

LEGISLATURE OF NEBRASKA
 ONE HUNDRED THIRD LEGISLATURE
 FIRST SESSION
LEGISLATIVE BILL 437

Introduced by Hansen, 42.

Read first time January 22, 2013

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to mechanical safety inspection programs; to
 2 amend sections 11-201, 48-719, 48-720, 48-721, 48-722,
 3 48-723, 48-724, 48-725, 48-726, 48-727, 48-728, 48-729,
 4 48-730, 48-731, 48-732, 48-733, 48-735.01, 48-736,
 5 48-737, 48-738, 48-739, 48-740, 48-741, 48-742, 48-743,
 6 48-1801, 48-1802, 48-1803, 48-1804, 48-1804.01, 48-1805,
 7 48-1806, 48-1807, 48-1808, 48-1809, 48-1811, 48-1813,
 8 48-1814, 48-1815, 48-1816, 48-1817, 48-1818, 48-1819,
 9 48-1820, 48-2501, 48-2502, 48-2506, 48-2507, 48-2508,
 10 48-2509, 48-2510, 48-2511, 48-2513, 48-2514, 48-2516,
 11 48-2517, 48-2518, 48-2519, 48-2520, 48-2530, 48-2531,
 12 48-2532, 48-2533, 81-401, 81-405, and 81-501.01, Reissue
 13 Revised Statutes of Nebraska; to transfer powers and
 14 duties from the Commissioner of Labor to the State Fire
 15 Marshal under the Boiler Inspection Act, the Conveyance
 16 Safety Act, and the Nebraska Amusement Ride Act; to
 17 change and eliminate provisions of such acts; to

1 harmonize provisions; to provide an operative date; to
2 repeal the original sections; and to outright repeal
3 sections 48-1812, 48-2503, 48-2504, 48-2512, 48-2512.01,
4 48-2515, 48-2521, 48-2522, 48-2523, 48-2524, 48-2525,
5 48-2526, 48-2527, 48-2528, and 48-2529, Reissue Revised
6 Statutes of Nebraska.

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

1 Section 1. Section 11-201, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 11-201 It shall be the duty of the Risk Manager:

4 (1) To prescribe the amount, terms, and conditions of any
5 bond or equivalent commercial insurance when the amount or terms are
6 not fixed by any specific statute. The Risk Manager, in prescribing
7 the amount, deductibles, conditions, and terms, shall consider the
8 type of risks, the relationship of the premium to risks involved, the
9 past and projected trends for premiums, the ability of the Tort
10 Claims Fund, the State Self-Insured Property Fund, and state agencies
11 to pay the deductibles, and any other factors the manager may, in his
12 or her discretion, deem necessary in order to accomplish the
13 provisions of sections 2-1201, 3-103, 8-104, 8-105, 9-807, 11-119,
14 11-121, 11-201, 11-202, 37-110, 48-158, 48-609, 48-618, ~~48-721,~~
15 48-804.03, 53-109, 54-191, 55-123, 55-126, 55-127, 55-150, 57-917,
16 60-1303, 60-1502, 71-222.01, 72-1241, 77-366, 80-401.02, 81-111,
17 81-151, 81-8,128, 81-8,141, 81-1108.14, 81-2002, 83-128, 84-106,
18 84-206, and 84-801 and section 4 of this act;

19 (2) To pass upon the sufficiency of and approve the
20 surety on the bonds or equivalent commercial insurance of all
21 officers and employees of the state, when approval is not otherwise
22 prescribed by any specific statute;

23 (3) To arrange for the writing of corporate surety bonds
24 or equivalent commercial insurance for all the officers and employees
25 of the state who are required by statute to furnish bonds;

1 (4) To arrange for the writing of the blanket corporate
2 surety bond or equivalent commercial insurance required by this
3 section; and

4 (5) To order the payment of corporate surety bond or
5 equivalent commercial insurance premiums out of the State Insurance
6 Fund created by section 81-8,239.02.

7 All state employees not specifically required to give
8 bond by section 11-119 shall be bonded under a blanket corporate
9 surety bond or insured under equivalent commercial insurance for
10 faithful performance and honesty in an amount determined by the Risk
11 Manager.

12 The Risk Manager may separately bond any officer,
13 employee, or group thereof under a separate corporate surety bond or
14 equivalent commercial insurance policy for performance and honesty
15 pursuant to the standards set forth in subdivision (1) of this
16 section if the corporate surety or commercial insurer will not bond
17 or insure or excludes from coverage any officer, employee, or group
18 thereof under the blanket bond or commercial insurance required by
19 this section, or if the Risk Manager finds that the reasonable
20 availability or cost of the blanket bond or commercial insurance
21 required under this section is adversely affected by any of the
22 following factors: The loss experience, types of risks to be bonded
23 or insured, relationship of premium to risks involved, past and
24 projected trends for premiums, or any other factors.

25 Surety bonds of collection agencies, as required by

1 section 45-608, and detective agencies, as required by section
2 71-3207, shall be approved by the Secretary of State. The Attorney
3 General shall approve all bond forms distributed by the Secretary of
4 State.

5 Sec. 2. Section 48-719, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~48-719~~ Sections ~~48-719 to 48-743-2~~ to 25 of this act
8 shall be known and may be cited as the Boiler Inspection Act.

9 Sec. 3. Section 48-720, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 ~~48-720~~ As used in the Boiler Inspection Act, unless the
12 context otherwise requires:

13 (1) Authorized inspection agency means an authorized
14 inspection agency as defined in NB-369, National Board Qualifications
15 and Duties for Authorized Inspection Agencies (AIAs) Performing
16 Inservice Inspection Activities and Qualifications for Inspectors of
17 Boilers and Pressure Vessels;

18 (2) Board means the Boiler Safety Code Advisory Board;

19 (3) Boiler means a closed vessel in which water or other
20 liquid is heated, steam or vapor is generated, steam or vapor is
21 superheated, or any combination thereof, under pressure or vacuum,
22 for internal or external use to itself, by the direct application of
23 heat and an unfired pressure vessel in which the pressure is obtained
24 from an external source or by the application of heat from an
25 indirect or direct source. Boiler includes a fired unit for heating

1 or vaporizing liquids other than water only when such unit is
2 separate from processing systems and complete within itself; and

3 (4) Special inspector means a special inspector
4 commissioned pursuant to section 14 of this act.

5 ~~(4) Commissioner means the Commissioner of Labor; and~~

6 ~~(5) Department means the Department of Labor.~~

7 Sec. 4. Section 48-721, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~48-721~~ The commissioner-State Fire Marshal shall appoint
10 employ a state boiler inspector who shall work under the direct
11 supervision of the ~~commissioner~~ State Fire Marshal or his or her
12 designee and devote his or her full time to the duties of the office.
13 The person so appointed shall (1) be a practical boilermaker,
14 technical engineer, operating engineer, or boiler inspector and hold
15 a commission from the National Board of Boiler and Pressure Vessel
16 Inspectors with an "A" endorsement. The state boiler inspector shall
17 also either hold a "B" endorsement to his or her commission or
18 acquire a "B" endorsement within eighteen months of appointment, (2)
19 be qualified by not less than ten years' experience in the
20 construction, installation, repair, inspection, or operation of
21 boilers, steam generators, and superheaters, (3) have a knowledge of
22 their operation and use for the generating of steam for power,
23 heating, or other purposes, and (4) neither directly nor indirectly
24 be interested in the manufacture, ownership, or agency of the same.
25 The ~~commissioner~~ State Fire Marshal may ~~appoint~~ employ deputy

1 inspectors as necessary to carry out the Boiler Inspection Act.
2 ~~Deputy inspectors shall hold a commission from the National Board of~~
3 ~~Boiler and Pressure Vessel Inspectors or acquire the same within~~
4 ~~twelve months of appointment. Such deputy inspectors shall otherwise~~
5 ~~be subject to and governed by the same rules and regulations~~
6 ~~applicable to and governing the acts and conduct of the state boiler~~
7 ~~inspector. Before entering upon his or her duties under the Boiler~~
8 ~~Inspection Act, the state boiler inspector and each deputy inspector~~
9 shall be bonded or insured as required by section 11-201.

10 Sec. 5. Section 48-722, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~48-722~~ (1) Except as provided in subsections (3) ~~and (4)~~
13 through (6) of this section, ~~the state boiler inspector shall inspect~~
14 ~~or cause to be inspected at least once every twelve months all~~
15 ~~boilers required to be inspected by the Boiler Inspection Act to~~
16 ~~determine whether the boilers are~~ each boiler subject to inspection
17 pursuant to the Boiler Inspection Act shall be inspected by a special
18 inspector at least once every twelve months to determine whether the
19 boiler is in a safe and satisfactory condition and properly
20 constructed and maintained for the purpose for which the boiler is
21 used, except that (a) hobby boilers, steam farm traction engines,
22 portable and stationary show engines, and portable and stationary
23 show boilers, which are not otherwise exempted from the act pursuant
24 to section ~~48-726, 9~~ of this act, shall be subject to inspection at
25 least once every twenty-four months and (b) the ~~commissioner~~ State

1 Fire Marshal may, by rule and regulation, establish inspection
2 periods for pressure vessels of more than twelve months, but not to
3 exceed the inspection period recommended in the National Board
4 Inspection Code or the American Petroleum Institute Pressure Vessel
5 Inspection Code API-510 for pressure vessels being used for similar
6 purposes. In order to ensure that inspections are performed in a
7 timely manner, the ~~department~~ State Fire Marshal may contract with an
8 authorized inspection agency to perform any inspection authorized to
9 be performed by the state boiler inspector under the Boiler
10 Inspection Act. If the ~~department~~ State Fire Marshal contracts with
11 an authorized inspection agency to perform inspections, such contract
12 shall be in writing and shall contain an indemnification clause
13 wherein the authorized inspection agency agrees to indemnify and
14 defend the ~~department~~ State Fire Marshal for loss occasioned by
15 negligent or tortious acts committed by special inspectors employed
16 by such authorized inspection agency when performing inspections on
17 behalf of the ~~department~~. State Fire Marshal.

18 (2) No ~~boilers~~ boiler required to be inspected by the act
19 shall be operated without ~~valid and current certification pursuant to~~
20 ~~rules and regulations adopted and promulgated by the commissioner in~~
21 ~~accordance with the requirements of the Administrative Procedure Act.~~
22 a current certificate of inspection. The owner of any boiler
23 installed after September 2, 1973, shall file a manufacturer's data
24 report covering the construction of such boiler with the state boiler
25 inspector. Such reports shall be used to assist the state boiler

1 inspector in the certification of boilers. No boiler required to be
2 inspected by the Boiler Inspection Act shall be operated at any type
3 of public gathering or show without first being inspected and
4 certified as to its safety by ~~the state boiler inspector or a special~~
5 ~~inspector, commissioned pursuant to section 48-731.~~ Antique engines
6 with boilers may be brought into the state from other states without
7 inspection, but inspection as provided in this section shall be made
8 and the boiler certified as safe before being operated. The State
9 Fire Marshal may waive the inspection of an antique engine with a
10 boiler if a nonprofit association comprised of owners of antique
11 engines with boilers certifies that (a) the association contracts
12 with an authorized agency to perform inspections of boilers owned by
13 its members, (b) the boiler has been inspected and certified as safe
14 for operation by the authorized inspection agency, (c) a copy of the
15 inspection report is filed with the State Fire Marshal, and (d) the
16 owner of the boiler pays the certificate of inspection fee.

17 (3) The ~~commissioner~~ State Fire Marshal may, by rule and
18 regulation, waive the inspection of unfired pressure vessels
19 registered with the State of Nebraska if the ~~commissioner~~ State Fire
20 Marshal finds that the owner or user of the unfired pressure vessel
21 follows a safety inspection and repair program that is based upon
22 nationally recognized standards.

23 (4) A boiler that is used as a water heater to supply
24 potable hot water and that is not otherwise exempt from inspection
25 under the act pursuant to section ~~48-726-9~~ of this act shall be

1 subject to inspection at least once every twenty-four months in
2 accordance with a schedule of inspection established by the
3 ~~commissioner State Fire Marshal~~ by rule and regulation.

4 (5) Inspection of a boiler by a special inspector shall
5 not be required if (a) an annual inspection is made under a city
6 ordinance which meets the standards set forth in the act, (b) a
7 certificate of inspection of the boiler is filed with the State Fire
8 Marshal along with payment of the certificate of inspection fee, and
9 (c) the inspector for the city making such inspection is required by
10 such ordinance to either hold a commission from the National Board of
11 Boiler and Pressure Vessel Inspectors commensurate with the type of
12 inspections performed by the special inspector for the city or
13 acquire the commission within twelve months after appointment.

14 (6) Upon request by the boiler owner, boilers owned by
15 the State of Nebraska or its political subdivisions may be inspected
16 by the state boiler inspector or his or her deputy inspector in lieu
17 of inspection by a special inspector.

18 Sec. 6. Section 48-723, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~48-723~~ The ~~commissioner State Fire Marshal~~ and the ~~his or~~
21 her boiler inspectors shall have the right and power to enter any
22 building or structure, public or private, for the purpose of
23 inspecting any boilers required to be inspected by the Boiler
24 Inspection Act or gathering information relating to such boilers.

25 Sec. 7. Section 48-724, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~48-724~~ (1) The state boiler inspector shall issue a
3 certificate of inspection to the owner or user of a boiler required
4 to be inspected by the Boiler Inspection Act when the state boiler
5 inspector receives: (a) A copy of an inspection report of the boiler
6 performed by a special inspector that has been filed with the State
7 Fire Marshal; (b) satisfactory proof that all repairs and defects
8 identified in the inspection report of the boiler have been made or
9 corrected; and (c) the certificate fee or registration fee.

10 ~~(2) (1) Upon making an inspection of any boilers required~~
11 ~~to be inspected by the Boiler Inspection Act and upon receipt of the~~
12 ~~inspection fee and certificate fee or registration fee, the boiler~~
13 ~~inspector shall give to the owner or user of the boilers a~~
14 ~~certificate of inspection or certificate of registration upon forms~~
15 ~~prescribed by the commissioner. The certificate shall be posted in a~~
16 ~~place near the location of such boiler.~~

17 ~~(2) (3) The commissioner—State Fire Marshal shall~~
18 ~~establish the amount of the inspection fee, certificate fee, and~~
19 ~~registration fee by rule or regulation at the level necessary to meet~~
20 ~~the costs of administering the act.~~

21 Sec. 8. Section 48-725, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 ~~48-725~~ The owner, user, or person or persons in charge of
24 any boiler required to be inspected by the Boiler Inspection Act
25 shall not allow or permit a greater pressure in any unit than is

1 stated in the certificate of inspection issued by the inspector.

2 Sec. 9. Section 48-726, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 ~~48-726~~ The Boiler Inspection Act shall not apply to:

5 (1) Boilers of railway locomotives subject to federal
6 inspection;

7 (2) Boilers operated and regularly inspected by railway
8 companies operating in interstate commerce;

9 (3) Boilers under the jurisdiction and subject to regular
10 periodic inspection by the United States Government;

11 (4) Boilers used exclusively for agricultural purposes;

12 (5) Steam heating boilers in single-family residences and
13 apartment houses with four or less units using a pressure of less
14 than fifteen pounds per square inch and having a safety valve set at
15 not higher than fifteen pounds pressure per square inch;

16 (6) Heating boilers using water in single-family
17 residences and apartment houses with four or less units using a
18 pressure of less than thirty pounds per square inch and having a
19 safety valve set at not higher than thirty pounds pressure per square
20 inch;

21 (7) Fire engine boilers brought into the state for
22 temporary use in times of emergency;

23 (8) Boilers of a miniature model locomotive or boat or
24 tractor or stationary engine constructed and maintained as a hobby
25 and not for commercial use and having a diameter of less than ten

1 inches inside diameter and a grate area not in excess of one and one-
2 half square feet and that are properly equipped with a safety valve;

3 (9) Hot water supply boilers if none of the following
4 limitations is exceeded: (a) Two hundred thousand British thermal
5 units of input; (b) one hundred twenty gallons of nominal capacity;
6 or (c) two hundred ten degrees Fahrenheit output;

7 (10) Unfired pressure vessels not exceeding (a) five
8 cubic feet in volume or (b) a pressure of two hundred fifty pounds
9 per square inch;

10 (11) Unfired pressure vessels owned and maintained by a
11 district or corporation organized under the provisions of Chapter 70,
12 article 6; ~~and~~

13 (12) Unfired pressure vessels (a) not exceeding a maximum
14 allowable working pressure of five hundred pounds per square inch,
15 (b) that contain carbon dioxide, helium, oxygen, nitrogen, argon,
16 hydrofluorocarbon refrigerant, or any other nonflammable gas
17 determined by the ~~commissioner~~ State Fire Marshal not to be a risk to
18 the public, (c) that are manufactured and repaired in accordance with
19 applicable American Society of Mechanical Engineers standards, and
20 (d) that are installed in accordance with the manufacturer's
21 specifications; and -

22 (13) Potable hot water heaters, pool heaters, and spa
23 heaters installed in single-family residences and apartment houses
24 with four or less units.

25 Sec. 10. Section 48-727, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~48-727~~ (1) The ~~commissioner~~ State Fire Marshal may adopt
3 and promulgate rules and regulations for the purpose of effectuating
4 the Boiler Inspection Act, including rules and regulations ~~for the~~
5 governing (a) methods of testing equipment, (b) the construction and
6 installation of new boilers, and (c) a schedule of inspection,
7 registration, and certificate fees for boilers required to be
8 inspected by the act.

9 (2) Such rules and regulations may incorporate by
10 reference any portion of ~~(1)-(a)~~ the Boiler and Pressure Vessel Code
11 of the American Society of Mechanical Engineers, as amended, ~~(2)-(b)~~
12 the National Board Inspection Code for Boilers and Pressure Vessels,
13 as amended, ~~(3)-(c)~~ the American Society of Mechanical Engineers Code
14 for Controls and Safety Devices for Automatically Fired Boilers, as
15 amended, concerning controls and safety devices for automatically
16 fired boilers, ~~(4)-(d)~~ the American Petroleum Institute Pressure
17 Vessel Inspection Code API-510, and ~~(5)-(e)~~ the National Fire
18 Protection Association, series 85, code for controls and safety
19 devices, including codes referenced in such code.

20 (3) A copy of all rules and regulations adopted and
21 promulgated under the Boiler Inspection Act, including copies of all
22 codes incorporated by reference, shall be kept on file in the office
23 of the ~~commissioner~~ State Fire Marshal and shall be known as the
24 Boiler Safety Code.

25 (4) Rules and regulations adopted and promulgated by the

1 Commissioner of Labor pursuant to the Boiler Inspection Act prior to
2 the operative date of this act shall continue in full force and
3 effect until amended or repealed by the State Fire Marshal.

4 Sec. 11. Section 48-728, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 ~~48-728~~ The state boiler inspector shall investigate and
7 report to the ~~commissioner~~ State Fire Marshal the cause of any boiler
8 explosion that may occur in the state, the loss of life, the injuries
9 sustained, the estimated loss of property, if any, and such other
10 data as may be of benefit in preventing other similar explosions.

11 Sec. 12. Section 48-729, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~48-729~~ The ~~state boiler inspector~~ State Fire Marshal
14 shall keep ~~in the office of the commissioner~~ a complete and accurate
15 record of the name of the owner or user of any boiler required to be
16 inspected by the Boiler Inspection Act and a full description of the
17 equipment including the type, dimensions, age, condition, amount of
18 pressure allowed, and date when last inspected in the office of the
19 State Fire Marshal.

20 Sec. 13. Section 48-730, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 ~~48-730~~ ~~Before~~ Not less than thirty days before any boiler
23 required to be inspected by the Boiler Inspection Act is installed, a
24 ~~ten days' written notice of intention permit~~ to install the boiler
25 shall be given to the commissioner, except that the commissioner

1 obtained from the State Fire Marshal. The State Fire Marshal may,
2 upon application and good cause shown, waive the ~~ten-day~~ thirty-day
3 prior notice requirement. The ~~notice~~ application for a permit to
4 install shall designate the proposed place of installation, the type
5 and capacity of the boiler, the use to be made of the boiler, the
6 name of the company which manufactured the boiler, and whether the
7 boiler is new or used. A boiler moved from one location to another
8 shall be reinspected prior to being placed back into use.

9 Sec. 14. Section 48-731, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 ~~48-731~~ (1)(a) The ~~commissioner~~ State Fire Marshal may
12 issue a special inspector commission to an inspector in the employ of
13 ~~a company~~ an insurance company authorized to insure boilers in this
14 state against loss from explosion or an authorized inspection agency
15 if the inspector has previously passed the examination prescribed by
16 the National Board of Boiler and Pressure Vessel Inspectors, ~~and the~~
17 ~~company is an insurance company authorized to insure boilers in this~~
18 ~~state against loss from explosion or is an authorized inspection~~
19 ~~agency.~~

20 (b) Each special inspector ~~employed by an insurance~~
21 ~~company or authorized inspection agency who has been issued a special~~
22 ~~inspector commission under this section~~ shall submit to the state
23 boiler inspector complete data of each boiler required to be
24 inspected by the Boiler Inspection Act which is insured or inspected
25 by such insurance company or authorized inspection agency on forms

1 approved by the ~~commissioner~~. State Fire Marshal.

2 (c) Insurance companies shall notify the ~~department~~ State
3 Fire Marshal of new, canceled, or suspended risks relating to insured
4 boilers. Insurance companies shall notify the ~~department~~ State Fire
5 Marshal of all boilers which the company insures, or any boiler for
6 which insurance has been canceled, not renewed, or suspended within
7 thirty days after such action. Authorized inspection agencies shall
8 notify the ~~department~~ State Fire Marshal of any new or canceled
9 agreements relating to the inspection of boilers or pressure vessels
10 within thirty days after such action.

11 (d) On or before the fifteenth day of each month,
12 insurance companies and authorized inspection agencies shall submit a
13 copy of all inspections performed by the company or agency during the
14 previous month. An insurance company may contract with an authorized
15 inspection agency to perform inspections on its behalf or accept
16 inspections by a special inspector employed by an authorized
17 inspection agency that has contracted directly with the owner or user
18 to perform the inspection. Insurance companies and authorized
19 inspection agencies shall immediately notify the ~~department~~ State
20 Fire Marshal of defective boilers. If a special inspector employed by
21 an insurance company, upon the first inspection of new risk, finds
22 that the boiler or any of the appurtenances are in such condition
23 that the inspector's company refuses insurance, the company shall
24 immediately submit a report of the defects to the state boiler
25 inspector.

1 ~~(2) The inspection required by the act shall not be~~
2 ~~required if (a) an annual inspection is made under a city ordinance~~
3 ~~which meets the standards set forth in the act, (b) a certificate of~~
4 ~~inspection of the boiler is filed with the commissioner with a~~
5 ~~certificate fee, and (c) the inspector for the city making such~~
6 ~~inspection is required by such ordinance to either hold a commission~~
7 ~~from the National Board of Boiler and Pressure Vessel Inspectors~~
8 ~~commensurate with the type of inspections performed by the inspector~~
9 ~~for the city or acquire the commission within twelve months after~~
10 ~~appointment.~~

11 ~~(3)~~(2) ~~The commissioner~~State Fire Marshal may, by rule
12 and regulation, provide for the issuance of a special inspector
13 commission to an inspector in the employ of a company using or
14 operating an unfired pressure vessel subject to the act for the
15 limited purpose of inspecting unfired pressure vessels used or
16 operated by such company.

17 ~~(4)~~(3) All inspections made by a special inspector shall
18 be performed in accordance with the act, and a complete report of
19 such inspection shall be filed with the ~~department~~State Fire Marshal
20 in the time, manner, and form prescribed by the ~~commissioner~~State
21 Fire Marshal.

22 ~~(5)~~(4) The state boiler inspector may, at his or her
23 discretion, inspect any boiler to which a special inspector
24 commission applies.

25 ~~(6)~~(5) ~~The commissioner~~State Fire Marshal may, for

1 cause, suspend or revoke any special inspector commission.

2 ~~(7)~~(6) No authorized inspection agency shall perform
3 inspections of boilers in the State of Nebraska unless the authorized
4 inspection agency has insurance coverage for professional errors and
5 omissions and comprehensive and general liability under a policy or
6 policies written by an insurance company authorized to do business in
7 this state in effect at the time of such inspection. Such insurance
8 policy or policies shall be in an amount not less than the minimum
9 amount as established by the ~~commissioner~~State Fire Marshal. Such
10 minimum amount shall be established with due regard to the protection
11 of the general public and the availability of insurance coverage, but
12 such minimum insurance coverage shall not be less than one million
13 dollars for professional errors and omissions and one million dollars
14 for comprehensive and general liability.

15 Sec. 15. Section 48-732, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 ~~48-732 The state boiler~~ A special inspector shall notify
18 the user and the state boiler inspector in writing of any boiler
19 found to be unsafe or unfit for operation setting forth the nature
20 and extent of such defects and condition. ~~The notice shall indicate~~
21 state boiler inspector shall notify the user whether or not the
22 boiler may be used without making repair or replacement of defective
23 parts or may be used in a limited capacity before repairs or
24 replacements are made. The state boiler inspector may permit the user
25 a reasonable time to make such repairs or replacements.

1 Sec. 16. Section 48-733, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~48-733~~ The owner or user of a boiler ~~required to be~~
4 ~~inspected under the Boiler Inspection Act or inspected by the State~~
5 Fire Marshal at the request of the boiler owner or user shall pay a
6 fee for such inspection or inspections in accordance with the rules
7 and regulations adopted and promulgated by the ~~commissioner.~~ state
8 boiler inspector. Any boiler required to be inspected by the act may
9 be inspected by the state boiler inspector if the owner or his or her
10 agent makes written request to the state boiler inspector. Fees will
11 be imposed as required for services in support of the act in
12 accordance with rules and regulations adopted and promulgated by the
13 ~~commissioner.~~ State Fire Marshal.

14 Sec. 17. Section 48-735.01, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 ~~48-735.01~~ The Boiler Inspection Cash Fund is created. The
17 ~~commissioner~~ State Fire Marshal shall use the fund for the
18 administration of the boiler inspection program pursuant to the
19 Boiler Inspection Act. The fund shall consist of money appropriated
20 to it by the Legislature and fees collected in the administration of
21 the act. Fees so collected shall be remitted to the State Treasurer
22 with an itemized statement showing the source of collection. The
23 State Treasurer shall credit the fees to the fund and the money in
24 the fund shall not lapse into the General Fund. Any money in the
25 Boiler Inspection Cash Fund available for investment shall be

1 invested by the state investment officer pursuant to the Nebraska
2 Capital Expansion Act and the Nebraska State Funds Investment Act.

3 Sec. 18. Section 48-736, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 ~~48-736~~ Any person, persons, corporations, and the
6 directors, managers, superintendents, and officers of such
7 corporations violating the Boiler Inspection Act shall be guilty of a
8 ~~Class III~~ Class I misdemeanor.

9 Sec. 19. Section 48-737, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 ~~48-737~~ In addition to any and all other remedies, if any
12 owner, user, or person in charge of any boiler required to be
13 inspected by the Boiler Inspection Act continues to use the same
14 after receiving a notice of defect as provided by the act, without
15 first correcting the defects or making replacements, the ~~commissioner~~
16 State Fire Marshal may apply to the district court or any judge
17 thereof by petition in equity, in an action brought in the name of
18 the state, for a writ of injunction to restrain the use of the
19 alleged defective boiler or if the continued operation of the boiler
20 poses serious risk or harm to the general public, the state boiler
21 inspector may take those actions required to immediately shut down
22 and cause to be inoperable any boiler required to be inspected by the
23 act.

24 Sec. 20. Section 48-738, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 ~~48-738~~ The ~~commissioner~~ State Fire Marshal shall notify
2 the owner or user of the equipment in writing of the time and place
3 of hearing of the petition, as fixed by the court or judge, and serve
4 the notice on the defendant at least five days prior to the hearing
5 in the same manner as original notices are served. The general
6 provisions relating to civil practice and procedure, insofar as the
7 same may be applicable, shall govern such proceedings except as
8 otherwise provided in the Boiler Inspection Act. In the event the
9 defendant does not appear or plead to such action, default shall be
10 entered against the defendant. The action shall be tried in equity,
11 and the court or judge shall make such order or decree as the
12 evidence warrants.

13 Sec. 21. Section 48-739, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 ~~48-739~~ There is hereby created the Boiler Safety Code
16 Advisory Board. The board shall consist of seven members appointed by
17 the Governor with the approval of the Legislature. ~~Within thirty days~~
18 ~~after July 9, 1988, the Governor shall appoint three members for~~
19 ~~terms of two years and four members for terms of four years. Each~~
20 ~~succeeding member of the board shall be appointed for a term of four~~
21 ~~years, except that a member appointed to fill a vacancy shall serve~~
22 ~~for the unexpired term.~~ If the Legislature is not in session when
23 members of the board are appointed, such members shall take office
24 and act as appointees until the next session of the Legislature.

25 Sec. 22. Section 48-740, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~48-740~~ The membership of the board shall consist of one
3 member who represents owners and users of boilers and has experience
4 with boilers, one member who represents sellers of boilers, one
5 member who represents the crafts involved in the construction,
6 repair, or operation of boilers, one member who represents the
7 insurance industry, one member who is a licensed professional
8 engineer with experience with boilers, one member who represents the
9 interest of public safety, and one member who represents the public.
10 The state boiler inspector shall be a nonvoting member of the board.

11 Sec. 23. Section 48-741, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~48-741~~ The members of the board shall conduct an annual
14 meeting in July of each year, or at such other time as the board
15 determines, and shall elect a chairperson from their members at the
16 annual meeting. Other meetings of the board shall be held when called
17 with at least seven days' notice to all members by the chairperson of
18 the board or pursuant to a call signed by four other members. Four
19 members of the board shall constitute a quorum for the transaction of
20 business.

21 Sec. 24. Section 48-742, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 ~~48-742~~ Each board member shall be paid the sum of fifty
24 dollars per day while actually engaged in the business of the board.
25 The members of the board shall be paid their mileage and expenses in

1 attending meetings of the board and carrying out their official
2 duties as provided in sections 81-1174 to 81-1177. ~~for state~~
3 ~~employees.~~

4 Sec. 25. Section 48-743, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 ~~48-743~~ The board shall hold hearings and advise the
7 ~~commissioner~~ State Fire Marshal on rules and regulations for methods
8 of testing equipment and construction and installation of new boilers
9 required to be inspected by the Boiler Inspection Act and for
10 inspection and certificate of inspection fees for such boilers.

11 Sec. 26. Section 48-1801, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~48-1801~~ Sections ~~48-1801 to 48-1820~~ 26 to 44 of this act
14 shall be known and may be cited as the Nebraska Amusement Ride Act.

15 Sec. 27. Section 48-1802, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 ~~48-1802~~ For purposes of the Nebraska Amusement Ride Act,
18 unless the context otherwise requires:

19 (1) Amusement ride ~~shall mean~~ means any mechanical device
20 that carries or conveys passengers along, around, or over a fixed or
21 restricted route or course or within a defined area for the purpose
22 of giving its passengers amusement, pleasure, or excitement, but such
23 term ~~shall~~ does not include (a) any single-passenger coin-operated
24 ride that is manually, mechanically, or electrically operated and
25 customarily placed in a public location and that does not normally

1 require the supervision or services of an operator or (b)
2 nonmechanized playground equipment, including, but not limited to,
3 swings, seesaws, stationary spring-mounted animal features, rider-
4 propelled merry-go-rounds, climbers, slides, trampolines, and
5 physical fitness devices. Bungee jumping is specifically designated
6 as an amusement ride for purposes of the act and ~~shall mean~~ means the
7 sport, activity, or other practice of jumping, diving, stepping out,
8 dropping, or otherwise being released into the air while attached to
9 a bungee cord, whereby the cord stretches, stops the fall, lengthens,
10 and shortens allowing the person to bounce up and down, and is
11 intended to finally bring the person to a stop at a point above a
12 surface or the ground;

13 (2) Bungee cord ~~shall mean~~ means a cord made of rubber,
14 latex, or other elastic-type material, whether natural or synthetic;

15 ~~(3) Commissioner shall mean the Commissioner of Labor or~~
16 ~~his or her designee;~~

17 ~~(4)~~ (3) Operator ~~shall mean~~ means a person actually
18 engaged in or directly controlling the operations of an amusement
19 ride;

20 ~~(5)~~ (4) Owner ~~shall mean~~ means a person who owns, leases,
21 controls, or manages the operations of an amusement ride and may
22 include the state or any political subdivision of the state;

23 ~~(6)~~ (5) Qualified inspector ~~shall mean~~ means any person
24 who is (a) found by the ~~commissioner~~ State Fire Marshal to possess
25 the requisite training and experience to perform competently the

1 inspections required by the Nebraska Amusement Ride Act and (b)
2 certified by the ~~commissioner~~ State Fire Marshal to perform
3 inspections of amusement rides; and

4 ~~(7)~~ (6) Reverse bungee jumping ~~shall mean~~ means the
5 sport, activity, or practice whereby a person is attached to a bungee
6 cord, the bungee cord is stretched down so that such person is on a
7 fixed catapult, launch, or release position, and such person is
8 catapulted or otherwise launched or released into the air from such
9 fixed position, while attached to a bungee cord, whereby the cord
10 stretches, stops the fall, lengthens, and shortens allowing the
11 person to bounce up and down, and is intended to finally bring the
12 person to a stop at a point above a surface or the ground.

13 Sec. 28. Section 48-1803, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 ~~48-1803~~ The ~~commissioner~~ State Fire Marshal shall adopt
16 and promulgate rules and regulations (1) for the safe installation,
17 repair, maintenance, use, operation, and inspection of amusement
18 rides as the ~~commissioner~~ State Fire Marshal may find necessary for
19 the protection of the general public and (2) necessary to carry out
20 the provisions of the Nebraska Amusement Ride Act. Such rules and
21 regulations shall be of a reasonable nature, based upon generally
22 accepted engineering standards, formulas, and practices, and, insofar
23 as practicable and consistent with the Nebraska Amusement Ride Act,
24 uniform with rules and regulations of other states. Whenever such
25 standards are available in suitable form they may be incorporated by

1 reference by the ~~commissioner~~. State Fire Marshal. ~~The commissioner~~
2 State Fire Marshal shall administer and enforce the Nebraska
3 Amusement Ride Act and all rules and regulations adopted and
4 promulgated pursuant to such act. Rules and regulations adopted and
5 promulgated by the Commissioner of Labor pursuant to the Nebraska
6 Amusement Ride Act prior to the operative date of this act shall
7 continue in full force and effect until amended or repealed by the
8 State Fire Marshal. ~~The commissioner~~ State Fire Marshal shall
9 coordinate all regulatory and investigative activities with the
10 appropriate state agencies.

11 Sec. 29. Section 48-1804, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~48-1804~~ Except for purposes of testing and inspection, no
14 amusement ride shall be operated without a valid permit for the
15 operation issued by the ~~commissioner~~ State Fire Marshal to the owner
16 of such amusement ride. The owner of an amusement ride shall apply
17 for a permit under section ~~48-1805-31~~ 31 of this act to the ~~commissioner~~
18 State Fire Marshal on an application furnished by the ~~commissioner~~
19 State Fire Marshal and shall include such information as the
20 ~~commissioner~~ State Fire Marshal may require. Every amusement ride
21 shall be inspected by a qualified inspector before it is originally
22 put into operation for public use and at least once every year after
23 such ride is put into operation for public use.

24 Sec. 30. Section 48-1804.01, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 ~~48-1804.01~~ No person shall operate a reverse bungee
2 jumping ride in this state.

3 Sec. 31. Section 48-1805, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 ~~48-1805~~ (1) The ~~commissioner~~ State Fire Marshal shall
6 issue a permit to operate an amusement ride to the owner of such
7 amusement ride upon presentation by the owner of (a) an application
8 for a permit, (b) a certificate of inspection by a qualified
9 inspector, (c) proof of liability insurance as required in section
10 ~~48-1806, 32 of this act,~~ and (d) the permit fee. Such permit shall be
11 valid through December 31 of the year in which the inspection is
12 performed.

13 (2) The ~~commissioner~~ State Fire Marshal may waive the
14 requirement of subdivision (1)(b) of this section if the owner of the
15 amusement ride gives satisfactory proof to the ~~commissioner~~ State
16 Fire Marshal that such amusement ride has passed an inspection
17 conducted or required by a federal agency, any other state, or a
18 governmental subdivision of this or of any other state which has
19 standards for the inspection of such an amusement ride at least as
20 stringent as those adopted and promulgated pursuant to the Nebraska
21 Amusement Ride Act.

22 Sec. 32. Section 48-1806, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 ~~48-1806~~ No amusement ride shall be operated unless at the
25 time of operation the owner has an insurance policy in effect written

1 by an insurance company authorized to do business in this state
2 insuring the owner and operator against liability for injury to
3 persons arising out of the operation of such amusement ride. Such
4 insurance policy shall be in an amount not less than the minimum
5 amount per occurrence as established by the ~~commissioner~~. State Fire
6 Marshal. Such minimum amount shall be established with due regard to
7 the protection of the general public and the availability of
8 insurance coverage, but such minimum amount shall not be greater than
9 ~~one~~ two million dollars per occurrence. The ~~commissioner~~ State Fire
10 Marshal may require a separate insurance policy from the owner of any
11 equipment used in an amusement ride, subject to the minimums and
12 limitations provided in this section.

13 Sec. 33. Section 48-1807, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 ~~48-1807~~ The ~~commissioner~~ State Fire Marshal may inspect
16 any amusement ride without notice at any time while such amusement
17 ride is operating in this state. The ~~commissioner~~ State Fire Marshal
18 may temporarily suspend a permit to operate an amusement ride if it
19 has been determined after inspection to be hazardous or unsafe. An
20 amusement ride shall not be operated while the permit for its
21 operation is suspended. Operation of such an amusement ride shall not
22 resume until the hazardous or unsafe condition is corrected to the
23 satisfaction of the ~~commissioner~~. State Fire Marshal.

24 Sec. 34. Section 48-1808, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 ~~48-1808~~ The owner of an amusement ride shall send a copy
2 of any accident report required by his or her insurer to the
3 ~~commissioner. State Fire Marshal. The commissioner State Fire Marshal~~
4 may provide for the suspension of the permit of operation for any
5 amusement ride the breakdown or malfunction of which directly caused
6 serious injury or death of any person. The ~~commissioner State Fire~~
7 Marshal may also require an inspection of any amusement ride, whose
8 operation has resulted in any serious injury or death, before
9 operation of such amusement ride may be resumed.

10 Sec. 35. Section 48-1809, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~48-1809~~ The ~~commissioner State Fire Marshal~~ shall
13 establish by rules and regulations a schedule of permit fees, and
14 prior to January 1, 2014, the permit fee for each amusement ride
15 shall not exceed fifty dollars. ~~not to exceed fifty dollars for each~~
16 ~~amusement ride.~~ Such permit fees shall be established with due regard
17 for the costs of administering the Nebraska Amusement Ride Act and
18 shall be remitted to the State Treasurer for credit to the Mechanical
19 Safety Inspection Fund.

20 Sec. 36. Section 48-1811, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 ~~48-1811~~ The ~~commissioner State Fire Marshal~~ may certify
23 ~~such qualified inspectors as may be necessary to carry out to perform~~
24 inspections required by the Nebraska Amusement Ride Act and the rules
25 and regulations adopted and promulgated pursuant thereto.

1 Sec. 37. Section 48-1813, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~48-1813~~ Each owner shall retain at all times up-to-date
4 maintenance and inspection records for each amusement ride as
5 prescribed by the ~~commissioner~~. State Fire Marshal. The owner shall
6 make such records available to the ~~commissioner~~ State Fire Marshal on
7 request.

8 Sec. 38. Section 48-1814, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 ~~48-1814~~ The ~~commissioner~~ State Fire Marshal may require
11 the owner of an amusement ride to provide the ~~commissioner~~ State Fire
12 Marshal with a tentative schedule of events at which the amusement
13 ride will be operated within this state. The ~~commissioner~~ State Fire
14 Marshal shall establish timetables and procedures for providing and
15 updating such schedules.

16 Sec. 39. Section 48-1815, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 ~~48-1815~~ No person shall operate an amusement ride unless
19 he or she is at least sixteen years of age. An operator shall be in
20 attendance at all times that an amusement ride is in operation.

21 Sec. 40. Section 48-1816, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 ~~48-1816~~ Any person who knowingly operates or causes to be
24 operated an amusement ride in violation of the Nebraska Amusement
25 Ride Act shall be guilty of a Class II misdemeanor. Each day a

1 violation continues shall constitute a separate offense.

2 Sec. 41. Section 48-1817, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 ~~48-1817~~ The Attorney General, acting on behalf of the
5 ~~commissioner~~, State Fire Marshal, or the county attorney in a county
6 in which an amusement ride is located or operated may apply to the
7 district court, pursuant to the rules of civil procedure, for an
8 order enjoining operation of any amusement ride operated in violation
9 of the Nebraska Amusement Ride Act.

10 Sec. 42. Section 48-1818, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~48-1818~~ The Nebraska Amusement Ride Act shall not be
13 construed to alter the duty of care or the liability of an owner of
14 an amusement ride for injuries or death of any person or damage to
15 any property arising out of an accident involving an amusement ride.
16 The state and its officers and employees shall not be construed to
17 assume liability arising out of an accident involving an amusement
18 ride by reason of administration of the Nebraska Amusement Ride Act.

19 Sec. 43. Section 48-1819, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 ~~48-1819~~ The governing board of any city, county, or
22 village may establish and enforce safety standards for amusement
23 rides in addition to, but not in conflict with, the standards
24 established by the ~~commissioner~~ State Fire Marshal pursuant to the
25 Nebraska Amusement Ride Act.

1 Sec. 44. Section 48-1820, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~48-1820~~ No amusement ride shall be operated in violation
4 of the Nebraska Amusement Ride Act. ~~after December 31, 1987.~~

5 Sec. 45. Section 48-2501, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~48-2501~~ Sections ~~48-2501 to 48-2533~~ 45 to 64 of this act
8 shall be known and may be cited as the Conveyance Safety Act.

9 Sec. 46. Section 48-2502, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 ~~48-2502~~ For purposes of the Conveyance Safety Act:

12 (1) Certificate of inspection means a document issued by
13 the ~~commissioner~~ State Fire Marshal that indicates that the
14 conveyance ~~has had the required safety inspection and tests~~ required
15 pursuant to the Conveyance Safety Act have been performed, all
16 repairs required pursuant to section 54 of this act have been made,
17 and that the required fees have been paid;

18 ~~(2) Commissioner means the Commissioner of Labor;~~

19 ~~(3) Committee means the Conveyance Advisory Committee;~~

20 ~~(4)~~ (2) Conveyance means any elevator, dumbwaiter,
21 vertical reciprocating conveyor, escalator, moving sidewalk,
22 automated people mover, and other equipment enumerated in section
23 ~~48-2507~~ 48 of this act and not exempted under section ~~48-2508~~ 49 of
24 this act;

25 ~~(5) Elevator contractor means any person who is engaged~~

1 ~~in the business of contracting services for erecting, constructing,~~
2 ~~installing, altering, servicing, testing, repairing, or maintaining~~
3 ~~conveyances;~~

4 ~~(6) Elevator mechanic means any person who is engaged in~~
5 ~~erecting, constructing, installing, altering, servicing, repairing,~~
6 ~~testing, or maintaining conveyances; and~~

7 ~~(7) (3) Person~~ means an individual, a partnership, a
8 limited liability company, a corporation, and any other business firm
9 or company and includes a director, an officer, a member, a manager,
10 and a superintendent of such an entity; and -

11 (4) Qualified conveyance inspector means a person
12 licensed as an inspector pursuant to section 53 of this act.

13 Sec. 47. Section 48-2506, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 ~~48-2506~~ (1) The ~~commissioner~~ State Fire Marshal shall,
16 after a public hearing conducted by the ~~commissioner~~ State Fire
17 Marshal or his or her designee, establish a ~~reasonable schedule of~~
18 ~~fees for licenses, permits, certificates, and inspections authorized~~
19 ~~under the Conveyance Safety Act. certificate of inspection fee of not~~
20 ~~less than fifty dollars nor more than one hundred dollars. The~~
21 ~~commissioner~~ State Fire Marshal shall establish the ~~fees~~ certificate
22 of inspection fee at a level necessary to meet the costs of
23 administering the act. ~~Inspection fee schedules relating to the~~
24 ~~inspection of conveyances adopted by the commissioner prior to~~
25 ~~January 1, 2008, shall continue to be effective until they are~~

1 ~~amended or repealed by the commissioner.~~ Any certificate or
2 inspection fee established by the Commissioner of Labor prior to the
3 operative date of this act shall continue to be effective until
4 amended or repealed by the State Fire Marshal.

5 (2) The ~~commissioner~~ State Fire Marshal shall administer
6 the Conveyance Safety Act. It is the intent of the Legislature that,
7 ~~beginning in fiscal year 2008-09,~~ the funding for the administration
8 of the act shall be entirely from cash funds remitted to the
9 Mechanical Safety Inspection Fund that are fees collected in the
10 administration of the act.

11 Sec. 48. Section 48-2507, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~48-2507~~ (1) The Conveyance Safety Act applies to the
14 construction, operation, inspection, testing, maintenance,
15 alteration, and repair of conveyances. Conveyances include the
16 following equipment, associated parts, and hoistways which are not
17 exempted under section ~~48-2508~~ 49 of this act:

18 (a) Hoisting and lowering mechanisms equipped with a car
19 which moves between two or more landings. This equipment includes
20 elevators;

21 (b) Power driven stairways and walkways for carrying
22 persons between landings. This equipment includes:

23 (i) Escalators; and

24 (ii) Moving sidewalks; and

25 (c) Hoisting and lowering mechanisms equipped with a car,

1 which serves two or more landings and is restricted to the carrying
2 of material by its limited size or limited access to the car. This
3 equipment includes:

4 (i) Dumbwaiters;

5 (ii) Material lifts and dumbwaiters with automatic
6 transfer devices; and

7 (iii) Conveyors and related equipment within the scope of
8 American Society of Mechanical Engineers B20.1.

9 (2) The act applies to the construction, operation,
10 inspection, maintenance, alteration, and repair of automatic guided
11 transit vehicles on guideways with an exclusive right-of-way. This
12 equipment includes automated people movers.

13 ~~(3) The act applies to conveyances in private residences~~
14 ~~located in counties that have a population of more than one hundred~~
15 ~~thousand inhabitants at the time of installation. Such conveyances~~
16 ~~are subject to inspection at installation but are not subject to~~
17 ~~periodic inspections.~~

18 Sec. 49. Section 48-2508, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~48-2508~~ The Conveyance Safety Act does not apply to:

21 (1) Conveyances under the jurisdiction and subject to
22 inspection by the United States Government;

23 (2) Conveyances used exclusively for agricultural
24 purposes;

25 (3) Personnel hoists within the scope of American

- 1 National Standards Institute A10.4;
- 2 (4) Material hoists within the scope of American National
3 Standards Institute A10.5;
- 4 (5) Manlifts within the scope of American Society of
5 Mechanical Engineers A90.1;
- 6 (6) Mobile scaffolds, towers, and platforms within the
7 scope of American National Standards Institute A92;
- 8 (7) Powered platforms and equipment for exterior and
9 interior maintenance within the scope of American National Standards
10 Institute ~~A20.1~~; A120.1;
- 11 (8) Cranes, derricks, hoists, hooks, jacks, and slings
12 within the scope of American Society of Mechanical Engineers B30;
- 13 (9) Industrial trucks within the scope of ~~American~~
14 ~~Society of Mechanical Engineers~~ Industrial Truck Standards
15 Development Foundation B56;
- 16 (10) Portable equipment, except for portable escalators
17 which are covered by American National Standards Institute A17.1;
- 18 (11) Tiering or piling machines used to move materials to
19 and from storage located and operating entirely within one story;
- 20 (12) Equipment for feeding or positioning materials at
21 machine tools, printing presses, and similar equipment;
- 22 (13) Skip or furnace hoists;
- 23 (14) Wharf ramps;
- 24 (15) Railroad car lifts or dumpers;
- 25 (16) Line jacks, false cars, shafters, moving platforms,

1 and similar equipment used for installing a conveyance; ~~by an~~
2 ~~elevator contractor;~~

3 (17) Manlifts, hoists, or conveyances used in grain
4 elevators or feed mills;

5 (18) Dock levelators;

6 (19) Stairway chair lifts and platform lifts; and

7 (20) Conveyances in private residences, ~~located in~~
8 ~~counties that have a population of one hundred thousand or less~~
9 ~~inhabitants.~~

10 Sec. 50. Section 48-2509, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~48-2509~~ (1) The ~~commissioner~~ State Fire Marshal shall
13 adopt and promulgate rules and regulations which establish the
14 regulations for conveyances under the Conveyance Safety Act. The
15 rules and regulations may include the Safety Code for Elevators and
16 Escalators, American Society of Mechanical Engineers A17.1 except
17 those parts exempted under section ~~48-2508~~; section 49 of this act;
18 the standards for conveyors and related equipment, American Society
19 of Mechanical Engineers B20.1; and the Automated People Mover
20 Standards, American Society of Civil Engineers 21. The ~~commissioner~~
21 State Fire Marshal shall annually review to determine if the most
22 current form of such standards should be adopted. Rules and
23 regulations adopted and promulgated by the Commissioner of Labor
24 pursuant to the Conveyance Safety Act prior to the operative date of
25 this act shall continue in full force and effect until amended or

1 repealed by the State Fire Marshal.

2 (2) The ~~commissioner~~State Fire Marshal may grant a
3 variance from the rules and regulations adopted in subsection (1) of
4 this section in individual situations upon good cause shown if the
5 safety of those riding or using the conveyance is not compromised by
6 the variance. The ~~commissioner~~State Fire Marshal shall adopt and
7 promulgate rules and regulations for the procedure to obtain a
8 variance. ~~The committee shall make recommendations to the~~
9 ~~commissioner regarding each variance requested. The decision of the~~
10 ~~commissioner in granting or refusing to grant a variance may be~~
11 ~~appealed. The appeal shall be in accordance with~~ The denial of a
12 variance request may be appealed in the manner provided in the
13 Administrative Procedure Act.

14 Sec. 51. Section 48-2510, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 ~~48-2510~~ Conveyances upon which construction is started
17 subsequent to January 1, 2008, shall be registered at the time they
18 are completed and placed in service.

19 Sec. 52. Section 48-2511, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 ~~48-2511 On and after January 1, 2008:~~ Prior to any newly
22 installed conveyance being used for the first time, the property
23 owner or lessee shall obtain a ~~certificate of inspection from the~~
24 ~~commissioner.~~ an inspection of the conveyance from a qualified
25 conveyance inspector. A fee established under section ~~48-2506-47~~ of

1 ~~this act shall be paid for the certificate of inspection. A licensed~~
2 ~~elevator contractor shall complete and submit first time~~
3 ~~registrations for new installations to the state elevator inspector~~
4 ~~for the inspector's approval. The contractor installing the~~
5 ~~conveyance shall complete and submit the inspection report to the~~
6 ~~State Fire Marshal for approval along with the certificate of~~
7 ~~inspection fee. A certificate of inspection shall be clearly~~
8 ~~displayed in an elevator car and on or in each other conveyance.~~

9 Sec. 53. (1) The State Fire Marshal shall adopt and
10 promulgate rules and regulations establishing qualifications for
11 qualified conveyance inspectors. A qualified conveyance inspector
12 shall, at a minimum, be qualified by (a) not less than five years'
13 experience in the installation, maintenance, and repair of elevators
14 as determined by the State Fire Marshal, (b) certification as a
15 qualified conveyance inspector by an association accredited by the
16 American Society of Mechanical Engineers, or (c) not less than five
17 years' journeyman experience in elevator installation, maintenance,
18 and inspection as determined by the State Fire Marshal and shall be
19 familiar with the inspection process and rules and regulations
20 adopted and promulgated under the Conveyance Safety Act.

21 (2) Any person possessing the qualifications described in
22 subsection (1) of this section shall be issued a license upon the
23 payment of a fee to the State Fire Marshal, in the amount established
24 by rule or regulation adopted and promulgated by the State Fire
25 Marshal, and providing to the State Fire Marshal proof of insurance

1 coverage for professional errors and omissions and comprehensive and
2 general liability under a policy or policies written by an insurance
3 company authorized to do business in this state in effect at the time
4 of such inspection. Such insurance policy or policies shall be in an
5 amount not less than the minimum amount as established by the State
6 Fire Marshal. Such minimum amount shall be established with due
7 regard to the protection of the general public and the availability
8 of insurance coverage, but such minimum insurance coverage shall not
9 be less than one million dollars for professional errors and
10 omissions and one million dollars for comprehensive and general
11 liability. Licenses issued pursuant to this subsection shall be valid
12 for a period of twelve months from the date of issuance.

13 Sec. 54. Section 48-2513, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 ~~48-2513~~ (1) Except as provided otherwise in the
16 Conveyance Safety Act, the ~~state elevator inspector shall inspect or~~
17 ~~cause to be inspected conveyances which are located in a building or~~
18 ~~structure, other than a private residence, owner of a conveyance~~
19 shall have each conveyance owned by such person inspected by a
20 qualified conveyance inspector at least once every twelve months in
21 order to determine whether such conveyances are conveyance is in a
22 safe and satisfactory condition and are is properly constructed and
23 maintained for their its intended use.

24 (2) Subsequent to inspection of a conveyance, the
25 qualified conveyance inspector shall supply owners or lessees the

1 owner of a conveyance with a written inspection report describing any
2 and all violations. An owner has thirty days after the date of the
3 published inspection report to correct the violations, unless the
4 State Fire Marshal grants the owner additional time to correct any or
5 all of the described violations.

6 (3) All tests done for the conveyance inspection shall be
7 performed by a ~~licensed elevator mechanic.~~ person possessing such
8 qualifications as may be adopted and promulgated by the State Fire
9 Marshal in rule and regulation.

10 Sec. 55. Section 48-2514, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~48-2514~~ (1) No inspection shall be required under the
13 Conveyance Safety Act when an owner or user of a conveyance obtains
14 an inspection by a representative of a reputable insurance company
15 licensed to do business in Nebraska, obtains a policy of insurance
16 from such company upon the conveyance and files with the ~~commissioner~~
17 ~~a certificate~~ State Fire Marshal proof of inspection by such
18 insurance company, files a statement that such conveyance is insured,
19 and pays ~~an administrative~~ the certificate of inspection fee
20 established pursuant to section ~~48-2506.~~ 47 of this act.

21 (2) No inspection shall be required under the act when
22 there has been an annual inspection under a city ordinance which
23 meets the standards of the act if the owner of the conveyance files
24 with the State Fire Marshal proof of inspection pursuant to such city
25 ordinance and pays the certificate of inspection fee established

1 pursuant to section 47 of this act.

2 Sec. 56. Section 48-2516, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 ~~48-2516~~ Upon a conveyance passing an inspection under
5 section ~~48-2513, 48-2514, or 48-2515~~ 54 or 55 of this act and receipt
6 of the certificate of inspection fee, the ~~commissioner~~ State Fire
7 Marshal shall issue the owner or user of the conveyance a certificate
8 of inspection, upon forms prescribed by the ~~commissioner~~. State Fire
9 Marshal.

10 Sec. 57. Section 48-2517, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~48-2517~~ The ~~state elevator inspector~~ State Fire Marshal
13 shall maintain a complete and accurate record of the name of the
14 owner or user of each conveyance subject to sections ~~48-2513 and~~
15 ~~48-2514~~ 54 and 55 of this act and a full description of the
16 conveyance and the date when last inspected.

17 Sec. 58. Section 48-2518, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~48-2518~~ The ~~commissioner, the state elevator inspector,~~
20 ~~and the deputy inspectors~~ State Fire Marshal and his or her
21 inspectors shall have the right and power to enter any public
22 building or structure ~~for the purpose of inspecting any conveyance~~
23 ~~subject to~~ in which a conveyance is located for the purpose of
24 determining compliance with the Conveyance Safety Act or gathering
25 information with reference thereto.

1 Sec. 59. Section 48-2519, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~48-2519 The state elevator~~ A qualified conveyance
4 inspector shall notify the owner or user and the State Fire Marshal
5 in writing of any conveyance found to be unsafe or unfit for
6 operation setting forth the nature and extent of any defect or other
7 unsafe condition. If the conveyance can be used without making repair
8 or replacement of defective parts or may be used in a limited
9 capacity before repairs or replacements are made, the ~~state elevator~~
10 ~~inspector~~ State Fire Marshal may issue a temporary certificate of
11 inspection which shall state the terms and conditions of operation
12 under the temporary certificate. The temporary certificate shall be
13 valid for no longer than thirty days unless an extension is granted
14 by the ~~state elevator inspector~~ State Fire Marshal for good cause
15 shown.

16 Sec. 60. Section 48-2520, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 ~~48-2520~~ The owner of a conveyance shall notify the ~~state~~
19 ~~elevator inspector~~ State Fire Marshal of any accident causing
20 personal injury or property damage in excess of one thousand dollars
21 involving a conveyance on or before the close of business the next
22 business day following the accident, and the conveyance involved
23 shall not operate until the ~~state elevator inspector~~ State Fire
24 Marshal has conducted an investigation of the accident and has
25 approved the operation of the conveyance. The ~~state elevator~~

1 ~~inspector~~ State Fire Marshal shall investigate and ~~report to the~~
2 ~~commissioner~~ prepare a report concerning the cause of any conveyance
3 accident that may occur in the state, the loss of life, the injuries
4 sustained, and such other data as may be of benefit in preventing
5 other similar accidents. The State Fire Marshal may contract with a
6 qualified conveyance inspector to perform the investigation of the
7 accident.

8 Sec. 61. Section 48-2530, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 48-2530 (1) Any person may make a request for an
11 investigation into an alleged violation of the Conveyance Safety Act
12 by giving notice to the ~~commissioner or state elevator inspector~~
13 State Fire Marshal of such violation or danger.

14 (2) Upon receipt of a request for an investigation, the
15 ~~commissioner or state elevator inspector~~ State Fire Marshal shall
16 perform a preliminary inquiry into the charges contained in the
17 request for investigation. A request for an investigation may be made
18 in person or by telephone call and shall set forth with reasonable
19 particularity the grounds for the request for an investigation.
20 During the preliminary inquiry, the name, address, and telephone
21 number of the person making the request for an investigation shall be
22 available only to the ~~commissioner, state elevator inspector, or~~
23 ~~other~~ State Fire Marshal or person carrying out the preliminary
24 inquiry on behalf of the ~~commissioner or state elevator inspector.~~
25 State Fire Marshal. The ~~commissioner or state elevator inspector~~

1 State Fire Marshal shall keep a record of each request for an
2 investigation received under this section for three years after such
3 request is made.

4 (3) If after the preliminary inquiry the ~~commissioner or~~
5 ~~state elevator inspector~~ State Fire Marshal determines that there are
6 reasonable grounds to believe that such violation or danger exists
7 and is likely to continue to exist such that the operation of the
8 conveyance endangers the public, the ~~commissioner or state elevator~~
9 ~~inspector~~ State Fire Marshal shall cause a formal investigation to be
10 made. During the formal investigation, a statement shall be taken
11 from the person who made the request for an investigation and the
12 person's name, address, and telephone number shall be made available
13 to any opposing parties upon request.

14 (4) If the ~~commissioner or state elevator inspector~~ State
15 Fire Marshal determines that there are no reasonable grounds to
16 believe that a violation or danger exists under either subsection (2)
17 or (3) of this section, the ~~commissioner~~ State Fire Marshal shall
18 notify the person requesting the investigation in writing of such
19 determination.

20 Sec. 62. Section 48-2531, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 ~~48-2531~~ The Conveyance Safety Act shall not be construed
23 to relieve or lessen the responsibility or liability of any person
24 owning, operating, controlling, maintaining, erecting, constructing,
25 installing, altering, testing, or repairing any conveyance covered by

1 the act for damages to person or property caused by any defect
2 therein. By administering the Conveyance Safety Act, the state and
3 its officers and employees assume no liability for accidents
4 involving a conveyance.

5 Sec. 63. Section 48-2532, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~48-2532~~ Under the Conveyance Safety Act, conveyances
8 shall be required to comply with the code standards applicable at the
9 time such conveyance was or is installed. However, if, upon the
10 inspection of any conveyance, (1) the conveyance is found to be in a
11 dangerous condition or there is an immediate hazard to those using
12 such conveyance or (2) the design or the method of operation in
13 combination with devices used is considered inherently dangerous in
14 the opinion of the ~~state elevator inspector,~~ State Fire Marshal, the
15 ~~state elevator inspector~~ State Fire Marshal shall notify the owner of
16 the conveyance of such condition and shall order such alterations or
17 additions as may be deemed necessary to eliminate the dangerous
18 condition.

19 Sec. 64. Section 48-2533, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 ~~48-2533 (1)~~ Any person who knowingly violates the
22 Conveyance Safety Act is guilty of a ~~Class V~~ Class III misdemeanor.
23 Each violation shall be a separate offense.

24 ~~(2) Any person who installs a conveyance in violation of~~
25 ~~the Conveyance Safety Act is guilty of a Class II misdemeanor.~~

1 Sec. 65. Section 81-401, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 81-401 The Governor, through the agency of the Department
4 of Labor created by section 81-101, shall have power:

5 (1) To foster, promote, and develop the welfare of wage
6 earners;

7 (2) To improve working conditions;

8 (3) To advance opportunities for profitable employment;

9 (4) To collect, collate, assort, systematize, and report
10 statistical details relating to all departments of labor, especially
11 in its relation to commercial, industrial, social, economic, and
12 educational conditions and to the permanent prosperity of the
13 manufacturing and productive industries;

14 (5) To acquire and distribute useful information on
15 subjects connected with labor in the most general and comprehensive
16 sense of the word;

17 (6) To acquire and distribute useful information
18 concerning the means of promoting the material, social, intellectual,
19 and moral prosperity of laboring men and women;

20 (7) To acquire and distribute information as to the
21 conditions of employment and such other facts as may be deemed of
22 value to the industrial interests of the state;

23 (8) To acquire and distribute information in relation to
24 the prevention of accidents, occupational diseases, and other related
25 subjects;

1 (9) To acquire and distribute useful information
2 regarding the role of the part-time labor force and the manner in
3 which such labor force affects the economy and citizens of the state;
4 and

5 (10) To administer and enforce all of the provisions of
6 the ~~Boiler Inspection Act, the~~ Employment Security Law, the Farm
7 Labor Contractors Act, ~~the Nebraska Amusement Ride Act, the~~ Nebraska
8 Workforce Investment Act, and the Wage and Hour Act and Chapter 48,
9 articles 2, 3, 4, and 5, and for that purpose there is imposed upon
10 the Commissioner of Labor the duty of executing all of the provisions
11 of such acts, law, and articles.

12 Sec. 66. Section 81-405, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 ~~81-405~~ The Mechanical Safety Inspection Fund is created.
15 All fees collected by the ~~Department of Labor~~ State Fire Marshal
16 pursuant to the Nebraska Amusement Ride Act and the Conveyance Safety
17 Act shall be remitted to the State Treasurer for credit to the
18 Mechanical Safety Inspection Fund. Fees so collected shall not lapse
19 into the General Fund. Fees so collected shall be used for the sole
20 purpose of administering the provisions of the Nebraska Amusement
21 Ride Act and the Conveyance Safety Act. Any money in the Mechanical
22 Safety Inspection Fund available for investment shall be invested by
23 the state investment officer pursuant to the Nebraska Capital
24 Expansion Act and the Nebraska State Funds Investment Act. ~~All funds~~
25 ~~existing in the Elevator Inspection Fund and the Nebraska Amusement~~

1 ~~Ride Fund on January 1, 2008, shall be transferred to the Mechanical~~
2 ~~Safety Inspection Fund.~~

3 Sec. 67. Section 81-501.01, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 81-501.01 The Governor shall, with the advice and consent
6 of the Legislature, appoint a State Fire Marshal who shall, under the
7 general direction and supervision of the Governor, perform the duties
8 and exercise the powers and have the rights and privileges conferred
9 by the Boiler Inspection Act, the Conveyance Safety Act, the Nebraska
10 Amusement Ride Act, and sections 81-501.01 to 81-531 and 81-5,151 to
11 81-5,157. ~~He or she~~ The State Fire Marshal may be removed from office
12 at the pleasure of the Governor.

13 Sec. 68. This act becomes operative on October 1, 2013.

14 Sec. 69. Original sections 11-201, 48-719, 48-720,
15 48-721, 48-722, 48-723, 48-724, 48-725, 48-726, 48-727, 48-728,
16 48-729, 48-730, 48-731, 48-732, 48-733, 48-735.01, 48-736, 48-737,
17 48-738, 48-739, 48-740, 48-741, 48-742, 48-743, 48-1801, 48-1802,
18 48-1803, 48-1804, 48-1804.01, 48-1805, 48-1806, 48-1807, 48-1808,
19 48-1809, 48-1811, 48-1813, 48-1814, 48-1815, 48-1816, 48-1817,
20 48-1818, 48-1819, 48-1820, 48-2501, 48-2502, 48-2506, 48-2507,
21 48-2508, 48-2509, 48-2510, 48-2511, 48-2513, 48-2514, 48-2516,
22 48-2517, 48-2518, 48-2519, 48-2520, 48-2530, 48-2531, 48-2532,
23 48-2533, 81-401, 81-405, and 81-501.01, Reissue Revised Statutes of
24 Nebraska, are repealed.

25 Sec. 70. The following sections are outright repealed:

1 Sections 48-1812, 48-2503, 48-2504, 48-2512, 48-2512.01, 48-2515,
2 48-2521, 48-2522, 48-2523, 48-2524, 48-2525, 48-2526, 48-2527,
3 48-2528, and 48-2529, Reissue Revised Statutes of Nebraska.