

# URBAN AFFAIRS COMMITTEE

## NEBRASKA LEGISLATURE

LR 369: An interim study to review the occupational regulations  
for fire alarm inspectors

Report as required pursuant to the Occupational Board Reform  
Act (OBRA)

One Hundred Sixth Legislature  
Second Session

### Committee Members

Senator Justin Wayne, Chairperson, District 13  
Senator Megan Hunt, Vice-Chairperson, District 8  
Senator John Arch, District 14  
Senator Tom Briese, District 41  
Senator Sue Crawford, District 45  
Senator Matt Hansen, District 26  
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## Introduction

In 2018, the Legislature passed the Occupational Board Reform Act (OBRA)<sup>1</sup>, which became operative on July 1, 2019. The purpose of OBRA was to establish a process for ongoing review and analysis of occupational regulations in Nebraska, with the primary responsibility for such reviews assigned to the 14 standing committees of the Legislature.

Under OBRA, an “occupational regulation” is defined as a statute, rule, regulation, practice, policy, or other state law requiring an individual to possess certain personal qualifications or to comply with registration requirements to use an occupational title or work in a lawful occupation. Beginning in 2019, each standing committee of the Legislature is required to annually review and analyze approximately twenty percent (20%) of the occupational regulations within the jurisdiction of the committee and prepare and submit an annual report electronically to the Clerk of the Legislature by December 15 of each year. Each report shall include the committee’s recommendations regarding whether the occupational regulations should be terminated, continued, or modified.

Based off an initial review of occupational regulations by the Executive Board of the Legislature in 2019, there were three occupational regulations identified as under the jurisdiction of the Urban Affairs Committee<sup>2</sup>. The committee chose not to conduct any occupational regulation reviews in 2019, and selected Fire Alarm Inspectors for review in 2020. In order to facilitate the occupational regulation review, the committee introduced LR 369, an interim study to review the occupational regulations for fire alarm inspectors.

The Executive Board of the Legislature created an electronic survey to help each committee accomplish the task of reviewing each occupational licensing agency. Survey responses for each agency are published on the Legislature’s website.

The Nebraska State Fire Marshal is the agency that oversees the regulation of Fire Alarm Inspectors. The survey response from the Fire Marshal can be found at: [https://www.nebraskalegislature.gov/reports/committeesurvey\\_view.php](https://www.nebraskalegislature.gov/reports/committeesurvey_view.php)

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<sup>1</sup> Nebraska Revised Statute §84-933 to §84-948

<sup>2</sup> Fire Alarm Inspector, Master Plumber, and Radon Specialist & Technician

## Background & Legislative History

Nebraska has required certification of Fire Alarm Inspectors by the State Fire Marshal since 1977<sup>3</sup>. The legislative history of the requirement's origins is somewhat unclear, as the statutory section that created the requirement<sup>4</sup> was added as a floor amendment to an omnibus criminal code bill. The floor amendment does not appear to contain the contents of any legislative bill introduced in the 1977 legislative session, nor does there appear to be any record of a committee hearing on the contents of the floor amendment.

Since its adoption in 1977, the statutory language requiring certification of Fire Alarm Inspectors has only been amended twice: 1) in 1982<sup>5</sup>, the fee charged by the Fire Marshal for certification examinations was increased from twenty-five dollars to one-hundred dollars; and 2) in 1993<sup>6</sup>, references to limited liability companies were added to the list of entities that were required to seek certification from the Fire Marshal.

Under Nebraska Revised Statute §28-1251, it is unlawful for any person, association, partnership, limited liability company, or corporation to conduct fire alarm tests and fire alarm inspections without prior written certification by the State Fire Marshal as to the qualification of the individuals conducting such tests and inspections. The Fire Marshall has the authority to formulate reasonable guidelines to determine qualifications for fire alarm inspectors and is required to administer an examination pursuant to such guidelines prior to certification of applicants. The Fire Marshall may charge a fee of one-hundred dollars to cover the costs of administering such examinations.

While state statute refers to the occupational regulation of Fire Alarm Inspectors as certification<sup>7</sup>, the process currently utilized for such regulation more closely resembles an occupational license<sup>89</sup>. The Nebraska State Fire Marshal agency, which is a code agency, is solely responsible for the certification and licensing of Fire Alarm Inspectors, and there is not a separate occupational board responsible for the enforcement of these occupational regulations.

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<sup>3</sup> LB 38 (1977)

<sup>4</sup> Nebraska Revised Statute §28-1251

<sup>5</sup> LB 928 (1982)

<sup>6</sup> LB 121 (1993)

<sup>7</sup> Nebraska Revised Statute §84-935 defines a "government certification" as a nontransferable recognition granted to an individual by an occupational board through a voluntary program in which the individual meets personal qualifications established by the Legislature.

<sup>8</sup> Nebraska Revised Statute §84-939 defines an "occupational license" as a nontransferable authorization in law (1) for an individual to perform exclusively a lawful occupation for compensation based on meeting personal qualifications established by the Legislature and (2) which is required in order to legally perform the lawful occupation for compensation.

<sup>9</sup> In fact, the State Fire Marshal agency refers to the certification as a license.

## Committee Findings

Pursuant to Nebraska Revised Statute §84-948, each report issued by a standing committee of the Legislature must contain the following information (*responses in italics*):

- 1) The title of the regulated occupation and the name of the occupational board responsible for the enforcement of the occupational regulations;

*Title of Regulated Occupation: Fire Alarm Inspectors*

*Name of Occupational Board: There is no separate occupational board for the regulation of Fire Alarm Inspectors. The Nebraska State Fire Marshal agency is responsible for the certification and licensing of Fire Alarm Inspectors.*

- 2) The statutory citation or other authorization for the creation of the occupational regulations and occupational board;

*Nebraska Revised Statute §28-1251*

- 3) The number of members of the occupational board and how the members are appointed;

*Not applicable*

- 4) The qualifications for membership on the occupational board;

*Not applicable*

- 5) The number of times the occupational board is required to meet during the year and the number of times it actually met;

*Not applicable*

- 6) Annual budget information for the occupational board for the five most recently completed fiscal years;

*The State Fire Marshal agency employs one shared support staff to oversee the certification and licensing of Fire Alarm Inspectors. The annual budget for the certification and licensing program, which is funded using General Funds, is as follows:*

*Fiscal Year 2019-2020 Budget: \$1,652*

*Fiscal Year 2018-2019 Budget: \$1,619  
Fiscal Year 2017-2018 Budget: \$1,586  
Fiscal Year 2016-2017 Budget: \$1,555  
Fiscal Year 2015-2016 Budget: \$1,524*

- 7) For the immediately preceding five calendar years, or for the period of time less than five years for which the information is practically available, the number of government certifications, occupational licenses, and registrations the occupational board has issued, revoked, denied, or assessed penalties against, listed anonymously and separately per type of credential, and the reasons for such revocations, denials, and other penalties;

*Since 2015, there have been a total of 252 Fire Alarm Inspector certificates/licenses issued by the State Fire Marshal agency. Each certificate/license is valid for a three-year period, and the certificates/licenses issued each year are a combination of renewals and new certificates/licenses. The number of certificates/licenses issued annually are as follows:*

*2020 Certificates/Licenses: 28 (as of agency reporting date<sup>10</sup>)  
2019 Certificates/Licenses: 47  
2018 Certificates/Licenses: 60  
2017 Certificates/Licenses: 37  
2016 Certificates/Licenses: 37  
2015 Certificates/Licenses: 43*

*No Fire Alarm Inspector certificates/licenses have been revoked, denied, or assessed penalties against by the State Fire Marshal agency since 2015.*

- 8) A review of the basic assumptions underlying the creation of the occupational regulations;

*Simply put, fire alarms help save lives and are an important component of public safety. The importance of making sure those systems are functioning correctly is vital to the general public. These systems can be very complex and specialized training and expertise is needed to ensure the proper working functions are maintained. Having the individuals who inspect these systems licensed in Nebraska ensures that they are up to date on items and conditions specific in Nebraska.*

- 9) A statement from the occupational board on the effectiveness of the occupational regulations; and

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<sup>10</sup> Data on the number of certificates/licenses issued by the agency was reported on October 5, 2020

*The State Fire Marshal agency feels the certification requirements for Fire Alarm System Inspectors to be certified has been very effective because there have been no reported fires where the Fire Alarm system malfunctioned. If such a malfunction occurred it could lead to the loss of life in a fire emergency.*

*The general public has come to rely on the safety provided by these systems and they must be maintained correctly. The licensing in Nebraska helps to ensure that systems installed and then inspected here are going to meet the unique topography and weather conditions for our state. Many of these systems work collaboratively with fire suppression systems and maintaining accurate interplay is vital for life safety.*

10) A comparison of whether and how other states regulate the occupation.

*The National Fire Prevention Association (NFPA) Pamphlet #72, commonly referred to as the National Fire Alarm and Signaling Code Handbook, provides the requirements that must be met for fire alarm systems and includes inspection requirements. According to the State Fire Marshal agency, this is the adopted standard in many jurisdictions and that is referenced in the Nebraska State Fire Code and other standard fire codes, such as the International Fire Code.*

*According to the State Fire Marshal, there is no national standard for how states license Fire Alarm Inspectors, and not all states have a licensing requirement. Some states only require a registration showing qualifications and certifications from other entities. For those states that have licensing requirements, there are a variety of models for how the license will be issued and the interplay between state and local entities for the various fire code types and provisions.*

*Based off information provided by the State Fire Marshal, most of Nebraska's surrounding states provides some form of licensing or certification for Fire Alarm Inspectors. A brief description of the licensing or certification requirements in Nebraska's surrounding states can be found below. For more detailed information, please view the State Fire Marshal's comparison chart at <https://www.nebraskalegislature.gov/pdf/SurveyDocs/comparison1601925648.pdf>*

*Colorado: The State of Colorado requires the registration of fire inspectors, and fire inspectors performing construction plan review and inspections must be either a "certified fire inspector" or "certified fire suppression system inspector". There are three levels of qualifications for certified fire inspectors: Fire Inspector I, Fire Inspector II, and Fire Inspector III/Plans Examiner. Certificates are issued by the Colorado Department of Public Safety.*

*Iowa: The State of Iowa requires certification<sup>11</sup> for fire alarm systems that “annunciate” a call, and companies that install such systems and their employees must be certified as alarm system contractors and installers. Certification is also required for maintenance and inspection or testing of these systems.*

*Alarm system contractors and installers must maintain current registration with the Iowa Workforce Development Department. The Iowa State Fire Marshal conducts a national criminal history check on all alarm system contractors and installers upon application for licensure and at the time of renewal.*

*Kansas: The State of Kansas does not require licensing of fire alarm companies, but businesses which install, inspect, maintain, modify, or repair fire alarm systems are required to register with the Office of the State Fire Marshal. All plans for fire alarm systems must also be approved by the Fire Marshal.*

*Missouri: The State of Missouri does not have an adopted statewide fire code, so there is no state requirement for facilities to have annual fire alarm inspections. Facilities that are otherwise licensed by other state agencies (child care facilities, long-term care facilities, mental health facilities, etc.) are required to be inspected by the Missouri State Fire Marshal. The Fire Safety Inspection Unit in the Office of the State Fire Marshal consists of one deputy chief inspector, two regional chief inspectors, and seventeen inspectors assigned throughout the state.*

*Many Missouri communities have adopted local fire or building codes which require fire alarm inspections, but the state does not appear to license or certify private fire alarm inspectors.*

In addition, each report issued by a standing committee of the Legislature must analyze whether the occupational regulations meet the policy goals established under OBRA and consider the following recommended courses of action for meeting such policy goals (*responses in italics*):

- 1) If the need is to protect consumers against fraud, the likely recommendation will be to strengthen powers under the Uniform Deceptive Trade Practices Act or require disclosures that will reduce misleading attributes of the specific goods or services;

*Not applicable*

- 2) If the need is to protect consumers against unclean facilities or to promote general health and safety, the likely recommendation will be to require periodic inspections of such facilities;

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<sup>11</sup> As with Nebraska’s certification requirements, Iowa’s required certification appears to be more closely resemble an occupational licensing requirement.

*Periodic inspection of fire alarm systems is required under NFPA Pamphlet #64 and referenced in the Nebraska State Fire Code. Certification and licensing of Fire Alarm Inspectors is designed to ensure the qualifications of the individuals conducting such periodic inspections.*

- 3) If the need is to protect consumers against potential damages from failure by providers to complete a contract fully or up to standards, the likely recommendation will be to require that providers be bonded;

*Not applicable*

- 4) If the need is to protect a person who is not party to a contract between the provider and consumer, the likely recommendation will be to require that the provider have insurance;

*Not applicable*

- 5) If the need is to protect consumers against a shortfall or imbalance of knowledge about the goods or services relative to the provider's knowledge, the likely recommendation will be to enact government certification; and

*Not applicable*

- 6) If the need is to address a systematic information shortfall such that a reasonable consumer is unable to distinguish between the quality of providers, there is an absence of institutions that provide adequate guidance to the consumer, and the consumer's inability to distinguish between providers and the lack of adequate guidance allows for undue risk of present, significant, and substantiated harms, the likely recommendation will be to enact an occupational license.

*Not applicable*

## Conclusion & Recommendations

Among the policy goals established under OBRA<sup>12</sup> is the goal to use the least restrictive regulation which is necessary to protect consumers from undue risk of present, significant, and substantiated harms that clearly threaten or endanger the health, safety, or welfare of the public when competition alone is not sufficient and which is consistent with the public interest. In the case of Fire Alarm Inspectors, the occupational regulations are designed to ensure that fire alarm systems are properly inspected and functioning correctly in order to save lives. A fire alarm system malfunction could result in a significant loss of life in the event of a fire emergency.

Fire alarm systems can be quite complex, and having licensed, certified inspectors ensures that these complex systems are maintained correctly. According to the State Fire Marshal agency, the public has come to rely on the safety provided by these systems.

The Urban Affairs Committee finds that the current occupational regulations for Fire Alarm Inspectors appear to be consistent with the policy goals established under OBRA, and recommends that the certification and licensing of Fire Alarm Inspectors by the State Fire Marshal agency be continued with no modifications.

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<sup>12</sup> Nebraska Revised Statute §84-946