principles of geology and geologic data collection and analysis acquired by geologic education and geologic experience.

**Sec. 9.** Section 81-3509.01, Reissue Revised Statutes of Nebraska, is

amended to read:

81-3509.01 Geologist-intern means a person who has been duly enrolled as a geologist-intern by the board.

**Sec. 10.** Section 81-3512, Reissue Revised Statutes of Nebraska, is amended to read:

81-3512 Good character means such character as will enable a person to discharge the fiduciary duties of a professional geologist to a client of such professional geologist and to the public for the protection of the public health, safety, and welfare.

**Sec. 11.** Licensee means an individual who is authorized by the board to practice geology in this state.

**Sec. 12.** Section 81-3517, Reissue Revised Statutes of Nebraska, is amended to read:

Licensure means a certificate of licensure issued by the board showing that an individual has met the licensing requirements to be a professional geologist under the Geologists Regulation Act.

**Sec. 13.** Section 81-3514, Reissue Revised Statutes of Nebraska, is amended to read:

81-3514 Organization includes a partnership, limited liability company, corporation, or other form of business entity that is authorized to do business in this state.

**Sec. 14.** Section 81-3515, Reissue Revised Statutes of Nebraska, is amended to read:

81-3515 (1)(a) Practice of geology means any service or creative work:

(i) If the adequate performance of the service or work requires geologic education, training, and experience, including consultation, investigation, planning, surveying, mapping, and inspection of geologic work, and the responsible supervision of such work; and

(ii) That relates to public welfare or the safeguarding of life, health, property, and the environment.

(b) Practice of geology includes teaching, including research and service,

of any advanced geologic subject.

(2) A person shall be construed to practice or offer to practice geology if such person:

(a) Practices any branch of the profession of geology;

(b) By verbal claim, sign, advertisement, letterhead, or card or in any other way, represents that such person is a professional geologist;

(c) Through the use of some other title, implies that such person is licensed under the Geologists Regulation Act; or

(d) Represents that such person is able to perform or does perform any geologic service or work recognized by the board as the practice of geology.

**Sec. 15.** Section 81-3518, Reissue Revised Statutes of Nebraska, is amended to read:

81-3518 Responsible charge means personal responsibility for the technical and financial aspects of geologic work through:

(1) Personal action;

(2) Management in an organization; or

(3) Direct supervision.

**Sec. 16.** Section 81-3519, Reissue Revised Statutes of Nebraska, is amended to read:

81-3519 Technical submissions means designs, drawings, specifications, studies, and other technical reports that:

(1) Constitute all or a part of a project; or

(2) Are prepared in conjunction with a project.

**Sec. 17.** Section 81-3520, Reissue Revised Statutes of Nebraska, is amended to read:

81-3520 (1) The Board of Geologists is created to administer the Geologists Regulation Act. The board shall consist of the following seven members appointed by the Governor:

(a) Five professional geologists;

(b) One professional geologist who is also a faculty member of a geology or related geosciences department of a college or university located in

Nebraska. Such member shall be recommended by the president of such college or university prior to appointment by the Governor in order to qualify as a board member under this subdivision (1)(b); and

(c) One individual who is not a professional geologist.

(2)(a) Each member shall serve for terms of five years terminating on the last day of February.

(b) Each member shall hold office after the expiration of such member's term until a successor is duly appointed and qualified.

(c) The Governor may remove any member of the board for misconduct, incompetency, or neglect of duty.

(d) Vacancies on the board, however created, shall be filled for the unexpired term by appointment by the Governor.

(3)(a) Each member of the board shall be a:

(i) Citizen of the United States; and

(ii) Resident of the State of Nebraska for at least one year immediately preceding the appointment of such member and continue such residency while serving as a member of the board.

(b) Each member of the board who is a professional geologist shall:

(i) Have actively practiced as a professional geologist for at least ten years prior to appointment to the board;

(ii) Have had responsible charge of, direct supervision of, or a combination of responsible charge and direct supervision of geologic work for at least five years prior to appointment to the board; and

(iii) Maintain status as a professional geologist licensed as a professional geologist in Nebraska during the member's time on the board.

(4)(a) The board may designate any number of former members of the board as emeritus members. Emeritus member status, when conferred, is valid for one year from the date of conferment and may be renewed by the board any number of times.

(b) An emeritus member is not counted for purposes of determining if a quorum is present under section 81-3523.

(c) An emeritus member shall not:

(i) Be an officer on the board;

(ii) Vote on board matters;

(iii) Receive compensation or reimbursement for expenses from the board;

or

(iv) Receive compensation or reimbursement for expenses under sections 81-1174 to 81-1177 while tending to board matters.

**Sec. 18.** Section 81-3521, Reissue Revised Statutes of Nebraska, is amended to read:

81-3521 Each member of the board shall serve without compensation and, pursuant to sections 81-1174 to 81-1177, shall be reimbursed for:

(1) Each day actually spent in traveling to and from and while attending sessions of the board and its committees or authorized meetings of the National Association of State Boards of Geology, or its subdivisions or committees; and

(2) Expenses incident to the performance of duties under the Geologists Regulation Act.

**Sec. 19.** Section 81-3522, Reissue Revised Statutes of Nebraska, is amended to read:

81-3522 Each member of the board shall receive a certificate of appointment from the Governor and, before beginning the term of office, shall file with the Secretary of State the constitutional oath of office. The board or any committee of the board is entitled to the services of the Attorney General in connection with the affairs of the board, and the board may compel the attendance of witnesses, administer oaths, and take testimony and proofs concerning all matters within its jurisdiction. The Attorney General shall act as legal advisor to the board and render such legal assistance as may be necessary in carrying out the Geologists Regulation Act. The board may employ counsel and necessary assistance to aid in carrying out the act. The board may adopt and have an official seal, which may be affixed to all certificates of licensure granted, and may adopt and promulgate rules and regulations to carry out the act.

**Sec. 20.** Section 81-3525, Reissue Revised Statutes of Nebraska, is amended to read:

81-3525 (1) The board shall maintain and make available a complete roster showing the names and last-known addresses of all professional geologists.

(2) Any person may request a copy of such complete roster from the board. The board may charge a fee for distributing such requested copy in accordance with sections 84-712 to 84-712.09.

**Sec. 21.** Section 81-3526, Reissue Revised Statutes of Nebraska, is amended to read:

81-3526 (1) The Legislature finds and declares that a code of practice established by the board by which the members could govern their professional conduct would be beneficial to the state and would safeguard the life, health, and property of the citizens of this state.

(2) The code of practice may include provisions on:

(a) Professional competence;

(b) Conflict of interest;

(c) Full disclosure of financial interest;

(d) Full disclosure of matters affecting public safety, health, and welfare;

(e) Compliance with laws;

(f) Professional conduct and good character standards; and

(g) Practice of geology.

(3) The board may establish such code of practice through rules and regulations adopted and promulgated by the board.

(4) The board may publish commentaries regarding the code of practice. Such commentaries shall explain the meaning of interpretations given to the code by the board.

(5) The board may place on probation, suspend, or revoke a professional geologist's licensure for a violation of the code of practice.

**Sec. 22.** Section 81-3527, Reissue Revised Statutes of Nebraska, is amended to read:

81-3527 (1) Any person may apply under oath or affirmation to become a professional geologist, become a geologist-intern, or receive a certificate of authorization on a form prescribed and furnished by the board. The board may accept the verified information contained in a valid record issued by the National Association of State Boards of Geology in lieu of the same information that is required on the form prescribed and furnished by the board.

(2)(a) The fee for any application, renewal, licensure, certificate of authorization, or enrollment shall be established by the board and shall accompany the application. Any such fee is nonrefundable and shall not exceed three hundred dollars for licensure as a geologist and one hundred dollars for enrollment as a geologist-intern and shall be in addition to the examination fee which shall be set to recover the costs of the examination and its administration.

(b) For any fee charged pursuant to subdivision (a) of this subsection, the board may charge an additional fee to cover the administrative costs of collecting such fee not to exceed one hundred dollars.

(3) The certificate of authorization fee for organizations shall be established by the board and shall accompany the application. The fee shall not exceed three hundred dollars.

(4) The fee for emeritus status shall be established by the board and shall accompany the application. The fee shall not exceed one hundred dollars.

**Sec. 23.** Section 81-3528, Reissue Revised Statutes of Nebraska, is amended to read:

81-3528 (1) The practice or offer to practice for others of geology by individuals licensed under the Geologists Regulation Act through an organization is permitted if the criteria for organizational practice established by the board are met and the organization has been issued a certificate of authorization by the board. All technical submissions by an organization involving the practice of geology when issued or filed for public record shall be dated and bear the seal of the professional geologist who prepared the submission or under whose immediate direction it was prepared.

(2) An organization desiring a certificate of authorization shall file with the board an application, using the form provided by the board, which also contains a list of the names and addresses of all officers of the organization, duly licensed to practice geology in the state through the organization. Any change in the list of officers during the certificate period shall be designated on the same form and filed with the board within thirty days after the effective date of the change. If the requirements of this section are met, the board shall issue a certificate of authorization to the organization and the organization may contract for and collect fees for furnishing professional services.

(3) The Geologists Regulation Act shall not prevent an organization from performing professional services for itself.

(4) An organization is not relieved of its responsibility for the conduct or acts of its agents, employees, officers, or partners by reason of its compliance with this section. An individual practicing geology is not relieved of responsibility for services performed by reason of employment or any other relationship with an organization holding a certificate of authorization.

(5) The Secretary of State shall not issue a certificate of authority to do business in this state or accept a registration of name from an organization that intends to practice geology, unless the board has issued such organization a certificate of authorization or a letter indicating the eligibility of such organization to receive a certificate of authorization from the board or to register such name. The organization shall supply the certificate or letter with its application for incorporation or licensure.

(6) The Secretary of State shall not register any trade name or service mark that includes the word geology, or any modification or derivative of such word, in the trade name or service mark of an organization unless the board has issued such organization a certificate of authorization or a letter indicating the eligibility of such organization to receive a certificate of authorization or to register such trade name or service mark.

(7) The certificate of authorization shall be renewed periodically as

required by the board.

**Sec. 24.** Section 81-3529, Reissue Revised Statutes of Nebraska, is amended to read:

81-3529 (1) The board shall issue to any applicant, who on the basis of education, experience, and examination has met the requirements of the Geologists Regulation Act, a certificate of licensure as a professional geologist that authorizes such person to carry out the prerogatives of the act. The certificate of licensure shall carry the designation Licensed Professional Geologist. The certificate of licensure shall include the full name of the professional geologist and the license number and shall be signed by the chairperson of the board and the secretary of the board.

(2) The certificate shall be prima facie evidence that the person is entitled to all rights, privileges, and responsibilities of a professional geologist while the certificate of licensure remains unrevoked and unexpired.

(3)(a) Each professional geologist authorized to practice geology shall obtain a seal. The design of the seal shall be determined by the board. The following information shall be on the seal: State of Nebraska; the professional geologist's name; the professional geologist's license number; and the words Licensed Professional Geologist.

(b) Whenever the seal is applied, the professional geologist's signature shall be across the seal. The board may adopt and promulgate rules and regulations for application of the seal.

(c) The seal and the date of its placement shall be on all technical submissions and calculations whenever presented to a client or any public or governmental agency. It shall be unlawful for any person to affix such person's seal or to permit such seal to be affixed to any document after the expiration of the certificate or for the purpose of aiding or abetting any other person to evade or attempt to evade the act.

(d) The seal and date shall be placed on all originals, copies, tracings, or other reproducible documents in such a manner that the seal, signature, and date will be reproduced. The application of a professional geologist's seal

shall constitute certification that the work was done by such professional geologist or under the responsible charge of such professional geologist. In the case of multiple sealings, the first or title page shall be sealed and dated by all involved. In addition, each sheet shall be sealed and dated by the professional geologist responsible for each sheet. In the case of an organization, each sheet shall be sealed and dated by the professional geologist involved. The professional geologist in responsible charge shall seal and date the title or first sheet.

(e) In the case of a temporary permit issued to an individual from another state, the licensee shall use his or her state of licensure seal and shall affix his or her signature and temporary permit to all of his or her work.

(4) The board shall issue to any applicant who, in the opinion of the board, has met the requirements of the act, an enrollment certificate as geologist-intern that indicates that such geologist-intern's name has been recorded as such in the board office. The geologist-intern enrollment certificate does not authorize the such geologist-intern to practice as a professional geologist.

**Sec. 25.** Section 81-3530, Reissue Revised Statutes of Nebraska, is amended to read:

81-3530

A professional geologist shall affix such professional geologist's seal and signature on geologic reports, documents, maps, plans, logs, and sections, or other public records offered to the public and prepared while in responsible charge or under the direct supervision of the professional geologist.

**Sec. 26.** Section 81-3531, Reissue Revised Statutes of Nebraska, is amended to read:

81-3531 (1) Certificates of licensure and certificates of authorization shall expire on a date established by the board and shall become invalid after that date unless renewed. The board shall notify every person licensed under the Geologists Regulation Act and every organization holding a certificate of authorization under the act of the date of the expiration of the certificate of

licensure or certificate of authorization and the amount of the fee required for renewal. The notice shall be sent to the licensee or organization at the last-known address on file with the board at least one month in advance of the date of the expiration. Renewal may be effected at any time prior to or during the period established by the board upon application pursuant to this section and payment of a renewal fee. The fee shall not exceed two hundred dollars per year. Renewal of an expired certificate may be effected under rules and regulations of the board regarding requirements for reexamination and for penalty fees. The board may adopt a program of continuing education as a requirement for renewal for individual licensees.

(2) An applicant for renewal of a certificate of licensure or certificate of authorization shall apply in a method prescribed by the board. The application shall contain statements made under oath showing the applicant's fitness to maintain licensure, including felony convictions in any jurisdiction, convictions involving moral turpitude in any jurisdiction, and suspension or revocation of a professional license in any other jurisdiction. The board shall review the application for renewal. If the board takes no action, the license shall be renewed. The board may deny renewal if it determines the applicant does not meet the requirements for licensure or renewal.

**Sec. 27.** Section 81-3534, Reissue Revised Statutes of Nebraska, is amended to read:

81-3534 Except as provided in section 81-3541 and section 38 of this act, an individual shall not directly or indirectly engage in the practice of geology in the state or use the title Professional Geologist or display or use any words, letters, figures, titles, sign, card, advertisement, or other symbol or device indicating or tending to indicate that such individual is a professional geologist or a licensee or is practicing geology unless such individual is licensed under the Geologists Regulation Act. A professional geologist or licensee shall not aid or abet any person not licensed under the act in the practice of geology.

**Sec. 28.** Section 81-3535, Reissue Revised Statutes of Nebraska, is amended to read:

81-3535 Any person who performs any of the following actions is guilty of a Class II misdemeanor for the first offense and a Class I misdemeanor for the second or any subsequent offense:

(1) Practices or offers to practice geology in this state without being licensed in accordance with the Geologists Regulation Act and is not exempted by section 81-3541 or section 38 of this act;

(2) Knowingly and willfully employs or retains a person to practice geology in this state who is not licensed in accordance with the act and who is not exempted by section 81-3541 or section 38 of this act;

(3) Uses the word geologist, or any modification or derivative of such word, in its name or form of business activity except as authorized in the act;

(4) Presents or attempts to use the certificate of licensure or the seal of another person;

(5) Gives any false or forged evidence of any kind to the board or to any member of the board in obtaining or attempting to obtain a certificate of authorization;

(6) Falsely impersonates any professional geologist of like or different name;

(7) Attempts to use an expired, suspended, revoked, or nonexistent certificate of licensure or practices or offers to practice when not qualified;

(8) Falsely claims that such person is licensed or authorized under the act;

(9) Advertises any title or description tending to convey the impression that such person is a professional geologist unless the person is duly licensed under the Geologists Regulation Act; or

(10) Violates any of the provisions of the act.

**Sec. 29.** Section 81-3536, Reissue Revised Statutes of Nebraska, is amended to read:

81-3536 (1) Charges against any individual or organization involving any

matter coming within the jurisdiction of the board shall be in writing and shall be filed with the board.

(2) The board shall hold a hearing on any such charges within a reasonable time and in accordance with the rules and regulations that have been adopted and promulgated by the board. Such hearing may include the use of a hearing officer. The accused shall have the right to appear personally with or without counsel, to cross-examine adverse witnesses, and to produce evidence and witnesses in defense of the accused.

(3) The board shall set the time and place for the hearing and shall cause a copy of the charges and a notice of the time and place fixed for the hearing to be delivered to the accused at least thirty days before the hearing. Such copy and notice shall be sent by registered mail to the accused at the last-known business or residence address of the accused known to the board.

(4) If, after the hearing, the board finds the accused has violated the Geologists Regulation Act or any rules or regulations, the board may issue any order described in section 81-3537. If the order revokes or suspends a license or places a license on probation, the board shall provide written notice of such revocation, suspension, or probation to the Secretary of State.

(5) The board may reissue a license to any person whose license has been revoked. Application for the reissuance of a license shall be made in accordance with sections 34 to 37 of this act and in a manner as the board directs and shall be accompanied by a fee established by the board.

**Sec. 30.** Section 81-3537, Reissue Revised Statutes of Nebraska, is amended to read:

81-3537 (1) The board may after hearing, by majority vote, take any or all of the following actions, upon proof satisfactory to the board that any person or organization has violated the Geologists Regulation Act or any rules or regulations adopted and promulgated pursuant to the act:

- (a) Issuance of censure or reprimand;
- (b) Suspension of judgment;
- (c) Placement of the offender on probation with the board;

(d) Placement of a limitation or limitations on the holder of a license and upon the right of the holder of a license to practice the profession to such extent, scope, or type of practice for such time and under such conditions as are found necessary and proper;

(e) Imposition of a civil penalty not to exceed ten thousand dollars. The amount of the penalty shall be based on the severity of the violation;

(f) Entrance of an order of revocation or suspension of the certificate of licensure;

(g) Issuance of a cease and desist order;

(h) Imposition of costs as in an ordinary civil action in the district court, which may include attorney's fees and hearing officer fees incurred by the board and the expenses of any investigation undertaken by the board; or

(i) Dismissal of the action.

(2) In hearings under this section, the board may take into account suitable evidence of reform.

(3) Civil penalties collected under subdivision (1)(e) of this section shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska. All costs collected under subdivision (1)(h) of this section shall be remitted to the State Treasurer for credit to the Geologists Regulation Fund.

**Sec. 31.** Section 81-3539, Reissue Revised Statutes of Nebraska, is amended to read:

81-3539

(1) The board shall consider the following as evidence that an applicant is eligible for admission to the examination on the fundamentals of geology that is adopted by the board:

(a) The applicant is a senior in or has graduated from a geology or geologic specialty program recognized by the board;

(b) The applicant has successfully completed a minimum of thirty semester hours or forty-five quarter hours of course work in geology that includes course work in the content domains and hours as prescribed by the board;

(c) The applicant has submitted an application accompanied by the fee established by the board; and

(d) The applicant has submitted one or more acceptable written references.

(2)(a) Any individual may apply for admission to the examination on the fundamentals of geology after completing the requirements specified in subsection (1) of this section.

(b) The board may authorize the admission to the examination on the fundamentals of geology for any individual described in subdivision (a) of this subsection once the individual has completed the requirements specified in subsection (1) of this section.

(c) The board may adopt and promulgate rules and regulations that specify when an individual may apply for admission to the examination on the fundamentals of geology.

**Sec. 32.** (1) The board shall consider the following as evidence that an applicant is eligible for enrollment as a geologist-intern:

(a) The applicant has graduated from a geology or geologic specialty program that includes course work in geology that includes course work in the content domains and hours as prescribed by the board;

(b) The applicant has passed the examination on the fundamentals of geology; and

(c) The applicant has submitted an application accompanied by the fee established by the board.

(2)(a) Any individual may apply for enrollment as a geologist-intern prior to completing the requirements specified in subsection (1) of this section.

(b) The board may enroll any individual described in subdivision (a) of this subsection as a geologist-intern once the individual has completed the requirements specified in subsection (1) of this section.

(c) The board may adopt and promulgate rules and regulations that specify when an individual may apply for enrollment as a geologist-intern.

**Sec. 33.** (1) The board shall consider the following as evidence that an applicant is eligible for admission to the examination on the practice of

geology adopted by the board:

(a) The applicant has completed the education requirement of graduating from a geology or geologic specialty program with a minimum of thirty semester hours or forty-five quarter hours of course work in geology that includes course work in the content domains and hours as prescribed by the board;

(b) The applicant has passed the examination on the fundamentals of geology;

(c) The applicant has a documented record of a minimum of four years of progressive experience that was obtained subsequent to completion of the education requirements, in geologic work of a grade or character that indicates to the board that the applicant may be competent to practice geology;

(d) The applicant has submitted an application accompanied by the fee established by the board; and

(e) The applicant has submitted one or more acceptable written references.

(2)(a) Any individual may apply for admission to the examination on the practice of geology after completing the requirements specified in subsection (1) of this section.

(b) The board may authorize the admission to the examination on the practice of geology for any individual described in subdivision (a) of this subsection once the individual has completed the requirements specified in subsection (1) of this section.

(c) The board may adopt and promulgate rules and regulations that specify when an individual may apply for admission to the examination on the practice of geology.

**Sec. 34.** (1) The following are required for an applicant to be eligible for licensure by the board as a professional geologist under this section:

(a) The applicant has completed the education requirement of graduating from a geology or geologic specialty program with a minimum of thirty semester hours or forty-five quarter hours of course work in geology that includes course work in the content domains and hours as prescribed by the board;

(b) The applicant has passed the examination on the fundamentals of

geology or a similar examination that is approved by the board;

(c) The applicant has passed the examination on the practice of geology or a similar examination that is approved by the board;

(d) The applicant has passed an examination on the statutes, rules, regulations, and other requirements unique to Nebraska;

(e) The applicant has a documented record of four or more years of progressive experience, obtained subsequent to completion of the education requirement, in geologic work of a grade and character which indicates to the board that the applicant may be competent to practice geology;

(f) The applicant has submitted an application accompanied by the fee established by the board; and

(g) The applicant has submitted one or more acceptable written references.

(2)(a) Any individual may apply for licensure as a professional geologist after completing the requirements specified in subsection (1) of this section.

(b) The board may authorize the licensure as a professional geologist for any individual described in subdivision (a) of this subsection once the individual has completed the requirements specified in subsection (1) of this section.

(c) The board may adopt and promulgate rules and regulations that specify when an individual may apply for licensure as a professional geologist.

**Sec. 35.** (1) An individual who holds a valid license issued outside of the State of Nebraska to engage in the practice of geology may apply to the board to be licensed as a professional geologist.

(2) The following are required for an applicant to be eligible for licensure by the board as a professional geologist under this section:

(a) The applicant has a documented record of four or more years of progressive experience in geologic work of a grade and character which indicates to the board that the applicant may be competent to practice geology. Such progressive experience shall have been completed after graduating from a geology or geologic specialty program with a minimum of thirty semester hours or forty-five quarter hours of course work in geology that includes course work

in the content domains and hours as prescribed by the board;

(b) The applicant has passed the examination on the fundamentals of geology or a similar examination that is approved by the board;

(c) The applicant has passed the examination on the practice of geology or a similar examination that is approved by the board;

(d) The applicant has passed an examination on the statutes, rules, regulations, and other requirements unique to Nebraska;

(e) The applicant has submitted an application accompanied by the fee established by the board;

(f) The applicant has submitted one or more acceptable written references;

(g) The applicant has provided verification of licensure in good standing in another jurisdiction; and

(h) The jurisdiction where the applicant is licensed has laws that are consistent with the Geologists Regulation Act.

**Sec. 36.** (1) An individual may apply to the board to be licensed as a professional geologist if such individual:

(a) Has been licensed to practice geology for at least fifteen years in one or more jurisdictions; and

(b) Practiced geology in any such jurisdiction in compliance with the licensing laws of such jurisdiction.

(2) The following are required for an applicant to be eligible for licensure by the board as a professional geologist under this section:

(a) The applicant has passed an examination on the statutes, rules, regulations, and other requirements unique to Nebraska;

(b) The applicant submitted an application accompanied by the fee established by the board;

(c) The applicant submitted documentation of fifteen or more years of licensed geologic practice in another jurisdiction; and

(d) The applicant submitted one or more acceptable written references.

**Sec. 37.** (1) An individual may apply to the board to be licensed as a professional geologist if such individual has practiced any combination of

exempt activities described in section 81-3541 for at least fifteen years.

(2) The board shall consider the following as evidence that an applicant is eligible for licensure under this section:

(a) The applicant has completed the education requirement of completing a minimum of thirty semester hours or forty-five quarter hours of course work in geology that includes course work in the content domains and hours as prescribed by the board;

(b) The applicant has passed an examination on the statutes, rules, regulations, and other requirements unique to Nebraska;

(c) The applicant submitted an application accompanied by the fee established by the board;

(d) The applicant submitted documentation of at least fifteen years of such individual's practice of any combination of exempt activities described in section 81-3541; and

(e) The applicant submitted one or more acceptable written references.

**Sec. 38.** (1) An individual who holds a valid license to practice geology in another jurisdiction may apply to the board for a temporary permit.

(2) The board shall consider the following as evidence that an applicant is eligible for a temporary permit under this section:

(a) The applicant shall specify the project on which the applicant intends to practice geology;

(b) The applicant shall specify the length of time during which the applicant intends to practice geology for such project;

(c) The applicant submitted an application accompanied by the fee established by the board;

(d) The applicant has passed an examination on the statutes, rules, regulations, and other requirements unique to Nebraska; and

(e) The applicant submitted documentation of licensure as a licensed geologist in another jurisdiction.

(3) A temporary permit issued under this section is only valid for the project and for the length of time specified on the temporary permit.

(4) An individual who is issued a temporary permit under this section is subject to the Geologists Regulation Act.

(5) No right to practice geology beyond the project or the length of time specified on the temporary permit accrues to any holder of such permit.

(6) An individual shall not be issued more than one temporary permit under this section during such individual's lifetime.

**Sec. 39.** (1) The board shall prepare an examination on the statutes, rules, regulations, and other requirements unique to Nebraska.

(2) The board may update or make changes to such examination as it deems necessary.

**Sec. 40.** Any certificate, license, or permit that is issued by the board is effective upon the issuance of such certificate, license, or permit.

**Sec. 41.** Section 81-3540, Reissue Revised Statutes of Nebraska, is amended to read:

81-3540 (1) The board or an agent of the board shall direct the time, place, and delivery method of geology examinations under the Geologists Regulation Act.

(2) The board may:

(a) Establish guidelines for how the board will determine if a written reference is acceptable;

(b) Prepare and adopt specifications for any examination requirement under the Geologists Regulation Act;

(c) Adopt any examination, examination procedure, grading procedure, acceptable examination grade requirement, or other examination or grading guideline of the National Association of State Boards of Geology;

(d) Specify the requirements for what qualifies as acceptable progressive experience;

(e) Publish any specification or guideline adopted under this section; and

(f) Make any specification or guideline adopted under this section available to any individual upon request.

(3)(a) Any individual who fails the examination on the fundamentals of

geology or the examination on the practice of geology may apply for reexamination, which may be granted by the board. The board may waive the fee for any first reexamination.

(b) In the event of a second or subsequent failure of the same examination described in subdivision (a) of this subsection, the board may require such individual to appear before the board with evidence that such individual has acquired the necessary additional knowledge to qualify before admission for reexamination. The board may waive the fee charged for any second or subsequent reexamination.

(c) The board may charge a fee of not more than one hundred dollars for any reexamination described in this subsection.

(4) Any examination material described in the Geologists Regulation Act is not a public record subject to public inspection pursuant to sections 84-712 to 84-712.09.

**Sec. 42.** Section 81-3541, Reissue Revised Statutes of Nebraska, is amended to read:

81-3541 (1) The following activities do not require licensure as a professional geologist under the Geologists Regulation Act:

(a) Geologic work performed by an employee or a subordinate of a professional geologist if the work does not include responsible charge of geologic work and is performed under the responsible charge of a professional geologist who is and remains responsible for such work;

(b) Geologic work performed exclusively in the exploration for and development of energy resources and base, precious, and nonprecious minerals, including, but not limited to, sand, gravel, and aggregate; and not having a substantial impact upon the public health, safety, and welfare, as determined by the board;

(c) Geologic research conducted through academic institutions, agencies of the federal or state governments, or nonprofit research institutions;

(d) Teaching in geology or related physical or natural sciences;

(e) Work performed by a professional engineer appropriately licensed in

this state that is within the generally accepted scope of engineering practice;

(f) The practice of any other legally recognized profession;

(g) Work, which includes subsurface excavation, soil and water analysis, and routine environmental monitoring, such as sample collection and water level gauging, performed by an organization for itself and in accordance with other requirements of law;

(h) The work of employees of a political subdivision or state agency charged with natural resources conservation performing, in accordance with other requirements of law, their customary duties in operations, maintenance, and environmental monitoring;

(i) The work of employees and agents of a political subdivision or rural electric cooperative performing, in accordance with other requirements of law, their customary duties in routine utility line construction, operations, and maintenance;

(j) Work customarily performed by chemists, hydrologists, archaeologists, geographers, pedologists, agronomists, and soil scientists; and

(k) Work performed in the construction of water wells as defined in section 46-1212, the installation of pumps and pumping equipment into water wells, and the decommissioning of water wells.

(2) If the board determines with respect to a particular function that the public is adequately protected without the necessity of a professional geologist performing certain services, the board may waive the requirements of the act with respect to the function.

(3) This section shall not be construed so as to prohibit the testimony of any individual before the Nebraska Oil and Gas Conservation Commission.

**Sec. 43.** Original sections 81-3501, 81-3502, 81-3503, 81-3507, 81-3508, 81-3509, 81-3509.01, 81-3511, 81-3512, 81-3514, 81-3515, 81-3517, 81-3518, 81-3519, 81-3520, 81-3521, 81-3522, 81-3525, 81-3526, 81-3527, 81-3528, 81-3529, 81-3530, 81-3531, 81-3534, 81-3535, 81-3536, 81-3537, 81-3539, 81-3540, and 81-3541, Reissue Revised Statutes of Nebraska, are repealed.

**Sec. 44.** The following sections are outright repealed: Sections 81-3505

and 81-3513, Reissue Revised Statutes of Nebraska.

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**PRESIDENT OF THE LEGISLATURE**

*THIS IS TO CERTIFY that the within LB 38 was passed by the One Hundred Ninth Legislature of Nebraska at its First Session on the ..... day of ..... 20.....*

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**CLERK OF THE LEGISLATURE**

**Approved:**

..... 20....., ..... o'clock .....M.

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**GOVERNOR**