

LEGISLATIVE BILL 301

Approved by the Governor March 07, 2019

Introduced by Lowe, 37; at the request of the Governor.

A BILL FOR AN ACT relating to state government; to amend sections 11-201, 48-719, 48-720, 48-722, 48-723, 48-724, 48-725, 48-726, 48-727, 48-728, 48-729, 48-730, 48-731, 48-732, 48-733, 48-736, 48-737, 48-738, 48-739, 48-740, 48-741, 48-742, 48-743, 48-1801, 48-1802, 48-1803, 48-1804, 48-1804.01, 48-1805, 48-1806, 48-1807, 48-1808, 48-1809, 48-1811, 48-1812, 48-1813, 48-1814, 48-1815, 48-1816, 48-1817, 48-1818, 48-1819, 48-2501, 48-2502, 48-2503, 48-2504, 48-2506, 48-2507, 48-2508, 48-2509, 48-2510, 48-2511, 48-2512, 48-2512.01, 48-2513, 48-2514, 48-2515, 48-2516, 48-2517, 48-2518, 48-2519, 48-2520, 48-2521, 48-2522, 48-2523, 48-2524, 48-2525, 48-2526, 48-2527, 48-2528, 48-2529, 48-2530, 48-2531, 48-2532, and 48-2533, Reissue Revised Statutes of Nebraska, and sections 48-721, 48-735.01, 81-401, and 81-405, Revised Statutes Cumulative Supplement, 2018; to transfer duties under the Boiler Inspection Act, the Nebraska Amusement Ride Act, and the Conveyance Safety Act from the Department of Labor to the State Fire Marshal; to change provisions of such acts; to eliminate obsolete provisions; to harmonize provisions; to provide a duty for the Revisor of Statutes; to provide an operative date; to repeal the original sections; to outright repeal section 48-1820, Reissue Revised Statutes of Nebraska; and to declare an emergency.

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

Section 1. Section 48-719, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-719~~ Sections 1 to 25 of this act ~~48-719 to 48-743~~ shall be known and may be cited as the Boiler Inspection Act.

Sec. 2. Section 48-720, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

(3) Boiler means a closed vessel in which water or other liquid is heated, steam or vapor is generated, steam or vapor is superheated, or any combination thereof, under pressure ~~or vacuum~~, for internal or external use to itself, by the direct application of heat and an unfired pressure vessel in which the pressure is obtained from an external source or by the application of heat from a ~~an indirect or~~ direct source. Boiler includes a fired unit for heating or vaporizing liquids other than water only when such unit is separate from processing systems and complete within itself. ;

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

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

Sec. 3. Section 48-721, Revised Statutes Cumulative Supplement, 2018, is amended to read:

~~48-721~~ (1) The State Fire Marshal ~~commissioner~~ shall employ a state boiler inspector who shall work under the direct supervision of the State Fire Marshal ~~commissioner~~ or his or her designee and devote his or her full time to the duties of the office. The state boiler inspector ~~person so appointed~~ shall:

(a) Be a practical boilermaker, technical engineer, operating engineer, or boiler inspector;

(b) Hold an "AI" or "IS" Commission from the National Board of Boiler and Pressure Vessel Inspectors. The state boiler inspector shall also either hold "B" and "R" endorsements to his or her commission at the time of hire or acquire such endorsements within eighteen months of employment;

(c) Be qualified by not less than ten years' experience in the construction, installation, repair, inspection, or operation of boilers, steam generators, and superheaters;

(d) Have a knowledge of the operation and use of boilers, steam generators, and superheaters for the generating of steam for power, heating, or other purposes; and

(e) Neither directly nor indirectly be interested in the manufacture, ownership, or agency of boilers, steam generators, and superheaters.

(2) The State Fire Marshal ~~commissioner~~ may hire deputy inspectors as necessary to carry out the Boiler Inspection Act. Deputy inspectors shall hold an "IS" Commission from the National Board of Boiler and Pressure Vessel Inspectors or acquire the same within twelve months of hire. Such deputy inspectors shall otherwise be subject to and governed by the same rules and regulations applicable to and governing the acts and conduct of the state boiler inspector.

(3) Before entering upon his or her duties under the Boiler Inspection Act, the state boiler inspector and each deputy inspector shall be bonded or

insured as required by section 11-201.

Sec. 4. Section 48-722, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-722~~ (1) Except as provided in subsections (3) and (4) of this section, the state boiler inspector shall inspect or cause to be inspected at least once every twelve months all boilers required to be inspected by the Boiler Inspection Act to determine whether the boilers are in a safe and satisfactory condition and properly constructed and maintained for the purpose for which the boiler is used, except that (a) hobby boilers, steam farm traction engines, portable and stationary show engines, and portable and stationary show boilers, which are not otherwise exempted from the act pursuant to section 8 of this act 48-726, shall be subject to inspection at least once every twenty-four months and (b) the State Fire Marshal commissioner may, by rule and regulation, establish inspection periods for pressure vessels of more than twelve months, but not to exceed the inspection period recommended in the National Board Inspection Code or the American Petroleum Institute Pressure Vessel Inspection Code API-510 for pressure vessels being used for similar purposes. In order to ensure that inspections are performed in a timely manner, the State Fire Marshal department may contract with an authorized inspection agency to perform any inspection authorized under the Boiler Inspection Act. If the State Fire Marshal department contracts with an authorized inspection agency to perform inspections, such contract shall be in writing and shall contain an indemnification clause wherein the authorized inspection agency agrees to indemnify and defend the State Fire Marshal department for loss occasioned by negligent or tortious acts committed by special inspectors employed by such authorized inspection agency when performing inspections on behalf of the State Fire Marshal department.

(2) No boilers required to be inspected by the act shall be operated without valid and current certification pursuant to rules and regulations adopted and promulgated by the State Fire Marshal commissioner in accordance with the requirements of the Administrative Procedure Act. The owner of any boiler installed after September 2, 1973, shall file a manufacturer's data report covering the construction of such boiler with the state boiler inspector. Such reports shall be used to assist the state boiler inspector in the certification of boilers. No boiler required to be inspected by the Boiler Inspection Act shall be operated at any type of public gathering or show without first being inspected and certified as to its safety by the state boiler inspector or a special inspector commissioned pursuant to section 13 of this act 48-731. Antique engines with boilers may be brought into the state from other states without inspection, but inspection as provided in this section shall be made and the boiler certified as safe before being operated.

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

(4) A boiler that is used as a water heater to supply potable hot water and that is not otherwise exempt from inspection under the act pursuant to section 8 of this act 48-726 shall be subject to inspection at least once every twenty-four months in accordance with a schedule of inspection established by the State Fire Marshal commissioner by rule and regulation.

Sec. 5. Section 48-723, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 6. Section 48-724, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-724~~ (1) Upon making an inspection of any boilers required to be inspected by the Boiler Inspection Act and upon receipt of the inspection fee and certificate fee or registration fee, the boiler inspector shall give to the owner or user of the boilers a certificate of inspection or certificate of registration upon forms prescribed by the State Fire Marshal commissioner. The certificate shall be posted in a place near the location of such boiler.

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

Sec. 7. Section 48-725, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-725~~ The owner, user, or person or persons in charge of any boiler required to be inspected by the Boiler Inspection Act shall not allow or permit a greater pressure in any unit than is stated in the certificate of inspection issued by the inspector.

Sec. 8. Section 48-726, Reissue Revised Statutes of Nebraska, is amended to read:

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

- (1) Boilers of railway locomotives subject to federal inspection;
- (2) Boilers operated and regularly inspected by railway companies operating in interstate commerce;
- (3) Boilers under the jurisdiction and subject to regular periodic inspection by the United States Government;
- (4) Boilers used exclusively for agricultural purposes;

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

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

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

(8) Boilers of a miniature model locomotive or boat or tractor or stationary engine constructed and maintained as a hobby and not for commercial use and having a diameter of less than ten inches inside diameter and a grate area not in excess of one and one-half square feet and that are properly equipped with a safety valve;

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

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

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

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

Sec. 9. Section 48-727, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-727~~ The State Fire Marshal commissioner may adopt and promulgate rules and regulations for the purpose of effectuating the Boiler Inspection Act, including rules and regulations for the methods of testing equipment, the construction and installation of new boilers, and a schedule of inspection and certificate fees for boilers required to be inspected by the act. Such rules and regulations may incorporate by reference any portion of (1) the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers, as amended, (2) the National Board Inspection Code ~~for Boilers and Pressure Vessels~~, as amended, (3) the American Society of Mechanical Engineers Code for Controls and Safety Devices for Automatically Fired Boilers, as amended, concerning controls and safety devices for automatically fired boilers, (4) the American Petroleum Institute Pressure Vessel Inspection Code API-510, and (5) the National Fire Protection Association pamphlet 85, Boiler and Combustion Systems Hazards Code, ~~series 85, code for controls and safety devices~~, including codes referenced in such code. A copy of all rules and regulations adopted and promulgated under the Boiler Inspection Act, including copies of all codes incorporated by reference, shall be kept on file in the office of the State Fire Marshal commissioner and shall be known as the Boiler Safety Code.

Sec. 10. Section 48-728, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

Sec. 12. Section 48-730, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-730~~ Before any boiler required to be inspected by the Boiler Inspection Act is installed, a ten days' written notice of intention to install the boiler shall be given to the State Fire Marshal commissioner, except that the State Fire Marshal commissioner may, upon application and good cause shown, waive the ten-day prior notice requirement. The notice shall designate the proposed place of installation, the type and capacity of the boiler, the use to be made of the boiler, the name of the company which manufactured the boiler, and whether the boiler is new or used. A boiler moved from one location to another shall be reinspected prior to being placed back into use.

Sec. 13. Section 48-731, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-731~~ (1)(a) The State Fire Marshal commissioner may issue a special inspector commission to an inspector in the employ of a company if the inspector has previously passed the examination prescribed by the National Board of Boiler and Pressure Vessel Inspectors and the company is an insurance company authorized to insure boilers in this state against loss from explosion

or is an authorized inspection agency.

(b) Each special inspector employed by an insurance company or authorized inspection agency who has been issued a special inspector commission under this section shall submit to the state boiler inspector complete data of each boiler required to be inspected by the Boiler Inspection Act which is insured or inspected by such insurance company or authorized inspection agency on forms approved by the State Fire Marshal commissioner.

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

(d) Insurance companies and authorized inspection agencies shall immediately notify the State Fire Marshal department of defective boilers. If a special inspector employed by an insurance company, upon the first inspection of new risk, finds that the boiler or any of the appurtenances are in such condition that the inspector's company refuses insurance, the company shall immediately submit a report of the defects to the state boiler inspector.

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

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

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

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

(6) The State Fire Marshal commissioner may, for cause, suspend or revoke any special inspector commission.

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

Sec. 14. Section 48-732, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 15. Section 48-733, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 16. Section 48-735.01, Revised Statutes Cumulative Supplement, 2018, is amended to read:

~~48-735.01~~ The Boiler Inspection Cash Fund is created. The State Fire Marshal commissioner shall use the fund for the administration of the boiler inspection program pursuant to the Boiler Inspection Act. The fund shall consist of money appropriated to it by the Legislature and fees collected in the administration of the act. Fees so collected shall be remitted to the State Treasurer with an itemized statement showing the source of collection. The State Treasurer shall credit the fees to the fund and the money in the fund shall not lapse into the General Fund, except that money in the Boiler

Inspection Cash Fund may be transferred to the General Fund at the direction of the Legislature. Any money in the Boiler Inspection Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

~~The State Treasurer shall transfer one hundred fifty thousand dollars from the Boiler Inspection Cash Fund to the General Fund on or before June 15, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.~~

Sec. 17. Section 48-736, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 18. Section 48-737, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 19. Section 48-738, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 20. Section 48-739, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 21. Section 48-740, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 22. Section 48-741, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 23. Section 48-742, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-742~~ Each board member shall be paid the sum of fifty dollars per day while actually engaged in the business of the board. The members of the board shall be paid their mileage and expenses in attending meetings of the board and carrying out their official duties as provided in sections 81-1174 to 81-1177 ~~for state employees.~~

Sec. 24. Section 48-743, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 25. (1) Effective July 1, 2019, all duties and functions of the Department of Labor under the Boiler Inspection Act shall be transferred to the

State Fire Marshal.

(2) On July 1, 2019, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the Department of Labor pertaining to the duties and functions transferred to the State Fire Marshal pursuant to this section shall become the property of the State Fire Marshal.

(3) On and after July 1, 2019, whenever the Department of Labor is referred to or designated by any contract or other document in connection with the duties and functions transferred to the State Fire Marshal pursuant to this section, such reference or designation shall apply to the State Fire Marshal. All contracts entered into by the Department of Labor prior to July 1, 2019, in connection with the duties and functions transferred to the State Fire Marshal are hereby recognized, with the State Fire Marshal succeeding to all rights and obligations under such contracts.

(4) All rules and regulations of the Department of Labor adopted prior to July 1, 2019, in connection with the duties and functions transferred to the State Fire Marshal pursuant to this section shall continue to be effective until revised, amended, repealed, or nullified pursuant to law.

(5) No suit, action, or other proceeding, judicial or administrative, lawfully commenced prior to July 1, 2019, or which could have been commenced prior to that date, by or against the Department of Labor, or any employee thereof in such employee's official capacity or in relation to the discharge of his or her official duties, shall abate by reason of the transfer of duties and functions from the Department of Labor to the State Fire Marshal.

(6) On and after July 1, 2019, positions of employment in the Department of Labor related to the duties and functions transferred pursuant to this section are transferred to the State Fire Marshal. The affected employees shall retain their rights under the state personnel system or pertinent bargaining agreement, and their service shall be deemed continuous. This section does not grant employees any new rights or benefits not otherwise provided by law or bargaining agreement or preclude the State Fire Marshal from exercising any of the prerogatives of management set forth in section 81-1311 or as otherwise provided by law. This section is not an amendment to or substitute for the provisions of any existing bargaining agreements.

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

~~48-1801~~ Sections 26 to 45 of this act ~~48-1801 to 48-1820~~ shall be known and may be cited as the Nebraska Amusement Ride Act.

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

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

(1) Amusement ride shall mean any mechanical device that carries or conveys passengers along, around, or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement, pleasure, or excitement, but such term shall not include (a) any single-passenger coin-operated ride that is manually, mechanically, or electrically operated and customarily placed in a public location and that does not normally require the supervision or services of an operator or (b) nonmechanized playground equipment, including, but not limited to, swings, seesaws, stationary spring-mounted animal features, rider-propelled merry-go-rounds, climbers, slides, trampolines, and physical fitness devices. Bungee jumping is specifically designated as an amusement ride for purposes of the act and shall mean the sport, activity, or other practice of jumping, diving, stepping out, dropping, or otherwise being released into the air while attached to a bungee cord, whereby the cord stretches, stops the fall, lengthens, and shortens allowing the person to bounce up and down, and is intended to finally bring the person to a stop at a point above a surface or the ground;

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

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

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

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

~~(5)~~ (6) Qualified inspector shall mean any person who is (a) found by the State Fire Marshal ~~commissioner~~ to possess the requisite training and experience to perform competently the inspections required by the Nebraska Amusement Ride Act and (b) certified by the State Fire Marshal ~~commissioner~~ to perform inspections of amusement rides; and

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

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

~~48-1803~~ The State Fire Marshal ~~commissioner~~ shall adopt and promulgate

rules and regulations (1) for the safe installation, repair, maintenance, use, operation, and inspection of amusement rides as the State Fire Marshal commissioner may find necessary for the protection of the general public and (2) necessary to carry out the provisions of the Nebraska Amusement Ride Act. Such rules and regulations shall be of a reasonable nature, based upon generally accepted engineering standards, formulas, and practices, and, insofar as practicable and consistent with the Nebraska Amusement Ride Act, uniform with rules and regulations of other states. Whenever such standards are available in suitable form they may be incorporated by reference by the State Fire Marshal commissioner. The State Fire Marshal commissioner shall administer and enforce the Nebraska Amusement Ride Act and all rules and regulations adopted and promulgated pursuant to such act. The State Fire Marshal commissioner shall coordinate all regulatory and investigative activities with the appropriate state agencies.

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

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

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

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

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

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

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

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

~~48-1806~~ No amusement ride shall be operated unless at the time of operation the owner has an insurance policy in effect written by an insurance company authorized to do business in this state insuring the owner and operator against liability for injury to persons arising out of the operation of such amusement ride. Such insurance policy shall be in amounts ~~an amount~~ not less than the minimum amounts ~~amount~~ per occurrence as established by the State Fire Marshal commissioner. Such minimum amounts ~~amount~~ shall be established with due regard to the protection of the general public and the availability of insurance coverage, but such minimum amounts ~~amount~~ shall not be less ~~greater~~ than one million dollars per occurrence and three million dollars aggregate. The State Fire Marshal commissioner may require a separate insurance policy from the owner of any equipment used in an amusement ride, subject to the minimums and limitations provided in this section.

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

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

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

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

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

~~48-1809~~ The State Fire Marshal commissioner shall establish by rules and regulations a schedule of permit fees not to exceed fifty dollars for each amusement ride. Such permit fees shall be established with due regard for the costs of administering the Nebraska Amusement Ride Act and shall be remitted to the State Treasurer for credit to the Mechanical Safety Inspection Fund.

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

~~48-1811~~ The State Fire Marshal commissioner may certify such qualified inspectors as may be necessary to carry out the Nebraska Amusement Ride Act.

Sec. 37. Section 48-1812, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-1812~~ (1) The State Fire Marshal commissioner may establish by rules and regulations a schedule of reasonable inspections fees for each amusement ride. The cost of obtaining the certificate of inspection from a qualified inspector shall be borne by the owner of the amusement ride.

(2) A separate schedule of fees shall be established for the inspection of bungee jumping operations, including the inspection of cranes used for bungee jumping. The fees shall be established taking into consideration the cost of such inspections.

Sec. 38. Section 48-1813, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 39. Section 48-1814, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 40. Section 48-1815, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 41. Section 48-1816, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 42. Section 48-1817, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 43. Section 48-1818, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 44. Section 48-1819, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 45. (1) Effective July 1, 2019, all duties and functions of the Department of Labor under the Nebraska Amusement Ride Act shall be transferred to the State Fire Marshal.

(2) On July 1, 2019, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the Department of Labor pertaining to the duties and functions transferred to the State Fire Marshal pursuant to this section shall become the property of the State Fire Marshal.

(3) On and after July 1, 2019, whenever the Department of Labor is referred to or designated by any contract or other document in connection with the duties and functions transferred to the State Fire Marshal pursuant to this section, such reference or designation shall apply to the State Fire Marshal. All contracts entered into by the Department of Labor prior to July 1, 2019, in connection with the duties and functions transferred to the State Fire Marshal are hereby recognized, with the State Fire Marshal succeeding to all rights and obligations under such contracts.

(4) All rules and regulations of the Department of Labor adopted prior to July 1, 2019, in connection with the duties and functions transferred to the State Fire Marshal pursuant to this section shall continue to be effective

until revised, amended, repealed, or nullified pursuant to law.

(5) No suit, action, or other proceeding, judicial or administrative, lawfully commenced prior to July 1, 2019, or which could have been commenced prior to that date, by or against the Department of Labor, or any employee thereof in such employee's official capacity or in relation to the discharge of his or her official duties, shall abate by reason of the transfer of duties and functions from the Department of Labor to the State Fire Marshal.

(6) On and after July 1, 2019, positions of employment in the Department of Labor related to the duties and functions transferred pursuant to this section are transferred to the State Fire Marshal. The affected employees shall retain their rights under the state personnel system or pertinent bargaining agreement, and their service shall be deemed continuous. This section does not grant employees any new rights or benefits not otherwise provided by law or bargaining agreement or preclude the State Fire Marshal from exercising any of the prerogatives of management set forth in section 81-1311 or as otherwise provided by law. This section is not an amendment to or substitute for the provisions of any existing bargaining agreements.

Sec. 46. Section 48-2501, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-2501~~ Sections 46 to 79 of this act ~~48-2501 to 48-2533~~ shall be known and may be cited as the Conveyance Safety Act.

Sec. 47. Section 48-2502, Reissue Revised Statutes of Nebraska, is amended to read:

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

(1) Certificate of inspection means a document issued by the State Fire Marshal ~~commissioner~~ that indicates that the conveyance has had the required safety inspection and tests and that the required fees have been paid;

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

~~(2)~~ ~~(3)~~ Committee means the Conveyance Advisory Committee;

~~(3)~~ ~~(4)~~ Conveyance means any elevator, dumbwaiter, vertical reciprocating conveyor, escalator, moving sidewalk, automated people mover, and other equipment enumerated in section 51 of this act ~~48-2507~~ and not exempted under section 52 of this act ~~48-2508~~;

~~(4)~~ ~~(5)~~ Elevator contractor means any person who is engaged in the business of contracting services for erecting, constructing, installing, altering, servicing, testing, repairing, or maintaining conveyances;

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

~~(6)~~ ~~(7)~~ Person means an individual, a partnership, a limited liability company, a corporation, and any other business firm or company and includes a director, an officer, a member, a manager, and a superintendent of such an entity.

Sec. 48. Section 48-2503, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-2503~~ (1) The Conveyance Advisory Committee is created. One member shall be the state elevator inspector employed ~~appointed~~ pursuant to section 57 of this act ~~48-2512.01~~. One member shall be the State Fire Marshal ~~or his or her designee~~. The Governor shall appoint the other remaining members of the committee as follows: One representative from a major elevator manufacturing company; one representative from an elevator servicing company; one representative who is a building manager; one representative who is an elevator mechanic; and one representative of the general public from each county that has a population of more than one hundred thousand inhabitants. ~~The committee shall be appointed within ninety days after January 1, 2008.~~

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

(3) The committee shall meet and organize within thirty days after the appointment of the members. The committee shall meet quarterly at a time and place to be fixed by the committee for the consideration of code regulations and for the transaction of such other business as properly comes before it. Special meetings may be called by the chairperson or at the request of two or more members of the committee. Any appointed committee member absent from three consecutive meetings shall be dismissed.

Sec. 49. Section 48-2504, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-2504~~ The committee:

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

(2) Shall recommend to the State Fire Marshal ~~commissioner~~ rules and regulations governing the operation, maintenance, servicing, construction, alteration, installation, and inspection of conveyances;

(3) Shall recommend to the State Fire Marshal ~~commissioner~~ qualifications for licensure as an elevator mechanic or elevator contractor and conditions for disciplinary actions, including suspension or revocation of a license;

(4) Shall recommend to the State Fire Marshal ~~commissioner~~ rules and regulations for temporary and emergency elevator mechanic thirty-day licenses;

(5) Shall recommend to the State Fire Marshal commissioner an enforcement program which will ensure compliance with the Conveyance Safety Act and the rules and regulations adopted and promulgated pursuant to the act. The enforcement program shall include the identification of property locations which are subject to the act, issuing notifications to violating property owners or operators, random onsite inspections and tests on existing installations, and assisting in development of public awareness programs; and

(6) Shall make recommendations to the State Fire Marshal commissioner regarding variances under section 53 of this act ~~48-2509~~, continuing education providers under section 71 of this act ~~48-2526~~, and license disciplinary actions under section 73 of this act ~~48-2528~~.

Sec. 50. Section 48-2506, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-2506~~ (1) The State Fire Marshal commissioner shall, after a public hearing conducted by the State Fire Marshal commissioner or his or her designee, establish a reasonable schedule of fees for licenses, permits, certificates, and inspections authorized under the Conveyance Safety Act. The State Fire Marshal commissioner shall establish the fees at a level necessary to meet the costs of administering the act. Inspection fee schedules relating to the inspection of conveyances adopted by the ~~commissioner~~ prior to January 1, 2008, shall continue to be effective until they are amended or repealed by the State Fire Marshal commissioner.

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

Sec. 51. Section 48-2507, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-2507~~ (1) The Conveyance Safety Act applies to the construction, operation, inspection, testing, maintenance, alteration, and repair of conveyances. Conveyances include the following equipment, associated parts, and hoistways which are not exempted under section 52 of this act ~~48-2508~~:

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

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

(i) Escalators; and

(ii) Moving sidewalks; and

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

(i) Dumbwaiters;

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

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

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

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

Sec. 52. Section 48-2508, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

(2) Conveyances used exclusively for agricultural purposes;

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

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

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

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

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

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

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

(10) Portable equipment, except for portable escalators which are covered by American National Standards Institute A17.1;

(11) Tiering or piling machines used to move materials to and from storage located and operating entirely within one story;

(12) Equipment for feeding or positioning materials at machine tools, printing presses, and similar equipment;

(13) Skip or furnace hoists;

(14) Wharf ramps;

(15) Railroad car lifts or dumpers;

(16) Line jacks, false cars, shafters, moving platforms, and similar equipment used for installing a conveyance by an elevator contractor;

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

(18) Dock levelators;

(19) Stairway chair lifts and platform lifts; and

(20) Conveyances in residences located in counties that have a population of one hundred thousand or less inhabitants.

Sec. 53. Section 48-2509, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-2509~~ (1) The State Fire Marshal commissioner shall adopt and promulgate rules and regulations which establish the regulations for conveyances under the Conveyance Safety Act. The rules and regulations may include the Safety Code for Elevators and Escalators, American Society of Mechanical Engineers A17.1 except those parts exempted under section 52 of this act ~~48-2508~~; the standards for conveyors and related equipment, American Society of Mechanical Engineers B20.1; and the Automated People Mover Standards, American Society of Civil Engineers 21. The State Fire Marshal commissioner shall annually review to determine if the most current form of such standards should be adopted.

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

Sec. 54. Section 48-2510, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 55. Section 48-2511, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-2511~~ On and after January 1, 2008: Prior to any newly installed conveyance being used for the first time, the property owner or lessee shall obtain a certificate of inspection from the State Fire Marshal commissioner. A fee established under section 50 of this act ~~48-2506~~ shall be paid for the certificate of inspection. A licensed elevator contractor shall complete and submit first-time registrations for new installations to the state elevator inspector for the inspector's approval. A certificate of inspection shall be clearly displayed in an elevator car and on or in each other conveyance.

Sec. 56. Section 48-2512, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-2512~~ (1) No person shall wire, alter, replace, remove, or dismantle an existing conveyance contained within a building or structure located in a county that has a population of more than one hundred thousand inhabitants unless such person is a licensed elevator mechanic or he or she is working under the direct supervision of a person who is a licensed elevator mechanic. Neither a licensed elevator mechanic nor a licensed elevator contractor is required to perform nonmechanical maintenance of a conveyance. Neither a licensed elevator contractor nor a licensed elevator mechanic is required for removing or dismantling conveyances which are destroyed as a result of a complete demolition of a secured building.

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

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

Sec. 57. Section 48-2512.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-2512.01~~ (1) The State Fire Marshal Commissioner of Labor shall employ appoint a state elevator inspector, ~~subject to the approval of the Governor,~~ who shall work under the direct supervision of the State Fire Marshal commissioner. ~~The state elevator inspector serving on January 1, 2008, shall continue to serve unless removed by the commissioner.~~

(2) The person so employed appointed shall be qualified by (a) not less than five years' experience in the installation, maintenance, and repair of elevators as determined by the State Fire Marshal commissioner, (b) certification as a qualified elevator inspector by an association accredited by the American Society of Mechanical Engineers, or (c) not less than five years' journeyman experience in elevator installation, maintenance, and inspection as determined by the State Fire Marshal Commissioner of Labor and shall be familiar with the inspection process and rules and regulations adopted and promulgated under the Conveyance Safety Act.

(3) The State Fire Marshal commissioner, ~~subject to the approval of the Governor,~~ may employ appoint deputy inspectors possessing the same

qualifications as the state elevator inspector as necessary to carry out the Conveyance Safety Act. ~~A qualified individual may apply for the position of inspector or deputy inspector. The application shall include the applicant's social security number, but such social security number shall not be a public record.~~

Sec. 58. Section 48-2513, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-2513~~ (1) Except as provided otherwise in the Conveyance Safety Act, the state elevator inspector shall inspect or cause to be inspected conveyances which are located in a building or structure, other than a private residence, at least once every twelve months in order to determine whether such conveyances are in a safe and satisfactory condition and are properly constructed and maintained for their intended use.

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

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

Sec. 59. Section 48-2514, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-2514~~ (1) No inspection shall be required under the Conveyance Safety Act when an owner or user of a conveyance obtains an inspection by a representative of a reputable insurance company licensed to do business in Nebraska, obtains a policy of insurance from such company upon the conveyance and files with the State Fire Marshal commissioner a certificate of inspection by such insurance company, files a statement that such conveyance is insured, and pays an administrative fee established pursuant to section 50 of this act ~~48-2506~~.

(2) No inspection shall be required under the act when there has been an annual inspection under a city ordinance which meets the standards of the act.

Sec. 60. Section 48-2515, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-2515~~ If at any time the owner or user of a conveyance desires a special inspection of a conveyance, it shall be made by the state elevator inspector after due request therefor and the inspector making the inspection shall collect his or her expenses in connection therewith and a fee established pursuant to section 50 of this act ~~48-2506~~. A report of the inspection shall be provided to the owner or user who requested the inspection upon their request.

Sec. 61. Section 48-2516, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-2516~~ Upon a conveyance passing an inspection under section 58, 59, or 60 of this act ~~48-2513, 48-2514, or 48-2515~~ and receipt of the inspection fee, the State Fire Marshal commissioner shall issue the owner or user of the conveyance a certificate of inspection, upon forms prescribed by the State Fire Marshal commissioner.

Sec. 62. Section 48-2517, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-2517~~ The state elevator inspector shall maintain a complete and accurate record of the name of the owner or user of each conveyance subject to sections 58 and 59 of this act ~~48-2513 and 48-2514~~ and a full description of the conveyance and the date when last inspected.

Sec. 63. Section 48-2518, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-2518~~ The State Fire Marshal commissioner, the state elevator inspector, and the deputy inspectors shall have the right and power to enter any public building or structure for the purpose of inspecting any conveyance subject to the Conveyance Safety Act or gathering information with reference thereto.

Sec. 64. Section 48-2519, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 65. Section 48-2520, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-2520~~ The owner of a conveyance shall notify the state elevator inspector of any accident causing personal injury or property damage in excess of one thousand dollars involving a conveyance on or before the close of business the next business day following the accident, and the conveyance involved shall not operate until the state elevator inspector has conducted an investigation of the accident and has approved the operation of the conveyance. The state elevator inspector shall investigate and report to the State Fire Marshal commissioner the cause of any conveyance accident that may occur in the state, the loss of life, the injuries sustained, and such other data as may be of benefit in preventing other similar accidents.

Sec. 66. Section 48-2521, Reissue Revised Statutes of Nebraska, is amended

to read:

~~48-2521~~ (1) Any person wishing to engage in the work of an elevator mechanic shall apply for and obtain an elevator mechanic license from the State Fire Marshal commissioner. The application shall be on a form provided by the State Fire Marshal commissioner.

(2) Any person wishing to engage in the business of an elevator contractor shall apply for and obtain an elevator contractor license from the State Fire Marshal commissioner. The application shall be on a form provided by the State Fire Marshal commissioner.

(3) Each application shall contain:

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

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

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

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

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

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

(g) Permission for the State Fire Marshal Department of Labor to access the criminal history record information of individuals, partners, or officers maintained by the Federal Bureau of Investigation through the Nebraska State Patrol;

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

(i) Such other information as the State Fire Marshal commissioner may by rule and regulation require.

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

Sec. 67. Section 48-2522, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-2522~~ The State Fire Marshal commissioner shall adopt and promulgate rules and regulations establishing standards for licensure of elevator mechanics. An applicant for an elevator mechanic license shall demonstrate the following qualifications before being granted an elevator mechanic license:

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

(2) One of the following:

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

(b) Acceptable proof that the applicant has worked as a conveyance constructor, maintenance, or repair person. Such person shall have worked as an elevator mechanic without the direct and immediate supervision of a licensed elevator contractor and have passed a written examination approved by the State Fire Marshal commissioner. This employment shall not be less than three years immediately prior to the effective date of the license;

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

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

(3) Any additional qualifications adopted and promulgated in rule and regulation by the State Fire Marshal commissioner.

Sec. 68. Section 48-2523, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-2523~~ An applicant for an elevator contractor license shall demonstrate five years' work experience in the conveyance industry in construction, maintenance, and service or repair, as verified by current or previous employers.

Sec. 69. Section 48-2524, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-2524~~ Upon application, an elevator mechanic license or an elevator contractor license may be issued to a person holding a valid license from a state having standards substantially equal to those of the Conveyance Safety Act.

Sec. 70. Section 48-2525, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-2525~~ Upon approval of an application for licensure as an elevator mechanic, the State Fire Marshal commissioner may issue a license which shall be renewable biennially if the continuing education requirements are met. The fee for licenses and for license renewal for elevator mechanic licenses and

elevator contractor licenses shall be set by the State Fire Marshal commissioner under section 50 of this act ~~48-2506~~.

Sec. 71. Section 48-2526, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-2526~~ (1) The renewal of elevator mechanic licenses granted under the Conveyance Safety Act shall be conditioned upon the submission of a certificate of completion of a course designed to ensure the continuing education on new and existing rules and regulations adopted and promulgated by the State Fire Marshal commissioner. Such course shall consist of not less than eight hours of instruction that shall be attended and completed within one year immediately preceding any license renewal. The individual holding the elevator mechanic license shall pay the cost of such course.

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

(3) An elevator mechanic licensee who is unable to complete the continuing education course required under this section prior to the expiration of the license due to a temporary disability may apply for an extension from the state elevator inspector. The extension shall be on a form provided by the state elevator inspector which shall be signed by the applicant and accompanied by a certified statement from a competent physician attesting to such temporary disability. Upon the termination of such temporary disability, the elevator mechanic licensee shall submit to the state elevator inspector a certified statement from the same physician, if practicable, attesting to the termination of such temporary disability. At such time an extension sticker, valid for ninety days, shall be issued to the licensed elevator mechanic and affixed to the license. Such extension shall be renewable for periods of ninety days upon a showing that the disability continues.

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

Sec. 72. Section 48-2527, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-2527~~ (1) An elevator contractor shall submit to the State Fire Marshal commissioner an insurance policy, or certified copy thereof, issued by an insurance company authorized to do business in the state to provide general liability coverage of at least one million dollars for injury or death of any one person and one million dollars for injury or death of any number of persons in any one occurrence and to provide coverage of at least five hundred thousand dollars for property damage in any one occurrence and workers' compensation insurance coverage as required under the Nebraska Workers' Compensation Act.

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

Sec. 73. Section 48-2528, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-2528~~ (1) An elevator contractor license issued under the Conveyance Safety Act may be revoked by the State Fire Marshal commissioner upon verification that the elevator contractor licensee lacks the insurance coverage required by section 72 of this act ~~48-2527~~.

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

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

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

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

(3) No license shall be suspended, revoked, or subject to civil penalty until after a hearing is held before the committee and the State Fire Marshal commissioner or his or her designee. The hearing shall be held within sixty days after notice of the violation is received and all interested parties shall receive written notice of the hearing at least fifteen days prior to the hearing. Within fifteen days after the hearing, the committee shall make recommendations to the State Fire Marshal commissioner or his or her designee of appropriate penalties, if any, warranted under the circumstances of the case. The committee does not have the power to suspend or revoke licenses or impose civil penalties. Within thirty days after the hearing, the State Fire Marshal commissioner shall issue a decision which may include license suspension, license revocation, and civil penalties. The decision of the State Fire Marshal commissioner may be appealed. The appeal shall be in accordance with the Administrative Procedure Act.

Sec. 74. Section 48-2529, Reissue Revised Statutes of Nebraska, is amended

to read:

~~48-2529~~ The State Fire Marshal commissioner shall adopt and promulgate rules and regulations establishing standards and procedures for the issuance of temporary and emergency elevator mechanic thirty-day licenses and for the extension of such licenses for good cause shown.

Sec. 75. Section 48-2530, Reissue Revised Statutes of Nebraska, is amended to read:

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

(2) Upon receipt of a request for an investigation, the State Fire Marshal commissioner or state elevator inspector shall perform a preliminary inquiry into the charges contained in the request for investigation. A request for an investigation may be made in person or by telephone call and shall set forth with reasonable particularity the grounds for the request for an investigation. During the preliminary inquiry, the name, address, and telephone number of the person making the request for an investigation shall be available only to the State Fire Marshal commissioner, state elevator inspector, or other person carrying out the preliminary inquiry on behalf of the State Fire Marshal commissioner or state elevator inspector. The State Fire Marshal commissioner or state elevator inspector shall keep a record of each request for an investigation received under this section for three years after such request is made.

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

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

Sec. 76. Section 48-2531, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-2531~~ The Conveyance Safety Act shall not be construed to relieve or lessen the responsibility or liability of any person owning, operating, controlling, maintaining, erecting, constructing, installing, altering, testing, or repairing any conveyance covered by the act for damages to person or property caused by any defect therein. By administering the Conveyance Safety Act, the state and its officers and employees assume no liability for accidents involving a conveyance.

Sec. 77. Section 48-2532, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 78. Section 48-2533, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

Sec. 79. (1) Effective July 1, 2019, all duties and functions of the Department of Labor under the Conveyance Safety Act shall be transferred to the State Fire Marshal.

(2) On July 1, 2019, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the Department of Labor pertaining to the duties and functions transferred to the State Fire Marshal pursuant to this section shall become the property of the State Fire Marshal.

(3) On and after July 1, 2019, whenever the Department of Labor is referred to or designated by any contract or other document in connection with the duties and functions transferred to the State Fire Marshal pursuant to this section, such reference or designation shall apply to the State Fire Marshal. All contracts entered into by the Department of Labor prior to July 1, 2019, in connection with the duties and functions transferred to the State Fire Marshal are hereby recognized, with the State Fire Marshal succeeding to all rights and obligations under such contracts.

(4) All rules and regulations of the Department of Labor adopted prior to July 1, 2019, in connection with the duties and functions transferred to the

State Fire Marshal pursuant to this section shall continue to be effective until revised, amended, repealed, or nullified pursuant to law.

(5) No suit, action, or other proceeding, judicial or administrative, lawfully commenced prior to July 1, 2019, or which could have been commenced prior to that date, by or against the Department of Labor, or any employee thereof in such employee's official capacity or in relation to the discharge of his or her official duties, shall abate by reason of the transfer of duties and functions from the Department of Labor to the State Fire Marshal.

(6) On and after July 1, 2019, positions of employment in the Department of Labor related to the duties and functions transferred pursuant to this section are transferred to the State Fire Marshal. The affected employees shall retain their rights under the state personnel system or pertinent bargaining agreement, and their service shall be deemed continuous. This section does not grant employees any new rights or benefits not otherwise provided by law or bargaining agreement or preclude the State Fire Marshal from exercising any of the prerogatives of management set forth in section 81-1311 or as otherwise provided by law. This section is not an amendment to or substitute for the provisions of any existing bargaining agreements.

Sec. 80. Any appropriation and salary limit provided in any legislative bill enacted by the One Hundred Sixth Legislature, First Session, to Agency No. 23 – Department of Labor, in any of the following program classifications, shall be null and void, and any such amounts are hereby appropriated to Agency No. 21, State Fire Marshal: Program No. 230 – Safety Inspection Program; Program No. 194, Division for Protection of People and Property, Subprogram 009 – Conveyance; and Program No. 194, Division for Protection of People and Property, Subprogram 010 – Boiler Inspection. Any financial obligations of the Department of Labor that remain unpaid as of June 30, 2019, and that are subsequently certified as valid encumbrances to the accounting division of the Department of Administrative Services pursuant to sections 81-138.01 to 81-138.04, shall be paid by the State Fire Marshal, Program No. 230 – Safety Inspection Program, from the unexpended balance of appropriations existing in such program classification on June 30, 2019.

Sec. 81. Section 81-405, Revised Statutes Cumulative Supplement, 2018, is amended to read:

~~81-405~~ The Mechanical Safety Inspection Fund is created. All fees collected by the State Fire Marshal Department of Labor pursuant to the Nebraska Amusement Ride Act and the Conveyance Safety Act shall be remitted to the State Treasurer for credit to the Mechanical Safety Inspection Fund. Fees so collected shall be used for administering the provisions of the Nebraska Amusement Ride Act and the Conveyance Safety Act. Any money in the Mechanical Safety Inspection Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Money in the Mechanical Safety Inspection Fund may be transferred to the General Fund at the direction of the Legislature.

~~The State Treasurer shall transfer one hundred fifty thousand dollars from the Mechanical Safety Inspection Fund to the General Fund on or before June 15, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.~~

Sec. 82. Section 11-201, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

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

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

The Risk Manager may separately bond any officer, employee, or group thereof under a separate corporate surety bond or equivalent commercial insurance policy for performance and honesty pursuant to the standards set

forth in subdivision (1) of this section if the corporate surety or commercial insurer will not bond or insure or excludes from coverage any officer, employee, or group thereof under the blanket bond or commercial insurance required by this section, or if the Risk Manager finds that the reasonable availability or cost of the blanket bond or commercial insurance required under this section is adversely affected by any of the following factors: The loss experience, types of risks to be bonded or insured, relationship of premium to risks involved, past and projected trends for premiums, or any other factors.

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

Sec. 83. Section 81-401, Revised Statutes Cumulative Supplement, 2018, is amended to read:

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

- (1) To foster, promote, and develop the welfare of wage earners;
- (2) To improve working conditions;
- (3) To advance opportunities for profitable employment;
- (4) To collect, collate, assort, systematize, and report statistical details relating to all departments of labor, especially in its relation to commercial, industrial, social, economic, and educational conditions and to the permanent prosperity of the manufacturing and productive industries;
- (5) To acquire and distribute useful information on subjects connected with labor in the most general and comprehensive sense of the word;
- (6) To acquire and distribute useful information concerning the means of promoting the material, social, intellectual, and moral prosperity of laboring men and women;
- (7) To acquire and distribute information as to the conditions of employment and such other facts as may be deemed of value to the industrial interests of the state;
- (8) To acquire and distribute information in relation to the prevention of accidents, occupational diseases, and other related subjects;
- (9) To acquire and distribute useful information regarding the role of the part-time labor force and the manner in which such labor force affects the economy and citizens of the state; and
- (10) To administer and enforce all of the provisions of the ~~Boiler Inspection Act~~, the Employment Security Law, the Farm Labor Contractors Act, the ~~Nebraska Amusement Ride Act~~, and the Wage and Hour Act and Chapter 48, articles 2, 3, 4, and 5, and for that purpose there is imposed upon the Commissioner of Labor the duty of executing all of the provisions of such acts, law, and articles.

Sec. 84. The Revisor of Statutes shall assign sections 1 to 81 of this act to Chapter 81, article 5.

Sec. 85. This act becomes operative on July 1, 2019.

Sec. 86. Original sections 11-201, 48-719, 48-720, 48-722, 48-723, 48-724, 48-725, 48-726, 48-727, 48-728, 48-729, 48-730, 48-731, 48-732, 48-733, 48-736, 48-737, 48-738, 48-739, 48-740, 48-741, 48-742, 48-743, 48-1801, 48-1802, 48-1803, 48-1804, 48-1804.01, 48-1805, 48-1806, 48-1807, 48-1808, 48-1809, 48-1811, 48-1812, 48-1813, 48-1814, 48-1815, 48-1816, 48-1817, 48-1818, 48-1819, 48-2501, 48-2502, 48-2503, 48-2504, 48-2506, 48-2507, 48-2508, 48-2509, 48-2510, 48-2511, 48-2512, 48-2512.01, 48-2513, 48-2514, 48-2515, 48-2516, 48-2517, 48-2518, 48-2519, 48-2520, 48-2521, 48-2522, 48-2523, 48-2524, 48-2525, 48-2526, 48-2527, 48-2528, 48-2529, 48-2530, 48-2531, 48-2532, and 48-2533, Reissue Revised Statutes of Nebraska, and sections 48-721, 48-735.01, 81-401, and 81-405, Revised Statutes Cumulative Supplement, 2018, are repealed.

Sec. 87. The following section is outright repealed: Section 48-1820, Reissue Revised Statutes of Nebraska.

Sec. 88. Since an emergency exists, this act takes effect when passed and approved according to law.