

# One Hundred Second Legislature - First Session - 2011

## Introducer's Statement of Intent

### LB262

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**Chairperson: Senator Steve Lathrop**

**Committee: Business and Labor**

**Date of Hearing: January 24, 2011**

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB 262 is introduced on behalf of the Department of Labor ("DOL"), and would repeal the requirement that businesses, subject to workers' compensation, have safety committees. Other health and safety statutes as well as the Worker Safety Consultation Program would also be repealed.

According to DOL, it is proposing to repeal certain statutes primarily because OSHA has taken over enforcement.

The Department of Labor provided the below list of OSHA regulations that have superseded Nebraska law:

Restrooms/Changing Rooms/etc.: 29 CFR 1910.141 ("Sanitation")

Grinding Wheels: 29 CFR 1910.215 ("Abrasive Wheel Machinery")

Woodworking Machinery: 29 CFR 1910.213 ("Woodworking Machinery Requirements")

Ventilation: 29 CFR 1910.94 ("Ventilation")

Scaffolding: 29 CFR 1910.21 et seq. (Subpart D : "Walking-Working Surfaces"; See also Subpart F: "Powered Platforms, Manlifts, and Vehicle-Mounted Work Platforms" (29 CFR 1910.66 et seq.); Subpart N: "Materials Handling and Storage" (29 CFR 1910.176 et seq.)

Fire Escapes: 29 CFR 1910.33 et seq. (Subpart E: "Exit Routes, Emergency Action Plans, and Fire Prevention Plans")

High Voltage Lines: 29 CFR 1910.301 (Subpart S: "Electrical")

The legislature enacted safety committee requirements in 1993. The penalty associated with lack of compliance can be up to \$1000 fine, issued by the Commissioner of Labor. Since enactment, DOL has issued no penalties.

The Worker Safety Consultation Program allows all employers, including public, to request a safety consultation consistent with OSHA standards. This is a separate program from the OSHA 21(d) program. OSHA 21(d) is a 90% federally funded program with a 10% Nebraska general fund match. Private (not public) businesses may use this program to ensure that they are OSHA compliant. OSHA does not apply to public employers. Due to lack of money, DOL has not performed a safety consultation pursuant to the Worker Safety Consultation Program, since 1993, the same year which it was enacted.

**Details:**

Section 1: Amends section 44-3,158 to remove the notation of the safety committee requirement.

Section 2: Amends section 48-144.03 to remove the notation of the safety committee requirement.

Section 3: Repeals the following statutes:

48-801: requires manufacturing plants to have sufficient restrooms for employees with separate restrooms for each gender. (Enacted 1911)

48-402: requires manufacturing plants to provide separate dressing rooms for women. (Enacted 1911)

48-403: requires manufacturing plants emitting dust, fumes, etc., to have a fan or similar mechanical device to remove the impurities. (Enacted 1911)

48-404: requires manufacturing plants to be kept clean and free from offensive smell or byproducts in the form of waste and to have proper ventilation. (Enacted 1911)

48-405: requires blowers on grinding machines or wheels. (Enacted 1911)

48-406: requires grinding wheels to only be used at recommended speeds and to not be used if cracked or defective. (Enacted 1911)

48-407: requires grinding wheels to have a hood. (Enacted 1911)

48-408: requires certain size of suction pipe on grinding wheels. (Enacted 1911)

48-409: plant operators must provide guards, screens, etc. to protect workers from injury caused by belts, wheels, saws, molten metal, etc. (Enacted 1911)

48-410: any machine that revolves at high speeds must be screened. (Enacted 1919)

48-411: woodworking machinery must have requisite safety appliances. (Enacted 1919)

48-412: authorizes the Commissioner of Labor to promulgate regulations for sections 48-401 to 48-424. (Enacted 1919)

48-413: allows DOL to have a building code and requires DOL to have an advisory committee regarding codes. (Enacted 1929)

48-414: allows DOL to inspect businesses for safety code violations. (Enacted 1919)

48-415: allows individuals to challenge the validity of a safety code regulation. (Enacted 1929)

48-416: allows appeals of decisions made pursuant to 48-415. (Enacted 1929)

48-417: where high pressure currents are used, signs or indicator lamps must be used. (Enacted 1919)

48-419: when multiple boilers deliver to a common main, each boiler must have its own shutoff valve. (Enacted 1919)

48-420: requires certain factories to have fireproof stairways, chutes or toboggans and one automatic fire escape. (Enacted 1919)

48-421: requires plants to report work-related fatalities and accident to DOL in a certain amount of time. (Enacted 1911)

48-422: provides a cause of action if a plant violates 48-401 to 48-424. (Enacted 1919)

48-423: removes assumption of risk as a defense to a cause of action. (Enacted 1919)

48-424: violation of section 48-801 to 48-423 is a Class II misdemeanor. (Enacted 1919)

48-425: scaffolding, hoists, cranes, etc. used to work on houses, buildings, bridges, etc. must be constructed safely. (Enacted 1911)

48-426: requires certain walls to have a load bearing structure. Requires floors to support a live load of 50 pounds for each square foot of floor surface. (Enacted 1911)

48-427: owners of buildings other than private barns and private residences must post the load limits for each floor of the building during construction. (Enacted 1911)

48-428: requires DOL to inspect scaffolds when a report is received. (Enacted 1911)

48-429: requires a scaffold below a scaffold that is a certain height. (Enacted 1911)

48-430: contractors and owners are required to have either temporary or completed flooring installed to within two stories of where construction work is being completed. (Enacted 1911)

48-431: during construction, shafts used for hoisting materials must be surrounded by a barrier or railing. (Enacted 1911)

48-432: for hoisting machines that are not hand-powered, the owner or contractor must set up a system of signals to be used during the machine's operation. (Enacted 1911)

48-433: the person preparing the plans for buildings subject to 48-425 to 48-435 must provide for the permanent structural features required by those sections in the plans. Failure to do so is a Class IV misdemeanor. (Enacted 1911)

48-434: violation of 48-425 to 48-432 is a Class II misdemeanor. (Enacted 1911)

48-435: assumption of risk cannot be used as a defense. (Enacted 1911)

48-436: defines high voltage as 750 volts either between two conductors, or between conductor and ground. Defines authorized and qualified person to include utility employees. (Enacted 1911)

48-437: only employees that are authorized and qualified may do any type of work near high voltage conductors. (Enacted 1969)

48-438: no work can be done within 10 feet of overhead high voltage conductors, unless there is adequate protection for workers. (Enacted 1969)

48-439: requires warning signs on cranes, derricks or other devices that are capable of vertical, lateral, swinging motion. (Enacted 1969)

48-440: requires notification if performing work within 10 feet of a high voltage conductor. (Enacted 1969)

48-441: specifies that sections 48-436 to 48-442 do not apply to authorized and qualified individuals as defined by 48-436. (Enacted 1969)

48-442: violation of 48-436 to 48-442 is a Class V misdemeanor. (Enacted 1969)

48-443: requires employers subject to workers' compensation to have safety committees. (Enacted 1993)

48-444: the Commissioner of Labor may fine an employer up to \$1000 for not having a safety committee. (Enacted 1993)

48-445: provides DOL authority to promulgate safety committee regulations. (Enacted 1993)

48-446: establishes the Workforce Safety Consultation Program. (Enacted 1993)

**Principal Introducer:** \_\_\_\_\_

**Senator Steve Lathrop**