

LEGISLATURE OF NEBRASKA

NINETY-NINTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 489

FINAL READING

Introduced by Business and Labor Committee: Cunningham, 40,
Chairperson; Burling, 33; Combs, 32; Kremer, 34;
Preister, 5; Schimek, 27

Read first time January 14, 2005

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to business and labor; to amend sections
2 48-168, 48-418, 48-418.04, and 48-418.09, Reissue Revised
3 Statutes of Nebraska; to adopt the Conveyance Safety Act;
4 to change provisions relating to the Nebraska Workers'
5 Compensation Act and elevator inspections; to harmonize
6 provisions; to provide operative dates; to repeal the
7 original sections; and to declare an emergency.

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

1 Section 1. Sections 1 to 33 of this act shall be known
2 and may be cited as the Conveyance Safety Act.

3 Sec. 2. For purposes of the Conveyance Safety Act:

4 (1) Certificate of inspection means a document issued by
5 the commissioner that indicates that the conveyance has had the
6 required safety inspection and tests and that the required fees
7 have been paid;

8 (2) Commissioner means the Commissioner of Labor;

9 (3) Committee means the Conveyance Advisory Committee;

10 (4) Conveyance means any elevator, dumbwaiter, vertical
11 reciprocating conveyor, escalator, moving sidewalk, automated
12 people mover, and other equipment enumerated in section 7 of this
13 act and not exempted under section 8 of this act;

14 (5) Elevator contractor means any person who is engaged
15 in the business of contracting services for erecting, constructing,
16 installing, altering, servicing, testing, repairing, or maintaining
17 conveyances;

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

21 (7) Person means an individual, a partnership, a limited
22 liability company, a corporation, and any other business firm or
23 company and includes a director, an officer, a member, a manager,
24 and a superintendent of such an entity.

25 Sec. 3. (1) The Conveyance Advisory Committee is created.

1 One member shall be the state elevator inspector appointed pursuant
2 to section 48-418. One member shall be the State Fire Marshal
3 or his or her designee. The Governor shall appoint the remaining
4 members of the committee as follows: One representative from a
5 major elevator manufacturing company; one representative from an
6 elevator servicing company; one representative who is a building
7 manager; one representative who is an elevator mechanic; and one
8 representative of the general public from each county that has
9 a population of more than one hundred thousand inhabitants. The
10 committee shall be appointed within ninety days after the operative
11 date of this section.

12 (2) The members of the committee appointed by the
13 Governor shall serve for terms of three years, except that of
14 the initial members appointed, two shall serve for terms of one
15 year and three shall serve for terms of two years. The state
16 elevator inspector and the State Fire Marshal or his or her
17 designee shall serve continuously. The appointed members shall be
18 reimbursed for their actual and necessary expenses for service
19 on the committee as provided in sections 81-1174 to 81-1177. The
20 members of the committee shall elect a chairperson who shall be the
21 deciding vote in the event of a tie vote.

22 (3) The committee shall meet and organize within thirty
23 days after the appointment of the members. The committee shall meet
24 quarterly at a time and place to be fixed by the committee for the
25 consideration of code regulations and for the transaction of such

1 other business as properly comes before it. Special meetings may be
2 called by the chairperson or at the request of two or more members
3 of the committee. Any appointed committee member absent from three
4 consecutive meetings shall be dismissed.

5 Sec. 4. The committee:

6 (1) May consult with engineering authorities and
7 organizations concerned with standard safety codes;

8 (2) Shall recommend to the commissioner rules and
9 regulations governing the operation, maintenance, servicing,
10 construction, alteration, installation, and inspection of
11 conveyances;

12 (3) Shall recommend to the commissioner qualifications
13 for licensure as an elevator mechanic or elevator contractor
14 and conditions for disciplinary actions, including suspension or
15 revocation of a license;

16 (4) Shall recommend to the commissioner rules and
17 regulations for temporary and emergency elevator mechanic
18 thirty-day licenses;

19 (5) Shall recommend to the commissioner an enforcement
20 program which will ensure compliance with the Conveyance Safety Act
21 and the rules and regulations adopted and promulgated pursuant to
22 the act. The enforcement program shall include the identification
23 of property locations which are subject to the act, issuing
24 notifications to violating property owners or operators, random
25 onsite inspections and tests on existing installations, and

1 assisting in development of public awareness programs; and

2 (6) Shall make recommendations to the commissioner
3 regarding variances under section 9 of this act, continuing
4 education providers under section 26 of this act, and license
5 disciplinary actions under section 28 of this act.

6 Sec. 5. The Conveyance Safety Act shall apply to
7 counties that have a population of more than one hundred thousand
8 inhabitants. Sections 48-418 to 48-418.14 apply to all other
9 counties.

10 Sec. 6. (1) The Conveyance Inspection Fund is created.
11 The commissioner shall use the fund for the administration of the
12 Conveyance Safety Act. Fees collected in the administration of the
13 act shall be remitted to the State Treasurer for credit to the fund
14 and shall not lapse into the General Fund. Any money in the fund
15 available for investment shall be invested by the state investment
16 officer pursuant to the Nebraska Capital Expansion Act and the
17 Nebraska State Funds Investment Act.

18 (2) The commissioner shall, after a public hearing
19 conducted by the commissioner or his or her designee, establish a
20 reasonable schedule of fees for licenses, permits, certificates,
21 and inspections authorized under the Conveyance Safety Act. The
22 commissioner shall establish the fees at a level necessary to
23 meet the costs of administering the act. It is the intent of the
24 Legislature that, beginning in fiscal year 2008-09, the funding for
25 the administration of the act shall be entirely from cash funds

1 remitted to the Conveyance Inspection Fund.

2 Sec. 7. (1) The Conveyance Safety Act applies to the
3 design, construction, operation, inspection, testing, maintenance,
4 alteration, and repair of conveyances. Conveyances include the
5 following equipment, associated parts, and hoistways which are not
6 exempted under section 8 of this act:

7 (a) Hoisting and lowering mechanisms equipped with a car
8 which moves between two or more landings. This equipment includes
9 elevators;

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

12 (i) Escalators; and

13 (ii) Moving sidewalks; and

14 (c) Hoisting and lowering mechanisms equipped with a car,
15 which serves two or more landings and is restricted to the carrying
16 of material by its limited size or limited access to the car. This
17 equipment includes:

18 (i) Dumbwaiters;

19 (ii) Material lifts and dumbwaiters with automatic
20 transfer devices; and

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

23 (2) The act applies to the design, construction,
24 operation, inspection, maintenance, alteration, and repair of
25 automatic guided transit vehicles on guideways with an exclusive

1 right-of-way. This equipment includes automated people movers.

2 (3) The act applies to conveyances in private residences
3 at the time of installation, and such conveyances are subject
4 to inspection at installation and are not subject to periodic
5 inspections.

6 Sec. 8. The Conveyance Safety Act does not apply to:

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

9 (2) Conveyances used exclusively for agricultural
10 purposes;

11 (3) Personnel hoists within the scope of American
12 National Standards Institute A10.4;

13 (4) Material hoists within the scope of American National
14 Standards Institute A10.5;

15 (5) Manlifts within the scope of American Society of
16 Mechanical Engineers A90.1;

17 (6) Mobile scaffolds, towers, and platforms within the
18 scope of American National Standards Institute A92;

19 (7) Powered platforms and equipment for exterior and
20 interior maintenance within the scope of American National
21 Standards Institute 120.1;

22 (8) Cranes, derricks, hoists, hooks, jacks, and slings
23 within the scope of American Society of Mechanical Engineers B30;

24 (9) Industrial trucks within the scope of American
25 Society of Mechanical Engineers B56;

- 1 (10) Portable equipment, except for portable escalators
2 which are covered by American National Standards Institute A17.1;
- 3 (11) Tiering or piling machines used to move materials to
4 and from storage located and operating entirely within one story;
- 5 (12) Equipment for feeding or positioning materials at
6 machine tools, printing presses, and similar equipment;
- 7 (13) Skip or furnace hoists;
- 8 (14) Wharf ramps;
- 9 (15) Railroad car lifts or dumpers;
- 10 (16) Line jacks, false cars, shafters, moving platforms,
11 and similar equipment used for installing a conveyance by an
12 elevator contractor;
- 13 (17) Manlifts, hoists, or conveyances used in grain
14 elevators or feed mills;
- 15 (18) Dock levelators; and
- 16 (19) Stairway chair lifts and platform lifts.
- 17 Sec. 9. (1) The commissioner shall adopt and promulgate
18 rules and regulations which establish the regulations for
19 conveyances under the Conveyance Safety Act. The rules and
20 regulations may include the Safety Code for Elevators and
21 Escalators, American Society of Mechanical Engineers A17.1 except
22 those parts exempted under section 8 of this act; the standards
23 for conveyors and related equipment, American Society of Mechanical
24 Engineers B20.1; and the Automated People Mover Standards, American
25 Society of Civil Engineers 21. The commissioner shall annually

1 review to determine if the most current form of such standards
2 should be adopted.

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

13 Sec. 10. Conveyances upon which construction is started
14 subsequent to the operative date of this section shall be
15 registered at the time they are completed and placed in service.

16 Sec. 11. On and after the operative date of this section:
17 Prior to any newly installed conveyance being used for the first
18 time, the property owner or lessee shall obtain a certificate of
19 inspection from the commissioner. A fee established under section
20 6 of this act shall be paid for the certificate of inspection. A
21 licensed elevator contractor shall complete and submit first-time
22 registrations for new installations to the state elevator inspector
23 for the inspector's approval. A certificate of inspection shall
24 be clearly displayed in an elevator car and on or in each other
25 conveyance.

1 Sec. 12. (1) No person shall wire, alter, replace,
2 remove, or dismantle an existing conveyance contained within a
3 building or structure unless such person is a licensed elevator
4 mechanic or he or she is working under the direct supervision of
5 a person who is a licensed elevator mechanic. Neither a licensed
6 elevator mechanic nor a licensed elevator contractor is required
7 to perform nonmechanical maintenance of a conveyance. Neither a
8 licensed elevator contractor nor a licensed elevator mechanic
9 is required for removing or dismantling conveyances which are
10 destroyed as a result of a complete demolition of a secured
11 building.

12 (2) It shall be the responsibility of licensed
13 elevator mechanics and licensed elevator contractors to ensure
14 that installation and service of a conveyance is performed in
15 compliance with applicable fire and safety codes. It shall be the
16 responsibility of the owner of the conveyance to ensure that the
17 conveyance is maintained in compliance with applicable fire and
18 safety codes.

19 (3) All new conveyance installations shall be performed
20 by a licensed elevator mechanic under the control of a licensed
21 elevator contractor or by a licensed elevator contractor.
22 Subsequent to installation, a licensed elevator contractor shall
23 certify compliance with the Conveyance Safety Act.

24 Sec. 13. (1) Except as provided otherwise in the
25 Conveyance Safety Act, the state elevator inspector shall inspect

1 or cause to be inspected conveyances which are located in a
2 building or structure, other than a private residence, at least
3 once every twelve months in order to determine whether such
4 conveyances are in a safe and satisfactory condition and are
5 properly constructed and maintained for their intended use.

6 (2) Subsequent to inspection of a conveyance, the
7 inspector shall supply owners or lessees with a written inspection
8 report describing any and all violations. An owner has thirty days
9 after the date of the published inspection report to correct the
10 violations.

11 (3) All tests done for the conveyance inspection shall be
12 performed by a licensed elevator mechanic.

13 Sec. 14. (1) No inspection shall be required under the
14 Conveyance Safety Act when an owner or user of a conveyance
15 obtains an inspection by a representative of a reputable insurance
16 company licensed to do business in Nebraska, obtains a policy of
17 insurance from such company upon the conveyance and files with the
18 commissioner a certificate of inspection by such insurance company,
19 files a statement that such conveyance is insured, and pays an
20 administrative fee established pursuant to section 6 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.

24 Sec. 15. If at any time the owner or user of a conveyance
25 desires a special inspection of a conveyance, it shall be made by

1 the state elevator inspector after due request therefor and the
2 inspector making the inspection shall collect his or her expenses
3 in connection therewith and a fee established pursuant to section
4 6 of this act. A report of the inspection shall be provided to the
5 owner or user who requested the inspection upon their request.

6 Sec. 16. Upon a conveyance passing an inspection under
7 section 13, 14, or 15 of this act and receipt of the inspection
8 fee, the commissioner shall issue the owner or user of the
9 conveyance a certificate of inspection, upon forms prescribed by
10 the commissioner.

11 Sec. 17. The state elevator inspector shall maintain a
12 complete and accurate record of the name of the owner or user
13 of each conveyance subject to sections 13 and 14 of this act
14 and a full description of the conveyance and the date when last
15 inspected.

16 Sec. 18. The commissioner, the state elevator inspector,
17 and the deputy inspectors shall have the right and power to enter
18 any public building or structure for the purpose of inspecting
19 any conveyance subject to the Conveyance Safety Act or gathering
20 information with reference thereto.

21 Sec. 19. The state elevator inspector shall notify the
22 owner or user in writing of any conveyance found to be unsafe or
23 unfit for operation setting forth the nature and extent of any
24 defect or other unsafe condition. If the conveyance can be used
25 without making repair or replacement of defective parts or may be

1 used in a limited capacity before repairs or replacements are made,
2 the state elevator inspector may issue a temporary certificate of
3 inspection which shall state the terms and conditions of operation
4 under the temporary certificate. The temporary certificate shall be
5 valid for no longer than thirty days unless an extension is granted
6 by the state elevator inspector for good cause shown.

7 Sec. 20. The owner of a conveyance shall notify the
8 state elevator inspector of any accident causing personal injury
9 or property damage in excess of one thousand dollars involving a
10 conveyance on or before the close of business the next business
11 day following the accident, and the conveyance involved shall
12 not operate until the state elevator inspector has conducted an
13 investigation of the accident and has approved the operation of
14 the conveyance. The state elevator inspector shall investigate and
15 report to the commissioner the cause of any conveyance accident
16 that may occur in the state, the loss of life, the injuries
17 sustained, and such other data as may be of benefit in preventing
18 other similar accidents.

19 Sec. 21. (1) Any person wishing to engage in the work
20 of an elevator mechanic shall apply for and obtain an elevator
21 mechanic license from the commissioner. The application shall be on
22 a form provided by the commissioner.

23 (2) Any person wishing to engage in the business of
24 an elevator contractor shall apply for and obtain an elevator
25 contractor license from the commissioner. The application shall be

1 on a form provided by the commissioner.

2 (3) Each application shall contain:

3 (a) If an individual, the name, residence and business
4 address, and social security number of the applicant;

5 (b) If a partnership, the name, residence and business
6 address, and social security number of each partner;

7 (c) If a domestic corporation, the name and business
8 address of the corporation and the name, residence address, and
9 social security number of the principal officer of the corporation;
10 and if a corporation other than a domestic corporation, the name
11 and address of an agent located locally who is authorized to accept
12 service of process and official notices;

13 (d) The number of years the applicant has engaged in
14 the business of installing, inspecting, maintaining, or servicing
15 conveyances;

16 (e) The approximate number of individuals to be employed
17 by the applicant and, if applicable, satisfactory evidence that
18 the employees are or will be covered by workers' compensation
19 insurance;

20 (f) Satisfactory evidence that the applicant is or will
21 be covered by general liability, personal injury, and property
22 damage insurance;

23 (g) Permission for the Department of Labor to access the
24 criminal history record information of individuals, partners, or
25 officers maintained by the Federal Bureau of Investigation through

1 the Nebraska State Patrol;

2 (h) A description of all accidents causing personal
3 injury or property damage in excess of one thousand dollars
4 involving conveyances installed, inspected, maintained, or serviced
5 by the applicant; and

6 (i) Such other information as the commissioner may by
7 rule and regulation require.

8 (4) Social security numbers on applications shall not be
9 made public or be considered a part of a public record.

10 Sec. 22. The commissioner shall adopt and promulgate
11 rules and regulations establishing standards for licensure of
12 elevator mechanics. An applicant for an elevator mechanic license
13 shall demonstrate the following qualifications before being granted
14 an elevator mechanic license:

15 (1) Not less than three years' work experience in the
16 conveyance industry, in construction, maintenance, and service or
17 repair, as verified by current and previous employers;

18 (2) One of the following:

19 (a) Satisfactory completion of a written examination
20 administered by the committee on the most recent referenced codes
21 and standards;

22 (b) Acceptable proof that the applicant has worked as a
23 conveyance constructor, maintenance, or repair person. Such person
24 shall have worked as an elevator mechanic without the direct and
25 immediate supervision of a licensed elevator contractor and have

1 passed a written examination approved by the commissioner. This
2 employment shall not be less than three years immediately prior to
3 the effective date of the license;

4 (c) Certificates of completion and successfully passing
5 an elevator mechanic examination of a nationally recognized
6 training program for the conveyance industry as provided by the
7 National Elevator Industry Educational Program or its equivalent;
8 or

9 (d) Certificates of completion of an apprenticeship
10 program for elevator mechanics, having standards substantially
11 equal to those of the Conveyance Safety Act and registered with
12 the Bureau of Apprenticeship and Training of the United States
13 Department of Labor or a state apprenticeship council; and

14 (3) Any additional qualifications adopted and promulgated
15 in rule and regulation by the commissioner.

16 Sec. 23. An applicant for an elevator contractor license
17 shall demonstrate five years' work experience in the conveyance
18 industry in construction, maintenance, and service or repair, as
19 verified by current or previous employers.

20 Sec. 24. Upon application, an elevator mechanic license
21 or an elevator contractor license may be issued to a person holding
22 a valid license from a state having standards substantially equal
23 to those of the Conveyance Safety Act.

24 Sec. 25. Upon approval of an application for licensure
25 as an elevator mechanic, the commissioner may issue a license

1 which shall be renewable biennially if the continuing education
2 requirements are met. The fee for licenses and for license renewal
3 for elevator mechanic licenses and elevator contractor licenses
4 shall be set by the commissioner under section 6 of this act.

5 Sec. 26. (1) The renewal of elevator mechanic licenses
6 granted under the Conveyance Safety Act shall be conditioned upon
7 the submission of a certificate of completion of a course designed
8 to ensure the continuing education on new and existing rules
9 and regulations adopted and promulgated by the commissioner. Such
10 course shall consist of not less than eight hours of instruction
11 that shall be attended and completed within one year immediately
12 preceding any license renewal. The individual holding the elevator
13 mechanic license shall pay the cost of such course.

14 (2) The courses shall be taught by instructors through
15 continuing education providers that may include association
16 seminars and labor training programs. The committee shall make
17 recommendations to the commissioner about approval of continuing
18 education providers.

19 (3) An elevator mechanic licensee who is unable to
20 complete the continuing education course required under this
21 section prior to the expiration of the license due to a temporary
22 disability may apply for an extension from the state elevator
23 inspector. The extension shall be on a form provided by the state
24 elevator inspector which shall be signed by the applicant and
25 accompanied by a certified statement from a competent physician

1 attesting to such temporary disability. Upon the termination of
2 such temporary disability, the elevator mechanic licensee shall
3 submit to the state elevator inspector a certified statement from
4 the same physician, if practicable, attesting to the termination of
5 such temporary disability. At such time an extension sticker, valid
6 for ninety days, shall be issued to the licensed elevator mechanic
7 and affixed to the license. Such extension shall be renewable
8 for periods of ninety days upon a showing that the disability
9 continues.

10 (4) Approved continuing education providers shall keep
11 uniform records, for a period of ten years, of attendance of
12 elevator mechanic licensees following a format approved by the
13 state elevator inspector, and such records shall be available for
14 inspection by the state elevator inspector upon request. Approved
15 continuing education providers are responsible for the security of
16 all attendance records and certificates of completion. Falsifying
17 or knowingly allowing another to falsify such attendance records or
18 certificates of completion shall constitute grounds for suspension
19 or revocation of the approval required under this section.

20 Sec. 27. (1) An elevator contractor shall submit to the
21 commissioner an insurance policy, or certified copy thereof, issued
22 by an insurance company authorized to do business in the state
23 to provide general liability coverage of at least one million
24 dollars for injury or death of any one person and one million
25 dollars for injury or death of any number of persons in any

1 one occurrence and to provide coverage of at least five hundred
2 thousand dollars for property damage in any one occurrence and
3 workers' compensation insurance coverage as required under the
4 Nebraska Workers' Compensation Act.

5 (2) Such policies, or certified copies thereof, shall
6 be delivered to the commissioner before or at the time of the
7 issuance of a license. In the event of any material alteration or
8 cancellation of any policy, at least ten days' notice thereof shall
9 be given to the commissioner.

10 Sec. 28. (1) An elevator contractor license issued under
11 the Conveyance Safety Act may be revoked by the commissioner
12 upon verification that the elevator contractor licensee lacks the
13 insurance coverage required by section 27 of this act.

14 (2) An elevator mechanic license or an elevator
15 contractor license issued under the act may be suspended, revoked,
16 or subject to a civil penalty not to exceed five thousand dollars
17 by the commissioner, after notice and hearing, if the licensee:

18 (a) Makes a false statement as to material matter in the
19 license application;

20 (b) Commits fraud, misrepresentation, or bribery in
21 obtaining the license; or

22 (c) Violates any other provision of the act.

23 (3) No license shall be suspended, revoked, or subject to
24 civil penalty until after a hearing is held before the committee
25 and the commissioner or his or her designee. The hearing shall

1 be held within sixty days after notice of the violation is
2 received and all interested parties shall receive written notice
3 of the hearing at least fifteen days prior to the hearing.
4 Within fifteen days after the hearing, the committee shall make
5 recommendations to the commissioner or his or her designee of
6 appropriate penalties, if any, warranted under the circumstances
7 of the case. The committee does not have the power to suspend
8 or revoke licenses or impose civil penalties. Within thirty days
9 after the hearing, the commissioner shall issue a decision which
10 may include license suspension, license revocation, and civil
11 penalties. The decision of the commissioner may be appealed. The
12 appeal shall be in accordance with the Administrative Procedure
13 Act.

14 Sec. 29. The commissioner shall adopt and promulgate
15 rules and regulations establishing standards and procedures for the
16 issuance of temporary and emergency elevator mechanic thirty-day
17 licenses and for the extension of such licenses for good cause
18 shown.

19 Sec. 30. (1) Any person may make a request for an
20 investigation into an alleged violation of the Conveyance Safety
21 Act by giving notice to the commissioner or state elevator
22 inspector of such violation or danger.

23 (2) Upon receipt of a request for an investigation,
24 the commissioner or state elevator inspector shall perform a
25 preliminary inquiry into the charges contained in the request

1 for investigation. A request for an investigation may be made in
2 person or by telephone call and shall set forth with reasonable
3 particularity the grounds for the request for an investigation.
4 During the preliminary inquiry, the name, address, and telephone
5 number of the person making the request for an investigation shall
6 be available only to the commissioner, state elevator inspector,
7 or other person carrying out the preliminary inquiry on behalf of
8 the commissioner or state elevator inspector. The commissioner or
9 state elevator inspector shall keep a record of each request for
10 an investigation received under this section for three years after
11 such request is made.

12 (3) If after the preliminary inquiry the commissioner
13 or state elevator inspector determines that there are reasonable
14 grounds to believe that such violation or danger exists and
15 is likely to continue to exist such that the operation of the
16 conveyance endangers the public, the commissioner or state elevator
17 inspector shall cause a formal investigation to be made. During
18 the formal investigation, a statement shall be taken from the
19 person who made the request for an investigation and the person's
20 name, address, and telephone number shall be made available to any
21 opposing parties upon request.

22 (4) If the commissioner or state elevator inspector
23 determines that there are no reasonable grounds to believe that a
24 violation or danger exists under either subsection (2) or (3) of
25 this section, the commissioner shall notify the person requesting

1 the investigation in writing of such determination.

2 Sec. 31. The Conveyance Safety Act shall not be construed
3 to relieve or lessen the responsibility or liability of any
4 person owning, operating, controlling, maintaining, erecting,
5 constructing, installing, altering, testing, or repairing any
6 conveyance covered by the act for damages to person or property
7 caused by any defect therein. By administering the Conveyance
8 Safety Act, the state and its officers and employees assume no
9 liability for accidents involving a conveyance.

10 Sec. 32. Under the Conveyance Safety Act, conveyances
11 shall be required to comply with the code standards applicable at
12 the time such conveyance was or is installed. However, if, upon
13 the inspection of any conveyance, (1) the conveyance is found to
14 be in a dangerous condition or there is an immediate hazard to
15 those using such conveyance or (2) the design or the method of
16 operation in combination with devices used is considered inherently
17 dangerous in the opinion of the state elevator inspector, the state
18 elevator inspector shall notify the owner of the conveyance of such
19 condition and shall order such alterations or additions as may be
20 deemed necessary to eliminate the dangerous condition.

21 Sec. 33. (1) Any person who knowingly violates the
22 Conveyance Safety Act is guilty of a Class V misdemeanor. Each
23 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. 34. Section 48-168, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 48-168 (1) The Nebraska Workers' Compensation Court shall
4 not be bound by the usual common-law or statutory rules of evidence
5 or by any technical or formal rules of procedure, other than as
6 herein provided, but may make the investigation in such manner as
7 in its judgment is best calculated to ascertain the substantial
8 rights of the parties and to carry out justly the spirit of the
9 Nebraska Workers' Compensation Act.

10 (2) (a) The Nebraska Workers' Compensation Court may
11 establish procedures whereby a dispute may be submitted by the
12 parties, by the ~~supplier~~ provider of medical, surgical, or hospital
13 services pursuant to section 48-120, or by the compensation court
14 on its own motion for informal dispute resolution by a staff
15 member of the compensation court or outside mediator. Any party who
16 requests such informal dispute resolution shall not be precluded
17 from filing a petition pursuant to section 48-173 if otherwise
18 permitted. No settlement or agreement reached as the result of an
19 informal dispute resolution proceeding shall be final or binding
20 unless such settlement or agreement is in conformity with the
21 Nebraska Workers' Compensation Act.

22 (b) Until January 1, 2008, the Nebraska Workers'
23 Compensation Court shall establish procedures for informal dispute
24 resolution and arbitration for a dispute regarding the fees owed
25 for medical, surgical, or hospital services provided pursuant

1 to section 48-120. If the provider of medical, surgical, or
2 hospital services and the workers' compensation insurer, risk
3 management pool, or self-insured employer are unable to reach an
4 agreement on the fees to be paid for such services: (i) They
5 may agree to submit the dispute to an attorney staff member of
6 the compensation court for resolution of the dispute through the
7 informal dispute resolution process and for arbitration, if the
8 dispute is unresolved in the informal dispute resolution process;
9 or (ii) the parties may agree to submit the dispute directly to
10 arbitration. A decision by the attorney staff member for the court
11 as the result of an arbitration proceeding shall be final and
12 binding and not subject to appeal.

13 ~~(b)~~ (c) Informal dispute resolution and arbitration
14 proceedings shall be regarded as settlement negotiations and no
15 admission, representation, or statement made in informal dispute
16 resolution or arbitration proceedings, not otherwise discoverable
17 or obtainable, shall be admissible as evidence or subject to
18 discovery. A staff member or mediator shall not be subject
19 to process requiring the disclosure of any matter discussed
20 during informal dispute resolution or arbitration proceedings.
21 Any information from the files, reports, notes of the staff
22 member or mediator, or other materials or communications, oral or
23 written, relating to an informal dispute resolution or arbitration
24 proceeding obtained by a staff member or mediator is privileged and
25 confidential and may not be disclosed without the written consent

1 of all parties to the proceeding. No staff member or mediator shall
2 be held liable for civil damages for any statement or decision made
3 in the process of dispute resolution or arbitration unless such
4 person acted in a manner exhibiting willful or wanton misconduct.

5 ~~(e)~~ (d) The compensation court may adopt and promulgate
6 rules and regulations regarding informal dispute resolution and
7 arbitration proceedings that are considered necessary to effectuate
8 the purposes of this section.

9 Sec. 35. Section 48-418, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 48-418 The Commissioner of Labor shall, on or before the
12 first day of July 1965, appoint a state elevator inspector, subject
13 to the approval of the Governor, who shall work under the direct
14 supervision of the commissioner. The person so appointed shall be
15 qualified by not less than five years' journeyman experience in
16 elevator installation, maintenance, and inspection as determined
17 by the Commissioner of Labor and shall be familiar with the
18 inspection process provided by the Nebraska Elevator Code provided
19 under section 48-418.12 and the inspection process and rules and
20 regulations adopted and promulgated under the Conveyance Safety
21 Act. The commissioner, subject to the approval of the Governor, may
22 appoint deputy inspectors possessing the same qualifications as the
23 state elevator inspector. A qualified individual may apply for the
24 position of deputy inspector and such application shall include the
25 applicant's social security number.

1 Sec. 36. Section 48-418.04, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 48-418.04 The provisions of sections 48-418 to 48-418.12
4 shall not apply to (1) elevators under the jurisdiction and subject
5 to inspection by the United States Government, (2) elevators used
6 exclusively for agricultural purposes, ~~and~~ (3) elevators in private
7 residences, and (4) elevators located in counties that have a
8 population of more than one hundred thousand inhabitants. Elevators
9 and other conveyances located in counties that have a population of
10 more than one hundred thousand inhabitants are regulated under the
11 Conveyance Safety Act.

12 Sec. 37. Section 48-418.09, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 48-418.09 (1) The Commissioner of Labor may charge a
15 reasonable fee for each elevator inspection. The commissioner shall
16 establish the fees at a level necessary to meet the costs of the
17 elevator inspection program as approved by the Legislature and to
18 provide a sufficient balance in the Elevator Inspection Fund.

19 (2) An annual inspection fee of not more than
20 ~~seventy-five~~ one hundred fifty dollars per unit up to five floors
21 plus five dollars for each floor over five shall be paid for each
22 elevator inspected. For new installations, a preliminary inspection
23 fee of not more than ~~seventy-five~~ dollars shall be paid, ~~and for~~
24 ~~an initial inspection,~~ a fee of not more than ~~seventy-five~~ dollars
25 ~~shall be paid~~ one hundred fifty dollars per unit up to five floors

1 plus an additional five dollars for each floor over five shall be
2 paid for each elevator inspected. For an initial inspection, a fee
3 of not more than two hundred dollars per unit up to five floors
4 plus five dollars for each floor over five shall be paid. If an
5 elevator does not pass an initial inspection and a reinspection is
6 required, an additional initial inspection fee shall be charged for
7 each additional reinspection of such elevator. Such fees shall be
8 paid by the owner or user for each elevator inspected by the state
9 elevator inspector before the inspection certificate is issued.

10 (3) For the class of elevators which includes escalators,
11 moving sidewalks, conveyors, and dumbwaiters, the preliminary
12 inspection fee shall be not more than one hundred fifty dollars
13 per unit up to five floors plus an additional five dollars for
14 each floor over five. The ~~7~~ the initial inspection fee shall be
15 not more than one hundred fifty dollars per unit up to five floors
16 plus an additional five dollars for each floor over five. The ~~7~~ and
17 the annual inspection fee shall be not more than one hundred fifty
18 dollars per unit for up to five floors with an additional charge of
19 five dollars per floor for each floor over five. If such escalator,
20 moving sidewalk, conveyor, or dumbwaiter does not pass an initial
21 inspection and a reinspection is required, an additional initial
22 inspection fee shall be charged for each additional reinspection of
23 such elevator. Such fees shall be paid by the owner or user for
24 each escalator, moving sidewalk, conveyor, or dumbwaiter inspected
25 by the state elevator inspector before the inspection certificate

1 is issued.

2 (4) If at any time the owner or user desires a special
3 inspection of an elevator, it shall be made by the elevator
4 inspector after due request therefor and the inspector making
5 the inspection shall collect his or her expenses in connection
6 therewith and a fee of not more than ~~seventy-five~~ two hundred
7 dollars for each elevator inspected with an additional charge of
8 five dollars for each floor over five.

9 Sec. 38. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12,
10 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28,
11 29, 30, 31, 32, 33, 35, 36, and 41 of this act become operative on
12 January 1, 2008. Sections 34 and 39 of this act become operative
13 three calendar months after the adjournment of this legislative
14 session. Sections 37 and 40 of this act become operative on July
15 1, 2006. The other sections of this act become operative on their
16 effective date.

17 Sec. 39. Original section 48-168, Reissue Revised
18 Statutes of Nebraska, is repealed.

19 Sec. 40. Original section 48-418.09, Reissue Revised
20 Statutes of Nebraska, is repealed.

21 Sec. 41. Original sections 48-418 and 48-418.04, Reissue
22 Revised Statutes of Nebraska, are repealed.

23 Sec. 42. Since an emergency exists, this act takes effect
24 when passed and approved according to law.