

SENATE BILL NO. 133—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF LEGISLATIVE COMMITTEE ON
WORKERS' COMPENSATION)

FEBRUARY 5, 1999

Referred to Committee on Commerce and Labor

SUMMARY—Establishes provisions governing consolidated insurance programs. (BDR 53-384)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

AN ACT relating to industrial insurance; authorizing certain private companies, public entities and utilities to establish and administer a consolidated insurance program to obtain industrial insurance coverage for a construction project; providing certain limitations regarding the scope of a consolidated insurance program; ***authorizing the state industrial insurance system or certain private carriers to provide industrial insurance coverage for a consolidated insurance program; requiring that a consolidated insurance program must provide for the safety and administration of claims of employees of contractors and subcontractors who are engaged in a construction project; setting forth the provisions that must be included within a contract to provide industrial insurance coverage for a consolidated insurance program; allocating responsibility for the payment of claims for industrial insurance that are covered by a consolidated insurance program; and providing other matters properly relating thereto.***

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 616A of NRS is hereby amended by adding thereto
- 2 the provisions set forth as sections 2, 3 and 4 of this act.
- 3 **Sec. 2. “Consolidated insurance program” means a program of**
- 4 ***insurance that provides, for a specified period:***
- 5 ***1. Industrial insurance coverage;***
- 6 ***2. A comprehensive program of safety; and***
- 7 ***3. For the administration of claims for industrial insurance,***

1 *for each employee of a contractor or subcontractor who is engaged in a*
2 *construction project when such an employee works at the site of the*
3 *construction project.*

4 **Sec. 3. “Contractor-controlled insurance program” means a**
5 ***consolidated insurance program that is established and administered by***
6 ***the principal contractor of the construction project.***

7 **Sec. 4. “Owner-controlled insurance program” means a**
8 ***consolidated insurance program that is established and administered by***
9 ***the owner of the construction project.***

10 **Sec. 5.** NRS 616A.020 is hereby amended to read as follows:

11 616A.020 1. The rights and remedies provided in chapters 616A to
12 616D, inclusive, of NRS for an employee on account of an injury by
13 accident sustained arising out of and in the course of the employment shall
14 be exclusive, except as otherwise provided in those chapters, of all other
15 rights and remedies of the employee, his personal or legal representatives,
16 dependents or next of kin, at common law or otherwise, on account of such
17 injury.

18 2. The terms, conditions and provisions of chapters 616A to 616D,
19 inclusive, of NRS for the payment of compensation and the amount thereof
20 for injuries sustained or death resulting from such injuries shall be
21 conclusive, compulsory and obligatory upon both employers and
22 employees coming within the provisions of those chapters.

23 3. The exclusive remedy provided by this section to a principal
24 contractor extends, with respect to any injury by accident sustained by an
25 employee of any contractor in the performance of the contract, to every
26 architect, land surveyor or engineer who performs services for:

- 27 (a) The contractor;
28 (b) The owner of the property; or
29 (c) Any such beneficially interested persons.

30 4. ***The exclusive remedy provided by this section applies to the owner***
31 ***of a construction project who provides industrial insurance coverage for***
32 ***the project by establishing and administering a consolidated insurance***
33 ***program pursuant to section 8 of this act to the extent that the program***
34 ***covers the employees of the contractors and subcontractors who are***
35 ***engaged in the construction of the project.***

36 5. If an employee receives any compensation or accident benefits under
37 chapters 616A to 616D, inclusive, of NRS, the acceptance of such
38 compensation or benefits shall be in lieu of any other compensation, award
39 or recovery against his employer under the laws of any other state or
40 jurisdiction and such employee is barred from commencing any action or
41 proceeding for the enforcement or collection of any benefits or award under
42 the laws of any other state or jurisdiction.

1 **Sec. 6.** NRS 616A.025 is hereby amended to read as follows:

2 616A.025 As used in chapters 616A to 616D, inclusive, of NRS,
3 unless the context otherwise requires, the words and terms defined in NRS
4 616A.030 to 616A.360, inclusive, *and sections 2, 3 and 4 of this act*, have
5 the meanings ascribed to them in those sections.

6 **Sec. 6.5.** NRS 616A.230 is hereby amended to read as follows:

7 616A.230 “Employer” means:

8 1. The state, and each county, city, school district, and all public and
9 quasi-public corporations therein without regard to the number of persons
10 employed.

11 2. Every person, firm, voluntary association, and private corporation,
12 including any public service corporation, which has in service any person
13 under a contract of hire.

14 3. The legal representative of any deceased employer.

15 4. The Nevada rural housing authority.

16 5. *An owner or principal contractor who establishes and administers*
17 *a consolidated insurance program pursuant to section 8 of this act, with*
18 *respect to the employees covered under that consolidated insurance*
19 *program.*

20 **Sec. 7.** Chapter 616B of NRS is hereby amended by adding thereto the
21 provisions set forth as sections 8 to 21, inclusive, of this act.

22 **Sec. 8. 1.** *A private company, public entity or utility may:*

23 *(a) Establish and administer a consolidated insurance program to*
24 *provide industrial insurance coverage for employees of contractors and*
25 *subcontractors who are engaged in a construction project of which the*
26 *private company, public entity or utility is the owner or principal*
27 *contractor, if the estimated total cost of the construction project is equal*
28 *to or greater than the threshold amount established by the commissioner*
29 *pursuant to subsection 3; and*

30 *(b) As a condition precedent to the award of a contract to perform*
31 *work on the construction project, require that contractors and*
32 *subcontractors who will be engaged in the construction of the project*
33 *participate in the consolidated insurance program.*

34 2. *If a private company, public entity or utility:*

35 *(a) Establishes and administers a consolidated insurance program;*
36 *and*

37 *(b) Pursuant to the contract for the construction of the project, owes a*
38 *periodic payment to a contractor or subcontractor whose employees are*
39 *covered under the consolidated insurance program,*
40 *the private company, public entity or utility shall not withhold such a*
41 *periodic payment on the basis that the contractor or subcontractor has*
42 *not signed an employer’s report of industrial injury or occupational*
43 *disease as required pursuant to NRS 616C.045.*

1 3. The commissioner shall establish the threshold amount that the
2 estimated total cost of a construction project must be equal to or greater
3 than before a consolidated insurance program may be established and
4 administered for that project pursuant to this section. The base amount
5 for the threshold must initially be \$150,000,000 and thereafter must be
6 an amount equal to \$150,000,000 as adjusted by the commissioner on
7 June 30 of each year to reflect the present value of that amount with
8 respect to the construction cost index.

9 4. As used in this section:

10 (a) "Construction cost index" means the construction cost index
11 published by the Engineering News-Record as a measure of inflation.

12 (b) "Estimated total cost" means the estimated cost to complete all
13 parts of a construction project, including, without limitation, the cost of:

14 (1) Designing the project;

15 (2) Acquiring the real property on which the project will be
16 constructed;

17 (3) Connecting the project to utilities;

18 (4) Excavating and carrying out underground improvements for the
19 project; and

20 (5) Acquiring equipment and furnishings for the project.

21 The term does not include the cost of any fees or charges associated with
22 acquiring the money necessary to complete the project.

23 Sec. 9. (Deleted by amendment.)

24 Sec. 10. A consolidated insurance program must not cover more
25 than one construction project.

26 Sec. 11. A consolidated insurance program may cover more than
27 one construction project.

28 Sec. 12. 1. The system or a private carrier who is authorized to
29 transact industrial insurance in this state may contract with a private
30 company, public entity or utility to provide industrial insurance coverage
31 for a consolidated insurance program.

32 2. A private company, public entity or utility that enters into a
33 contract with the system or a private carrier for the provision of
34 industrial insurance coverage for a consolidated insurance program
35 shall file a copy of the contract with the commissioner at least 60 days
36 before the date on which the construction project is scheduled to begin.

37 3. The commissioner shall, within 60 days after receiving a copy of a
38 contract pursuant to subsection 2, review and approve or disapprove the
39 contract. If the commissioner does not disapprove the contract within 60
40 days after receiving it, the contract shall be deemed approved.

41 Sec. 13. 1. A consolidated insurance program that a private
42 company, public entity or utility is authorized to establish and administer
43 pursuant to section 8 of this act must, in the manner set forth in this

1 section, provide for the safety of an employee of a contractor or
2 subcontractor who is engaged in the construction project when such an
3 employee works at the site of the construction project.

4 2. The owner or principal contractor of the construction project shall
5 develop and carry out a safety program that includes, without limitation:

6 (a) The establishment of minimum standards of safety to be observed
7 during construction of the project;

8 (b) The holding of regular meetings to address and discuss issues
9 related to safety;

10 (c) Training of contractors and subcontractors regarding issues and
11 procedures related to safety;

12 (d) Regular inspections of the site of the construction project to
13 identify potential safety hazards and ensure that minimum standards of
14 safety are being observed;

15 (e) The notification of contractors and subcontractors of special
16 hazards that exist at the site of the construction project, including advice
17 on ways in which the contractors and subcontractors can avoid those
18 hazards; and

19 (f) The prompt investigation of any injuries that take place at the site
20 of the construction project which result in death or serious bodily injury.

21 3. The owner or principal contractor of the construction project shall
22 hire or contract with two persons to serve as the primary and alternate
23 coordinators for safety for the construction project. The primary and
24 alternate coordinators for safety must:

25 (a) Possess credentials in the field of safety that the administrator
26 determines to be adequate to prepare a person to act as a coordinator for
27 safety for a construction project, including, without limitation,
28 credentials issued by the:

29 (1) Board of Certified Safety Professionals; or

30 (2) Insurance Institute of America; or

31 (b) Have at least 3 years of experience in overseeing matters of
32 occupational safety and health in the field of construction that the
33 administrator determines to be adequate to prepare a person to act as a
34 coordinator for safety for a construction project.

35 4. The primary and alternate coordinators for safety for the
36 construction project:

37 (a) Must not serve as coordinators for safety for another construction
38 project that is covered by a different consolidated insurance program;

39 (b) Shall oversee and enforce the safety program established pursuant
40 to subsection 2, including, without limitation, resolving problems related
41 to the operation of the safety program; and

42 (c) Shall ensure that the contractors, employers and subcontractors
43 who are engaged in the construction of the project coordinate their

1 *efforts regarding issues of occupational safety and health to create and*
2 *maintain a safe and healthful workplace.*

3 *5. The alternate coordinator for safety shall report to the primary*
4 *coordinator for safety regarding activities that take place at the site of the*
5 *construction project when the primary coordinator is absent.*

6 *6. The owner or principal contractor of the construction project shall*
7 *ensure that the primary or alternate coordinator for safety for the*
8 *construction project is physically present at the site of the construction*
9 *project whenever activity related to construction is taking place at the*
10 *site.*

11 **Sec. 14.** *A consolidated insurance program that a private company,*
12 *public entity or utility is authorized to establish and administer pursuant*
13 *to section 8 of this act must, in the manner set forth in this section,*
14 *provide for the administration of claims for industrial insurance for an*
15 *employee of a contractor or subcontractor who is engaged in the*
16 *construction project when such an employee works at the site of the*
17 *construction project.*

18 *2. The owner or principal contractor of the construction project shall*
19 *hire or contract with a person to serve as the administrator of claims for*
20 *industrial insurance for the construction project. Such a person must not*
21 *serve as an administrator of claims for industrial insurance for another*
22 *construction project that is covered by a different consolidated insurance*
23 *program.*

24 *3. The administrator of claims for industrial insurance for the*
25 *construction project who is hired or with whom the owner or principal*
26 *contractor contracts pursuant to subsection 2 shall:*

27 *(a) Assist an employee who is covered under the consolidated*
28 *insurance program or, in the event of the employee's death, one of his*
29 *dependents, in filing a written notice of injury or death as required*
30 *pursuant to NRS 616C.015 or a written notice of an occupational disease*
31 *as required pursuant to NRS 617.342;*

32 *(b) Sign and file on behalf of a contractor or subcontractor whose*
33 *employees are covered under the consolidated insurance program an*
34 *employer's report of industrial injury or occupational disease as required*
35 *pursuant to NRS 616C.045 or 617.354;*

36 *(c) Ensure that an employee who is covered under the consolidated*
37 *insurance program and who has been injured or who has incurred an*
38 *occupational disease while working on the construction project is*
39 *directed to a medical facility that will provide treatment to the employee*
40 *under the program;*

41 *(d) Handle all issues, to the extent reasonably practicable, relating to*
42 *claims for industrial insurance at the site of the construction project; and*

1 (e) Hire or contract such assistant administrators as may be necessary
2 to carry out his responsibilities pursuant to this section.

3 4. The owner or principal contractor of the construction project shall
4 ensure that the administrator of claims for industrial insurance for the
5 construction project or an assistant administrator is physically present at
6 the site of the construction project whenever activity related to
7 construction is taking place at the site.

8 Sec. 15. (Deleted by amendment.)

9 Sec. 16. 1. A consolidated insurance program must not provide
10 industrial insurance coverage, a comprehensive program of safety or for
11 the administration of claims for industrial insurance for an employee of
12 a contractor or subcontractor who is engaged in the construction of the
13 project that is covered by the consolidated insurance program at any time
14 that such an employee does not work at the site of the construction
15 project.

16 2. A contractor or subcontractor who is engaged in the construction
17 of a project that is covered by a consolidated insurance program shall
18 maintain separate industrial insurance coverage for its employees who:

19 (a) Are not assigned to participate in the construction of the project;
20 or

21 (b) Are assigned to participate in the construction of the project but
22 who do not work at the site of the project.

23 3. The owner or principal contractor of a construction project shall
24 reimburse a contractor or subcontractor who bids successfully on the
25 construction project for the cost of providing separate industrial
26 insurance coverage for an employee if:

27 (a) The contractor or subcontractor set the amount of his bid in a
28 reasonable, good faith belief that the employee would work at the site of
29 the construction project and would therefore be covered by the
30 consolidated insurance program; and

31 (b) Because of changed circumstances not reasonably foreseeable at
32 the time the bid was submitted, the employee worked in whole or in part
33 at a location other than the site of the construction project, requiring the
34 contractor or subcontractor to obtain separate industrial insurance
35 coverage for that employee.

36 Sec. 17. If an owner or principal contractor establishes and
37 administers a consolidated insurance program pursuant to section 8 of
38 this act, each employee who is covered under the consolidated insurance
39 program shall be deemed to be an employee of the owner or principal
40 contractor for the purpose of determining the loss experience of the
41 owner or principal contractor.

1 **Sec. 18.** *With respect to a construction project for which the owner*
2 *intends to establish and administer an owner-controlled insurance*
3 *program or the principal contractor intends to establish and administer a*
4 *contractor-controlled insurance program, the owner or principal*
5 *contractor, as appropriate, shall:*

6 1. *In the notice or advertisement for bids for the construction of the*
7 *project, state:*

8 (a) *That the employees of contractors and subcontractors who are*
9 *engaged in the construction of the project will be covered under a*
10 *consolidated insurance program when such employees work at the site of*
11 *the project; and*

12 (b) *Whether such a program will be an owner-controlled insurance*
13 *program or a contractor-controlled insurance program; and*

14 2. *Hold a pre-bid conference at which it provides to potential*
15 *contractors and subcontractors, without limitation, the following*
16 *information:*

17 (a) *A general explanation of the manner in which a consolidated*
18 *insurance program operates;*

19 (b) *An overview of the provisions of sections 8 to 21, inclusive, of this*
20 *act;*

21 (c) *A general description of the safety procedures that will be required*
22 *as part of the consolidated insurance program; and*

23 (d) *The procedures pursuant to which claims for industrial insurance*
24 *will be administered.*

25 **Sec. 19.** *The system or a private carrier who contracts to provide*
26 *industrial insurance coverage for a consolidated insurance program*
27 *pursuant to section 12 of this act is liable to pay each claim for industrial*
28 *insurance that is covered by the program, regardless of whether:*

29 1. *The claim is filed after the completion of the construction project;*
30 *or*

31 2. *Any party to the contract is not transacting business within this*
32 *state at the time the claim is filed.*

33 **Sec. 20.** *A contract for the provision of industrial insurance that is*
34 *authorized pursuant to section 12 of this act must include, without*
35 *limitation:*

36 1. *Provisions that require compliance with each of the requirements*
37 *relating to safety and the administration of claims for industrial*
38 *insurance at the site of the construction project that are set forth in*
39 *sections 13 and 14 of this act;*

40 2. *The names and qualifications of the persons appointed to oversee*
41 *issues of safety and the administration of claims for industrial insurance*
42 *at the site of the construction project pursuant to sections 13 and 14 of*
43 *this act;*

1 **3. The terms and conditions pursuant to which the contract provides**
2 **industrial insurance coverage. The terms and conditions must include,**
3 **without limitation:**

4 **(a) A definition of the site of the construction project that:**

5 **(1) Delineates clearly the area within which coverage is provided;**
6 **and**

7 **(2) Is reasonably contiguous to the actual physical site of the**
8 **construction project; and**

9 **(b) A description of the scope and details of the construction project**
10 **and the duration of industrial insurance coverage that is provided for the**
11 **project;**

12 **4. A list in which the owner, principal contractor, construction**
13 **manager, contractors and subcontractors of the construction project are**
14 **set forth as named insureds; and**

15 **5. A provision setting forth the penalties to which the owner,**
16 **principal contractor, construction manager, contractors and**
17 **subcontractors of the construction project may be subject if such persons**
18 **or entities fail to comply with the provisions relating to safety and the**
19 **administration of claims for industrial insurance that are required**
20 **pursuant to sections 13 and 14 of this act.**

21 **Sec. 21. The commissioner may adopt such regulations as the**
22 **commissioner determines are necessary to carry out the provisions of**
23 **sections 8 to 21, inclusive, of this act, to the extent that the authority**
24 **granted pursuant to this section does not duplicate authority granted to**
25 **the administrator.**

26 **Sec. 22. NRS 616B.612 is hereby amended to read as follows:**

27 616B.612 1. Every employer within the provisions of chapters 616A
28 to 616D, inclusive, or 617 of NRS, and those employers who accept the
29 terms of those chapters and are governed by their provisions, shall provide
30 and secure compensation according to the terms, conditions and provisions
31 of those chapters for any personal injuries by accident sustained by an
32 employee arising out of and in the course of the employment.

33 **2. A contractor or subcontractor shall be deemed to have provided**
34 **and secured compensation for his employees as required pursuant to**
35 **subsection 1 to the extent that those employees are covered by a**
36 **consolidated insurance program.**

37 **3. Travel for which an employee receives wages shall, for the purposes**
38 **of chapters 616A to 616D, inclusive, of NRS, be deemed in the course of**
39 **employment.**

40 ~~3.~~ **4. In such cases the employer or any insurer of the employer is**
41 **relieved from other liability for recovery of damages or other compensation**
42 **for those personal injuries unless otherwise provided by the terms of**
43 **chapters 616A to 616D, inclusive, of NRS.**

1 **Sec. 23.** NRS 616C.045 is hereby amended to read as follows:

2 616C.045 1. ~~{Within}~~ *Except as otherwise provided in section 14 of*
3 *this act, within* 6 working days after the receipt of a claim for
4 compensation from a physician or chiropractor, an employer shall complete
5 and file with his insurer or third-party administrator an employer's report of
6 industrial injury or occupational disease.

7 2. The report must:

8 (a) Be on a form prescribed by the administrator;

9 (b) Be signed by the employer or his designee;

10 (c) Contain specific answers to all questions required by the regulations
11 of the administrator; and

12 (d) Be accompanied by a statement of the wages of the employee if the
13 claim for compensation received from the treating physician or chiropractor
14 indicates that the injured employee is expected to be off work for 5 days or
15 more.

16 3. An employer who files the report required by subsection 1 by
17 electronic transmission shall, upon request, mail to the insurer or third-
18 party administrator the form that contains the original signature of the
19 employer or his designee. The form must be mailed within 7 days after
20 receiving such a request.

21 4. The administrator shall impose an administrative fine of not more
22 than \$1,000 on an employer for each violation of this section.

23 **Sec. 24.** NRS 617.354 is hereby amended to read as follows:

24 617.354 1. ~~{Within}~~ *Except as otherwise provided in section 14 of*
25 *this act, within* 6 working days after the receipt of a claim for
26 compensation from a physician or chiropractor, an employer shall complete
27 and file with his insurer or third-party administrator an employer's report of
28 industrial injury or occupational disease.

29 2. The report must:

30 (a) Be on a form prescribed by the administrator;

31 (b) Be signed by the employer or his designee;

32 (c) Contain specific answers to all questions required by the regulations
33 of the department; and

34 (d) Be accompanied by a statement of the wages of the employee if the
35 claim for compensation received from the treating physician or chiropractor
36 indicates that the employee is expected to be off work for 5 days or more.

37 3. An employer who files the report required by subsection 1 by
38 electronic transmission shall, upon request, mail to the insurer or third-
39 party administrator the form that contains the original signature of the
40 employer or his designee. The form must be mailed within 7 days after
41 receiving such a request.

42 4. The administrator shall impose an administrative fine of not more
43 than \$1,000 against an employer for each violation of this section.

1 **Sec. 25.** NRS 686A.200 is hereby amended to read as follows:

2 686A.200 1. ~~[No]~~ *Except as otherwise provided in section 8 of this*
3 *act, no* person shall require, directly or indirectly, or through any trustee,
4 director, officer, agent or employee or affiliate, as a condition, agreement
5 or understanding to selling or furnishing any other person any loan, or
6 extension thereof, credit, sale, goods, property, contract, lease or service,
7 that such other person shall place, continue (other than as to life insurance)
8 or renew any policy of insurance of any kind through any particular agent,
9 broker or insurer. No agent, broker or insurer shall knowingly participate in
10 any such prohibited plan or transaction. No person shall fix a price charged
11 for such thing or service, or discount from or rebate upon price, on the
12 condition, agreement or understanding that any insurance is to be obtained
13 through a particular agent, broker or insurer.

14 2. Subsection 1 does not prevent:

15 (a) The exercise by any such person upon a reasonable basis of any right
16 to approve or disapprove of the insurer and representative to underwrite the
17 insurance. Such basis shall relate only to the adequacy and terms of the
18 coverage with respect to the interest of the vendor, lender, lessor or
19 provider of service to be insured thereunder, the financial standards to be
20 met by the insurer, and the ability of the insurer or representative to service
21 the policy.

22 (b) The exercise by the vendor, lender, lessor or provider of service of
23 the right to furnish or renew the insurance, and to charge the account of the
24 other person with the costs thereof, if such other person fails to deliver such
25 insurance to the lender, vendor, lessor or provider of service, where
26 otherwise called for and in order, at least 15 days prior to expiration of the
27 existing policy.

28 **Sec. 26.** NRS 686A.220 is hereby amended to read as follows:

29 686A.220 1. ~~[No]~~ *Except as otherwise provided in section 8 of this*
30 *act, no* officer or employee of this state, or of any public agency, public
31 authority or public corporation (except a public corporation or public
32 authority created pursuant to agreement or compact with another state), and
33 no person acting or purporting to act on behalf of such officer or employee,
34 or public agency or public authority or public corporation, shall, with
35 respect to any public building or construction contract which is about to be
36 or which has been competitively bid, require the bidder to make application
37 or furnish financial data to, or to obtain or procure any of the surety bonds
38 or contracts of insurance specified in connection with such contracts or by
39 any law from, a particular insurer or agent or broker.

40 2. ~~[No]~~ *Except as otherwise provided in section 8 of this act, no* such
41 officer or employee or any person acting or purporting to act on behalf of
42 such officer or employee shall negotiate, make application for, obtain or
43 procure any of such surety bonds or contracts of insurance (except

1 contracts of insurance for builder's risk or owner's protective liability)
2 which can be obtained or procured by the bidder, contractor or
3 subcontractor.

4 3. This section does not, however, prevent the exercise by such officer
5 or employee on behalf of the state or such public agency, public authority
6 or public corporation of its right to approve the form, sufficiency or manner
7 of execution of the surety bonds or contracts of insurance furnished by the
8 insurer selected by the bidder to underwrite such bonds or contracts of
9 insurance.

10 4. Any provisions in any invitation for bids or in any of the contract
11 documents in conflict with this section are declared to be contrary to the
12 public policy of this state.

13 5. A violation of this section is subject to the penalties provided by
14 NRS 679A.180 (general penalty).

15 **Sec. 26.5.** Sections 68.8 and 140 of Senate Bill No. 37 of this session
16 are hereby amended to read as follows:

17 **Sec. 68.8.** NRS 616D.120 is hereby amended to read as
18 follows:

19 616D.120 1. Except as otherwise provided in this section, if
20 the administrator determines that an insurer, organization for
21 managed care, health care provider, third-party administrator or
22 employer has:

23 (a) Through fraud, coercion, duress or undue influence:

24 (1) Induced a claimant to fail to report an accidental injury or
25 occupational disease;

26 (2) Persuaded a claimant to settle for an amount which is less
27 than reasonable;

28 (3) Persuaded a claimant to settle for an amount which is less
29 than reasonable while a hearing or an appeal is pending; or

30 (4) Persuaded a claimant to accept less than the compensation
31 found to be due him by a hearing officer, appeals officer, court of
32 competent jurisdiction, written settlement agreement, written
33 stipulation or the division when carrying out its duties pursuant to
34 chapters 616A to 617, inclusive, of NRS;

35 (b) Refused to pay or unreasonably delayed payment to a
36 claimant of compensation found to be due him by a hearing officer,
37 appeals officer, court of competent jurisdiction, written settlement
38 agreement, written stipulation or the division when carrying out its
39 duties pursuant to chapters 616A to 616D, inclusive, or chapter 617
40 of NRS, if the refusal or delay occurs:

41 (1) Later than 10 days after the date of the settlement
42 agreement or

stipulation;

1 (2) Later than 30 days after the date of the decision of a court,
2 hearing officer, appeals officer or division, unless a stay has been
3 granted; or

4 (3) Later than 10 days after a stay of the decision of a court,
5 hearing officer, appeals officer or division has been lifted;

6 (c) Refused to process a claim for compensation pursuant to
7 chapters 616A to 616D, inclusive, or chapter 617 of NRS;

8 (d) Made it necessary for a claimant to initiate proceedings
9 pursuant to chapters 616A to 616D, inclusive, or chapter 617 of
10 NRS for compensation found to be due him by a hearing officer,
11 appeals officer, court of competent jurisdiction, written settlement
12 agreement, written stipulation or the division when carrying out its
13 duties pursuant to chapters 616A to 616D, inclusive, or chapter 617
14 of NRS;

15 (e) Failed to comply with the division's regulations covering the
16 payment of an assessment relating to the funding of costs of
17 administration of chapters 616A to 617, inclusive, of NRS;

18 (f) Failed to provide or unreasonably delayed payment to an
19 injured employee or reimbursement to an insurer pursuant to NRS
20 616C.165; or

21 (g) Intentionally failed to comply with any provision of, or
22 regulation adopted pursuant to, this chapter or chapter 616A, 616B,
23 616C or 617 of NRS,
24 the administrator shall impose an administrative fine of \$1,000 for
25 each initial violation, or a fine of \$10,000 for a second or
26 subsequent violation.

27 2. Except as otherwise provided in chapters 616A to 616D,
28 inclusive, or chapter 617 of NRS, if the administrator determines
29 that an insurer, organization for managed care, health care provider,
30 third-party administrator or employer has failed to comply with any
31 provision of this chapter or chapter 616A, 616B, 616C or 617 of
32 NRS, or any regulation adopted pursuant thereto, the administrator
33 may take any of the following actions:

34 (a) Issue a notice of correction for:

35 (1) A minor violation, as defined by regulations adopted by
36 the division; or

37 (2) A violation involving the payment of compensation in an
38 amount which is greater than that required by any provision of this
39 chapter or chapter 616A, 616B, 616C or 617 of NRS, or any
40 regulation adopted pursuant thereto.

41 The notice of correction must set forth with particularity the
42 violation committed and the manner in which the violation may be
43 corrected. ~~{Nothing—in}~~ *The provisions of* this section ~~{authorizes}~~

1 **do not authorize** the administrator to modify or negate in any
2 manner a determination or any portion of a determination made by a
3 hearing officer, appeals officer or court of competent jurisdiction or
4 a provision contained in a written settlement agreement or written
5 stipulation.

6 (b) Impose an administrative fine for:

7 (1) A second or subsequent violation for which a notice of
8 correction has been issued pursuant to paragraph (a); or

9 (2) Any other violation of this chapter or chapter 616A, 616B,
10 616C or 617 of NRS, or any regulation adopted pursuant thereto,
11 for which a notice of correction may not be issued pursuant to
12 paragraph (a).

13 The fine imposed may not be greater than \$250 for an initial
14 violation, or more than \$1,000 for any second or subsequent
15 violation.

16 (c) Order a plan of corrective action to be submitted to the
17 administrator within 30 days after the date of the order.

18 3. If the administrator determines that a violation of any of the
19 provisions of paragraphs (a) to (d), inclusive, of subsection 1 has
20 occurred, the administrator shall order the insurer, organization for
21 managed care, health care provider, third-party administrator or
22 employer to pay to the claimant a benefit penalty in an amount
23 ~~equal to 50 percent of the compensation due or \$10,000, whichever~~
24 ~~is less. In no event may a benefit penalty be less than \$500. The~~
25 **that is not less than \$5,000 and not greater than \$25,000. To**
26 **determine the amount of the benefit penalty, the administrator**
27 **shall consider the degree of physical harm suffered by the injured**
28 **employee or his dependents as a result of the violation of**
29 **paragraph (a), (b), (c) or (d) of subsection 1, the amount of**
30 **compensation found to be due the claimant and the number of**
31 **finances and benefit penalties previously imposed against the insurer,**
32 **organization for managed care, health care provider, third-party**
33 **administrator or employer pursuant to this section. If this is the**
34 **third violation within 5 years for which a benefit penalty has been**
35 **imposed against the insurer, organization for managed care,**
36 **health care provider, third-party administrator or employer, the**
37 **administrator shall also consider the degree of economic harm**
38 **suffered by the injured employee or his dependents as a result of**
39 **the violation of paragraph (a), (b), (c) or (d) of subsection 1.**

40 **Except as otherwise provided in this section, the** benefit penalty is
41 for the benefit of the claimant and must be paid directly to him
42 within 10 days after the date of the administrator's determination. **If**
43 **the claimant is the injured employee and he dies before the**

1 *benefit penalty is paid to him, the benefit penalty must be paid to*
2 *his estate.* Proof of the payment of the benefit penalty must be
3 submitted to the administrator within 10 days after the date of his
4 determination unless an appeal is filed pursuant to NRS 616D.140.
5 Any compensation to which the claimant may otherwise be entitled
6 pursuant to chapters 616A to 616D, inclusive, or chapter 617 of
7 NRS must not be reduced by the amount of any benefit penalty
8 received pursuant to this subsection.

9 4. In addition to any fine or benefit penalty imposed pursuant to
10 this section, the administrator may assess against an insurer who
11 violates any regulation concerning the reporting of claims
12 expenditures used to calculate an assessment an administrative
13 penalty of up to twice the amount of any underpaid assessment.

14 5. If:

15 (a) The administrator determines that a person has violated any
16 of the provisions of NRS 616D.200, 616D.220, 616D.240,
17 616D.300, 616D.310 or 616D.350 to 616D.440, inclusive; and

18 (b) The fraud control unit for industrial insurance established
19 pursuant to NRS 228.420 notifies the administrator that the unit will
20 not prosecute the person for that violation,
21 the administrator shall impose an administrative fine of not more
22 than \$10,000.

23 6. Two or more fines of \$1,000 or more imposed in 1 year for
24 acts enumerated in subsection 1 must be considered by the
25 commissioner as evidence for the withdrawal of:

26 (a) A certificate to act as a self-insured employer.

27 (b) A certificate to act as an association of self-insured public or
28 private employers.

29 (c) A certificate of registration as a third-party administrator.

30 7. The commissioner may, without complying with the
31 provisions of NRS 616B.327 or 616B.431, withdraw the
32 certification of a self-insured employer, association of self-insured
33 public or private employers or third-party administrator if, after a
34 hearing, it is shown that the self-insured employer, association of
35 self-insured public or private employers or third-party administrator
36 violated any provision of subsection 1.

37 **Sec. 140.** 1. This section, section 27, subsection 1 of section
38 127, and sections 128 and 129 of this act become effective upon
39 passage and approval.

40 2. *Subsection 1 of section 132 of this act becomes effective on*
41 *June 1,*

1999.

1 ~~3.~~ 3. Sections 2, 3, 12.5, 86.1, 86.2, 86.6 to 86.9, inclusive, 96.5,
2 116, 122, 126.3, 127.5, **130** and 135 of this act become effective
3 on July 1, 1999.

4 ~~[3.]~~ 4. Section 86.4 of this act becomes effective on July 1,
5 1999, only if Assembly Bill No. 660 of this session is enacted by
6 the legislature.

7 ~~[4.]~~ 5. Sections 20.5, 35, 89, 117 and 139.4 of this act become
8 effective at 12:01 a.m. on July 1, 1999.

9 ~~[5.]~~ 6. Sections 20, 24, 25, 26 and 96 and ~~[subsection 1 of~~
10 ~~section 132]~~ of this act become effective on the date the governor
11 issues a proclamation pursuant to subsection 1 of section 129 of this
12 act.

13 ~~[6.]~~ 7. Sections 29 and 126.5 of this act become effective on
14 the date the governor issues a proclamation pursuant to subsection 1
15 of section 129 of this act, only if the governor issues the
16 proclamation before October 1, 1999.

17 ~~[7.]~~ 8. Section 29.5 of this act becomes effective:

18 (a) At 12:01 a.m. on October 1, 1999, only if the governor issues
19 a proclamation pursuant to subsection 1 of section 129 of this act on
20 October 1, 1999; or

21 (b) On the date the governor issues a proclamation pursuant to
22 subsection 1 of section 129 of this act, only if the governor issues
23 the proclamation after October 1, 1999.

24 ~~[8.]~~ 9. Sections 49.5, 52.5, 53.5, 57.2, 57.4, 62.1 to 62.5,
25 inclusive, 68.2 to 68.8, inclusive, 80.5 and 139.2 of this act become
26 effective on January 1, 2000.

27 ~~[9.]~~ 10. Sections 1, 4 to 12, inclusive, 13 to 19, inclusive, 21,
28 22, 23, 28, 30 to 34, inclusive, 36 to 49, inclusive, 50, 51, 52, 53,
29 54 to 57, inclusive, 58 to 62, inclusive, 64 to 68, inclusive, 69 to 80,
30 inclusive, 81 to 86, inclusive, 87, 88, 90 to 95, inclusive, 97 to 115,
31 inclusive, 118 to 121, inclusive, 123 to 126, inclusive, subsection 2
32 of section 127, ~~[130.]~~ 131, subsection 2 of section 132, 133, 134,
33 136 to 139, inclusive, and 141 of this act become effective on
34 January 1, 2000, only if, on that date, the manager of the state
35 industrial insurance system transfers the assets of the state industrial
36 insurance system to a domestic mutual insurance company pursuant
37 to section 129 of this act.

38 ~~[10.]~~ 11. Section 63 of this act becomes effective at 12:01 a.m.
39 on January 1, 2000, only if, on that date, the manager of the state
40 industrial insurance system transfers the assets of the state industrial
41 insurance system to a domestic mutual insurance company pursuant
42 to section 129 of this act.

1 ~~[11.]~~ 12. Sections 20, 96, 116 and 122 of this act expire by
2 limitation on January 1, 2000, if the manager of the state industrial
3 insurance system transfers the assets of the state industrial insurance
4 system to a domestic mutual insurance company pursuant to section
5 129 of this act.

6 ~~[12.]~~ 13. Section 8 of this act expires by limitation on June 30,
7 2003.

8 ~~[13.]~~ 14. Section 100 of this act expires by limitation on May
9 1, 2013.

10 **Sec. 27.** 1. This section and section 26.5 of this act become effective
11 upon passage and approval.

12 2. Sections 1 to 10, inclusive, and 12 to 26, inclusive, of this act
13 become effective on October 1, 1999.

14 3. Section 10 of this act expires by limitation on September 30, 2001.

15 4. Section 11 of this act becomes effective on October 1, 2001.