

SENATE BILL NO. 495—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF BUDGET DIVISION)

MARCH 19, 1999

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes to provisions governing industrial insurance for industrial injuries and occupational diseases. (BDR 53-1382)

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

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

AN ACT relating to industrial insurance; revising the provisions concerning employee leasing companies; revising the provisions concerning the modified programs of industrial insurance for the department of prisons, jails and other detention facilities; revising the provision concerning the timing of payment of premiums and reporting of payroll to insurers; clarifying that a rate service organization used by an association of self-insured public or private employers must be licensed; clarifying the authority of the commissioner of insurance over private carriers who provide industrial insurance; specifying the authority of the commissioner of insurance to suspend the authorization of a private carrier to provide industrial insurance; revising various provisions to facilitate the authorization of private carriers to provide industrial insurance; reducing the penalty for misrepresenting information that will affect the amount of an employer's premium; revising the provisions concerning payment from the uninsured employers' claim fund; increasing the amount a real estate licensee is deemed to receive as a wage; 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.** NRS 616A.465 is hereby amended to read as follows:
2 616A.465 1. Except as otherwise provided in this section, the
3 division shall:
4 (a) Regulate insurers pursuant to chapters 616A to 617, inclusive, of
5 NRS;

~~and~~

1 (b) Investigate insurers regarding compliance with statutes and the
2 division's regulations ~~[-]~~;

3 *(c) Determine whether an employee leasing company is entitled to a*
4 *certificate of registration pursuant to NRS 616B.673; and*

5 *(d) Regulate employee leasing companies pursuant to the provisions*
6 *of NRS 616B.670 to 616B.697, inclusive.*

7 2. The commissioner is responsible for reviewing rates, investigating
8 the solvency of insurers, authorizing private carriers pursuant to chapter
9 680A of NRS and certifying:

10 (a) Self-insured employers pursuant to NRS 616B.300 to 616B.330,
11 inclusive, and 616B.336;

12 (b) Associations of self-insured public or private employers pursuant to
13 NRS 616B.350 to 616B.446, inclusive; and

14 (c) Third-party administrators pursuant to chapter 683A of NRS.

15 3. The department of administration is responsible for contested claims
16 relating to industrial insurance pursuant to NRS 616C.310 to 616C.385,
17 inclusive. The administrator is responsible for administrative appeals
18 pursuant to NRS 616B.215.

19 4. The Nevada attorney for injured workers is responsible for legal
20 representation of claimants pursuant to NRS 616A.435 to 616A.460,
21 inclusive, and 616D.120.

22 5. The division is responsible for the investigation of complaints. If a
23 complaint is filed with the division, the administrator shall cause to be
24 conducted an investigation which includes a review of relevant records and
25 interviews of affected persons. If the administrator determines that a
26 violation may have occurred, the administrator shall proceed in accordance
27 with the provisions of NRS 616D.120 and 616D.130.

28 **Sec. 2.** Chapter 616B of NRS is hereby amended by adding thereto a
29 new section to read as follows:

30 *An insurer shall not issue a policy of industrial insurance to an*
31 *employer that does not cover each employee of that employer who*
32 *satisfies the definition of employee set forth in NRS 616A.105 to*
33 *616A.225, inclusive.*

34 **Sec. 3.** NRS 616B.039 is hereby amended to read as follows:

35 616B.039 ~~[-]~~ *To determine the total amount paid to employees for*
36 *services performed, the* maximum amount paid to any one employee
37 during the year *in which a policy of industrial insurance is effective* shall
38 be deemed to be \$36,000 . ~~[in determining the total amount paid to~~
39 ~~employees by each employer for services performed during a year.]~~

40 **Sec. 4.** NRS 616B.086 is hereby amended to read as follows:

41 616B.086 1. Except as otherwise provided in subsection 3, all
42 premiums, contributions, penalties, bonds, securities and all other

1 properties received, collected or acquired by the system pursuant to the
2 terms of chapters 616A to 616D, inclusive, of NRS:

3 (a) Must be credited on the records of the system to the state insurance
4 fund.

5 (b) Constitute, for the purpose of custody thereof, the state insurance
6 fund, which must be held by the manager as custodian thereof for the
7 benefit of employees and their dependents within the provisions of chapters
8 616A to 616D, inclusive, of NRS. The manager is liable on his official
9 bond for the faithful performance of his custodial duty.

10 2. The commissioner or the administrator may delegate to a hearing
11 officer or panel his authority to take any disciplinary action pursuant to
12 NRS 616B.318, 616B.321, 616B.350 to 616B.446, inclusive, **616B.463,**
13 **616B.472** or 616D.120, impose and collect administrative fines pursuant to
14 those sections and deposit the money in the fund for workers'
15 compensation and safety.

16 3. If a hearing officer or panel is not authorized to take disciplinary
17 action pursuant to subsection 2 and the commissioner or the administrator
18 deposits the money collected from the imposition of administrative fines
19 with the state treasurer for credit to the state general fund, he may present a
20 claim to the state board of examiners for recommendation to the interim
21 finance committee if money is needed to pay attorney's fees or the costs of
22 an investigation, or both.

23 **Sec. 5.** NRS 616B.095 is hereby amended to read as follows:

24 616B.095 If the provisions of NRS ~~{616B.218, 616B.224 and~~
25 ~~616B.230 for the creation of a}~~ **616B.224 concerning the** state insurance
26 fund, or the provisions of chapters 616A to 616D, inclusive, of NRS
27 making the compensation to the workman provided in those chapters
28 exclusive of any other remedy on the part of the workman, shall be held
29 invalid, each of those chapters shall be thereby invalidated, except the
30 provisions of NRS 616B.101, and an accounting according to the justice of
31 the case shall be had on moneys received. In other respects an adjudication
32 of invalidity of any part of this chapter or chapter 616A, 616C or 616D of
33 NRS shall not affect the validity of any of those chapters as a whole or any
34 part thereof.

35 **Sec. 6.** NRS 616B.104 is hereby amended to read as follows:

36 616B.104 1. Notwithstanding the provisions of chapter 355 of NRS
37 or of any other law, the manager may invest and reinvest any money in the
38 funds of the system deemed available for investment ~~{as provided in}~~
39 **pursuant to** NRS 616B.107 ~~{and 616B.116 to 616B.164, inclusive;}~~ and
40 may employ investment counsel for that purpose.

41 2. The provisions of this section and NRS 616B.107 ~~{and 616B.116 to~~
42 ~~616B.164, inclusive;}~~ do not prevent the manager from making investments
43 in accordance with the provisions of chapter 355 of NRS.

1 **Sec. 7.** NRS 616B.107 is hereby amended to read as follows:

2 616B.107 1. No person engaged in business as a broker or dealer in
3 securities or who has a direct pecuniary interest in any such business who
4 receives commissions for transactions performed as an agent for the system
5 is eligible for employment as investment counsel for the system.

6 2. The manager shall not engage investment counsel unless:

7 (a) The principal business of the person selected by the manager consists
8 of rendering investment supervisory services, that is, the giving of
9 continuous advice as to the investment of money on the basis of the
10 individual needs of each client;

11 (b) The person and his predecessors have been continuously engaged in
12 such business for a period of 3 or more years, and, if a firm or corporation,
13 the senior management personnel of the firm or corporation have an
14 average of 10 years professional experience as investment managers;

15 (c) The person as of the time originally hired, has at least \$250,000,000
16 of assets under management contract, exclusive of any assets related to
17 governmental agencies in this state;

18 (d) The person is registered as an investment adviser under the laws of
19 the United States as from time to time in effect, or is a bank or an
20 investment management subsidiary of a bank;

21 (e) The contract between the system and the investment counsel is of no
22 specific duration and is voidable at any time by either party; and

23 (f) The person has been approved by the state board of finance for
24 employment as investment counsel.

25 3. More than one investment counsel may be employed in the
26 discretion of the manager.

27 4. The expense of such employment must be paid from the state
28 insurance fund.

29 5. Any investment program adopted by the system and all investments
30 made thereunder must be reported quarterly in writing by the manager to
31 the state board of finance, and the report is subject to review by the state
32 board of finance. The state board of finance may require the manager to
33 provide further reports and may recommend modifications in the
34 investment program, including replacement of the investment counsel. If,
35 after a reasonable time, the manager has not taken suitable corrective action
36 in response to recommendations by the state board of finance, the state
37 board of finance may direct the manager to carry out its recommendations
38 in a manner acceptable to the state board of finance. Any directives from
39 the state board of finance must be in writing.

40 6. With the approval of the state board of finance, the manager may
41 designate the bank or banks which shall have the custody of the various
42 investments ~~authorized in NRS 616B.116 to 616B.164, inclusive.~~ made

43 pursuant to this section.

1 7. The system may accept due bills from brokers upon delivery of
2 warrants if the certificates representing the investments are not readily
3 available.

4 **Sec. 8.** NRS 616B.185 is hereby amended to read as follows:

5 616B.185 1. Any offender confined at the state prison, while engaged
6 in work in a prison industry or work program, whether the program is
7 operated by an institution of the department of prisons, by contract with a
8 public entity or by a private employer, is entitled to coverage under the
9 modified program of industrial insurance established by regulations

10 adopted by the ~~{system-when}~~ **division if** the director of the department of
11 prisons ~~{requests-such-coverage-and}~~ complies with the provisions of the
12 regulations, and coverage is approved by the system ~~{-}~~ **or a private carrier.**

13 2. An offender is limited to the rights and remedies established by the
14 provisions of the modified program of industrial insurance established by
15 regulations adopted by the ~~{system-}~~ **division.** The offender is not entitled
16 to any rights and remedies established by the provisions of chapters 616A
17 to 617, inclusive, of NRS.

18 3. The ~~{system}~~ **division** shall, in cooperation with the department of
19 prisons and the risk management division of the department of
20 administration, adopt regulations setting forth a modified program of
21 industrial insurance to provide offenders with industrial insurance against
22 personal injuries arising out of and in the course of their work in a prison
23 industry or work program.

24 **Sec. 9.** NRS 616B.186 is hereby amended to read as follows:

25 616B.186 1. Any offender confined in a county jail, city jail or other
26 local detention facility, while engaged in work in a work program directed
27 by the administrator of the jail or other detention facility, whether the work
28 program is operated by contract with a public entity or by a private
29 employer, may receive coverage under the modified program of industrial
30 insurance established by regulations adopted by the division if the
31 administrator of the jail or other detention facility ~~{requests-such-coverage~~
32 ~~and}~~ complies with the provisions of the regulations ~~{-}~~ **and coverage is**
33 **approved by the system or a private carrier.**

34 2. An offender is limited to the rights and remedies established by the
35 provisions of the modified program of industrial insurance established by
36 regulations adopted by the division. The offender is not entitled to any
37 rights and remedies established by the provisions of chapters 616A to 617,
38 inclusive, of NRS.

39 3. The division, in cooperation with the various administrators of jails
40 and other detention facilities, shall adopt regulations setting forth a
41 modified program of industrial insurance to provide offenders with
42 industrial insurance against personal injuries arising out of and in the
43 course of their work in a work program.

1 4. As used in this section, “administrator of the jail or other detention
2 facility” means the sheriff of a county jail, chief of police of a city jail or
3 director of a local detention facility.

4 **Sec. 10.** NRS 616B.211 is hereby amended to read as follows:

5 616B.211 ~~{In addition to the authority given the manager to determine~~
6 ~~and fix premium rates pursuant to NRS 616B.218 to 616B.230, inclusive,~~
7 ~~the}~~ **The** manager may establish a plan for classifying employers insured by
8 the system as small employers pursuant to chapters 616A to 616D,
9 inclusive, or ~~{chapter}~~ 617 of NRS. Upon establishing such a plan, the
10 manager may, with the approval of the commissioner, determine and fix the
11 premium rates of those employers pursuant to the plan.

12 **Sec. 11.** NRS 616B.212 is hereby amended to read as follows:

13 616B.212 ~~{In addition to the authority given the manager to determine~~
14 ~~and fix premium rates of employers pursuant to NRS 616B.218 to~~
15 ~~616B.230, inclusive, the}~~ **The** manager may by regulation establish a plan
16 for classifying employers insured by the system who, because of the risks
17 inherent in the businesses in which the employers are engaged, are
18 reasonably likely to incur a greater number of claims for compensation
19 pursuant to chapters 616A to 616D, inclusive, or ~~{chapter}~~ 617 of NRS.
20 Upon establishing such a plan, the manager may, with the approval of the
21 commissioner, determine and fix the premium rates of those employers.

22 **Sec. 12.** NRS 616B.224 is hereby amended to read as follows:

23 616B.224 1. Every **private or public** employer who is not a self-
24 insured employer or a member of an association of self-insured public or
25 private employers shall, at intervals **and on or before dates** established by
26 his insurer, furnish the insurer with ~~{a}~~ :

27 **(a) A** true and accurate payroll showing:

28 ~~{(a)}~~ **(1)** The total amount paid to employees for services performed;

29 ~~{(b)}~~ **(2)** The amount of tips reported to him by every employee
30 pursuant to 26 U.S.C. § 6053(a) whose tips in cash totaled \$20 or more;
31 and

32 ~~{(c)}~~ **(3)** A segregation of employment in accordance with the
33 requirements of the commissioner ~~{, together with the premium due~~
34 ~~thereon.}~~ ; **and**

35 **(b) Any premium due pursuant to the terms of the policy of industrial**
36 **insurance.**

37 The payroll **reports** and **any** premium ~~{must}~~ **may** be furnished to the
38 insurer on ~~{or before the date}~~ **different dates, as** established by the insurer
39 **. {for the receipt of the payroll and premium.**

40 ~~—2.—Any employer by agreement in writing with the insurer may arrange~~
41 ~~for the payment of premiums in advance at an interval established by the~~
42 ~~insurer.~~

1 ~~—3.]~~ 2. Failure of any employer to comply with the provisions of this
2 section ~~[and NRS 616B.218]~~ operates as a rejection of chapters 616A to
3 616D, inclusive, of NRS, effective ~~[at the expiration of the period covered~~
4 ~~by his estimate.]~~ *on the date established by the insurer pursuant to*
5 *subsection 1.* The insurer shall notify the administrator of each such
6 rejection.

7 ~~[4.—If an audit of the accounts or actual payroll of an employer shows~~
8 ~~that the actual premium earned exceeds the estimated premium paid in~~
9 ~~advance, the insurer may require the payment of money sufficient to cover~~
10 ~~the deficit, together with such amount as in his judgment constitutes an~~
11 ~~adequate advance premium for the period covered by the estimate.~~

12 ~~—5.]~~ 3. The insurer shall notify any employer or his representative by
13 first-class mail of any failure on his part to comply with the provisions of
14 this section. The notice or its omission does not modify or waive the
15 requirements or effective rejection of chapters 616A to 616D, inclusive,
16 *and 617* of NRS as otherwise provided in those chapters.

17 ~~[6.]~~ 4. The system may impose a penalty not to exceed 10 percent of
18 the premiums which are due for the failure of an employer insured by the
19 system to submit the information and premium required in subsection 1
20 within the time allowed, unless the employer has applied for and been
21 granted an extension of that time by the manager.

22 ~~[7.]~~ 5. To the extent permitted by federal law, the insurer shall
23 vigorously pursue the collection of premiums that are due under the
24 provisions of chapters 616A to 616D, inclusive, *and 617* of NRS even if an
25 employer's debts have been discharged in a bankruptcy proceeding.

26 *6. Every employer insured by the system shall pay its premiums to*
27 *the state insurance fund. All money received by the system pursuant to*
28 *this section must be deposited with the state treasurer to the credit of the*
29 *state insurance fund.*

30 **Sec. 13.** NRS 616B.386 is hereby amended to read as follows:

31 616B.386 1. If an employer wishes to become a member of an
32 association of self-insured public or private employers, the employer must:

33 (a) Submit an application for membership to the board of trustees or
34 third-party administrator of the association; and

35 (b) Enter into an indemnity agreement as required by NRS 616B.353.

36 2. The membership of the applicant becomes effective when each
37 member of the association approves the application or on a later date
38 specified by the association. The application for membership and the action
39 taken on the application must be maintained as permanent records of the
40 board of trustees.

41 3. Each member who is a member of an association during the 12
42 months immediately following the formation of the association must:

43 (a) Have a tangible net worth of at least \$500,000; or

1 (b) Have had a reported payroll for the previous 12 months which would
2 have resulted in a manual premium of at least \$15,000, calculated in
3 accordance with a manual prepared pursuant to subsection 4 of NRS
4 686B.1765.

5 4. An employer who seeks to become a member of the association after
6 the 12 months immediately following the formation of the association must
7 meet the requirement set forth in paragraph (a) or (b) of subsection 3 unless
8 the commissioner adjusts the requirement for membership in the
9 association after conducting an annual review of the actuarial solvency of
10 the association pursuant to subsection 1 of NRS 616B.353.

11 5. An association of self-insured private employers may apply to the
12 commissioner for authority to determine the amount of tangible net worth
13 and manual premium that an employer must have to become a member of
14 the association. The commissioner shall approve the application if the
15 association:

16 (a) Has been certified to act as an association for at least the 3
17 consecutive years immediately preceding the date on which the association
18 filed the application with the commissioner;

19 (b) Has a combined tangible net worth of all members in the association
20 of at least \$5,000,000;

21 (c) Has at least 15 members; and

22 (d) Has not been required to meet informally with the commissioner
23 pursuant to subsection 1 of NRS 616B.431 during the 18-month period
24 immediately preceding the date on which the association filed the
25 application with the commissioner or, if the association has been required
26 to attend such a meeting during that period, has not had its certificate
27 withdrawn before the date on which the association filed the application.

28 6. An association of self-insured private employers may apply to the
29 commissioner for authority to determine the documentation demonstrating
30 solvency that an employer must provide to become a member of the
31 association. The commissioner shall approve the application if the
32 association:

33 (a) Has been certified to act as an association for at least the 3
34 consecutive years immediately preceding the date on which the association
35 filed the application with the commissioner;

36 (b) Has a combined tangible net worth of all members in the association
37 of at least \$5,000,000; and

38 (c) Has at least 15 members.

39 7. The commissioner may withdraw his approval of an application
40 submitted pursuant to subsection 5 or 6 if he determines the association has
41 ceased to comply with any of the requirements set forth in subsection 5 or

42 6, as applicable.

1 8. ~~[Except as otherwise provided in NRS 616B.389, a]~~ A member of an
2 association may terminate his membership at any time. To terminate his
3 membership, a member must submit to the association's administrator a
4 notice of intent to withdraw from the association at least 120 days before
5 the effective date of withdrawal. The association's administrator shall,
6 within 10 days after receipt of the notice, notify the commissioner of the
7 employer's intent to withdraw from the association.

8 9. The members of an association may cancel the membership of any
9 member of the association in accordance with the bylaws of the association.

10 10. The association shall:

11 (a) Within 30 days after the addition of an employer to the membership
12 of the association, notify the commissioner of the addition and:

13 (1) If the association has not received authority from the
14 commissioner pursuant to subsection 5 or 6, as applicable, provide to the
15 commissioner all information and assurances for the new member that were
16 required from each of the original members of the association upon its
17 organization; or

18 (2) If the association has received authority from the commissioner
19 pursuant to subsection 5 or 6, as applicable, provide to the commissioner
20 evidence that is satisfactory to the commissioner that the new member is a
21 member or associate member of the bona fide trade association as required
22 pursuant to paragraph (a) of subsection 2 of NRS 616B.350, a copy of the
23 indemnity agreement that jointly and severally binds the new member, the
24 other members of the association and the association that is required to be
25 executed pursuant to paragraph (a) of subsection 1 of NRS 616B.353 and
26 any other information the commissioner may reasonably require to
27 determine whether the amount of security deposited with the commissioner
28 pursuant to paragraph (d) or (e) of subsection 1 of NRS 616B.353 is
29 sufficient, but such information must not exceed the information required to
30 be provided to the commissioner pursuant to subparagraph (1);

31 (b) Notify the commissioner and the administrator of the termination or
32 cancellation of the membership of any member of the association within 10
33 days after the termination or cancellation; and

34 (c) At the expense of the member whose membership is terminated or
35 canceled, maintain coverage for that member for 30 days after notice is
36 given pursuant to paragraph (b), unless the association first receives notice
37 from the administrator that the member has:

38 (1) Become insured by the system;

39 (2) Been certified as a self-insured employer pursuant to NRS
40 616B.312;

41 (3) Become a member of another association of self-insured public or
42 private employers; or

43 (4) Become insured by a private carrier.

11. If a member of an association changes his name or form of organization, the member remains liable for any obligations incurred or any responsibilities imposed pursuant to chapters 616A to 617, inclusive, of NRS under his former name or form of organization.

12. An association is liable for the payment of any compensation required to be paid by a member of the association pursuant to chapters 616A to 616D, inclusive, or ~~chapter~~ 617 of NRS during his period of membership. The insolvency or bankruptcy of a member does not relieve the association of liability for the payment of the compensation.

Sec. 14. NRS 616B.407 is hereby amended to read as follows:

616B.407 1. Except as otherwise provided in subsection 2, the annual assessment required to be paid by each member of an association of self-insured public or private employers must be ~~calculated by a rating organization approved by the commissioner and based~~ :

(a) Calculated by a rate service organization that is licensed pursuant to chapter 686B of NRS; and

(b) Based on the premium rate for the standard industrial classification of that member, adjusted by the member's individual experience. If approved by the commissioner, payments of assessments may be reduced by an amount based on the association's level of expenses and loss experience.

2. If approved by the commissioner, an association may calculate the annual assessment required to be paid by each member of the association. An assessment calculated by the association must be based on at least 5 years of the member's individual experience.

Sec. 15. NRS 616B.463 is hereby amended to read as follows:

616B.463 1. Before a private carrier may provide industrial insurance pursuant to chapters 616A to 617, inclusive, of NRS, the private carrier must be authorized by the commissioner pursuant to chapter 680A of NRS and maintain such security of the kind described in NRS 680A.120 and 680A.140 as may be required.

2. A private carrier shall not provide industrial insurance pursuant to chapters 616A to 617, inclusive, of NRS as an unauthorized insurer pursuant to subsection 9 of NRS 680A.070.

3. A private carrier that is authorized by the commissioner to provide industrial insurance pursuant to subsection 1:

(a) Constitutes an authorized insurer, as that term is defined in NRS 679A.030; and

(b) Is subject to the provisions of Title 57 of NRS that govern authorized insurers.

Sec. 16. NRS 616B.472 is hereby amended to read as follows:

616B.472 1. The commissioner shall suspend the authorization of a private carrier to provide industrial insurance for 1 year if , *after a hearing*

1 *thereon*, the commissioner finds that the private carrier has intentionally or
2 repeatedly failed to comply with the provisions of chapters 616A to 616D,
3 inclusive, or ~~[chapter]~~ 617 of NRS or the regulations of the division ~~[-~~

4 ~~—2.— Before the commissioner suspends the authorization of a private~~
5 ~~carrier, he shall arrange an informal meeting with the private carrier to~~
6 ~~discuss and seek correction of any conduct which would be grounds for~~
7 ~~suspension.~~

8 ~~—3.— Before the suspension of the authorization, the commissioner shall~~
9 ~~give written notice to the private carrier by certified mail or electronic~~
10 ~~transmission that its authorization will be suspended within 10 days after it~~
11 ~~receives the notice unless, within that time, the private carrier corrects the~~
12 ~~conduct set forth in the notice as the reason for the withdrawal or submits a~~
13 ~~written request for a hearing to the commissioner.~~

14 ~~—4.— If the private carrier requests a hearing:~~

15 ~~—(a) The commissioner shall set a date for a hearing within 20 days after~~
16 ~~receiving the notice of the appeal and shall give the private carrier at least~~
17 ~~10 business days' notice of the time and place of the hearing.~~

18 ~~—(b)) or the commissioner.~~

19 *2. A hearing to determine whether the authorization of a private*
20 *carrier to provide industrial insurance will be suspended pursuant to*
21 *subsection 1 must be conducted by the commissioner pursuant to the*
22 *provisions of NRS 679B.310 to 679B.370, inclusive, the regulations*
23 *adopted pursuant thereto and the provisions of chapter 233B of NRS*
24 *concerning adjudication of contested cases.* A record of the hearing must
25 be kept but it need not be transcribed unless requested by the private
26 carrier. The cost of transcription must be charged to the private carrier.

27 ~~[5.— Within 5 days after the hearing, the commissioner shall affirm or~~
28 ~~deny his order suspending the authorization of the private carrier and notify~~
29 ~~the private carrier by certified mail or electronic transmission of his~~
30 ~~decision.~~

31 ~~—6.— If the private carrier does not comply with the order of the~~
32 ~~commissioner during the period of suspension of the authorization, the~~
33 ~~commissioner shall file an order prohibiting the private carrier from issuing~~
34 ~~new policies until the order has expired. A copy of the order must be sent~~
35 ~~by certified mail or electronic transmission to the private carrier.]~~

36 **Sec. 17.** NRS 616B.612 is hereby amended to read as follows:

37 616B.612 1. Every employer within the provisions of chapters 616A
38 to 616D, inclusive, *or 617* of NRS, and those employers who accept the
39 terms of those chapters and are governed by their provisions, shall provide
40 and secure compensation according to the terms, conditions and provisions
41 of those chapters for any personal injuries by accident sustained by an
42 employee arising out of and in the course of the employment.

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

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

Sec. 18. NRS 616B.624 is hereby amended to read as follows:

616B.624 1. If a quasi-public or private corporation or a limited-liability company is required to be insured pursuant to chapters 616A to 616D, inclusive, of NRS, an officer of the corporation or a manager of the company who:

(a) Receives pay for services performed as an officer, manager or employee of the corporation or company shall be deemed for the purposes of those chapters to receive a minimum pay of \$6,000 per ~~calendar~~ year *the policy of industrial insurance for the employer is effective* and a maximum pay of \$36,000 per ~~calendar year.~~ *year the policy of industrial insurance is effective.*

(b) Does not receive pay for services performed as an officer, manager or employee of the corporation or company shall be deemed for the purposes of those chapters to receive a minimum pay of \$500 per month or \$6,000 per ~~calendar year.~~ *year the policy of industrial insurance is effective.*

2. An officer or manager who does not receive pay for services performed as an officer, manager or employee of the corporation or company may elect to reject coverage by filing written notice thereof with the corporation or company and the insurer. The rejection is effective upon receipt of the notice by the insurer.

3. An officer or manager who has rejected coverage may rescind that rejection by filing written notice thereof with the corporation or company and the insurer. The rescission is effective upon receipt of the notice by the insurer. If an officer or manager who has rejected coverage receives pay for services performed as an officer, manager or employee of the corporation or company, the officer or manager shall be deemed to have rescinded that rejection.

4. A nonprofit corporation whose officers do not receive pay for services performed as officers or employees of the corporation may elect to reject coverage for its current officers and all future officers who do not receive such pay by filing written notice thereof with the corporation and the insurer. The rejection is effective upon receipt of the notice by the insurer.

5. A nonprofit corporation which has rejected coverage for its officers who do not receive pay for services performed as officers or employees of

1 the corporation may rescind that rejection by filing written notice thereof
2 with the corporation and the insurer. The rescission is effective upon
3 receipt of the notice by the insurer. If an officer of a nonprofit corporation
4 which has rejected coverage receives pay for services performed as an
5 officer or employee of the corporation, the corporation shall be deemed to
6 have rescinded that rejection.

7 **Sec. 19.** NRS 616B.670 is hereby amended to read as follows:

8 616B.670 As used in NRS 616B.670 to 616B.697, inclusive, unless the
9 context otherwise requires:

10 1. "Applicant" means a person seeking a certificate of ~~{insurance}~~
11 **registration** pursuant to NRS 616B.670 to 616B.697, inclusive, to operate
12 an employee leasing company.

13 2. "Client company" means a company which leases employees, for a
14 fee, from an employee leasing company pursuant to a written or oral
15 agreement.

16 3. "Employee leasing company" means a company which, pursuant to a
17 written or oral agreement:

18 (a) Places any of the regular, full-time employees of a client company on
19 its payroll and, for a fee, leases them to the client company on a regular
20 basis without any limitation on the duration of their employment; or

21 (b) Leases to a client company:

22 (1) Five or more part-time or full-time employees; or

23 (2) Ten percent or more of the total number of employees within a
24 classification of risk established by the ~~{system.}~~ **commissioner.**

25 **Sec. 20.** NRS 616B.673 is hereby amended to read as follows:

26 616B.673 1. A person shall not operate an employee leasing
27 company in this state unless he has complied with the provisions of NRS
28 616B.670 to 616B.697, inclusive. The ~~{manager}~~ **administrator** shall issue
29 a certificate of ~~{insurance}~~ **registration** to each applicant who complies
30 with the provisions of NRS 616B.670 to 616B.697, inclusive.

31 2. Any person who violates the provisions of subsection 1 is guilty of a
32 misdemeanor.

33 3. Each certificate of ~~{insurance}~~ **registration** issued by the ~~{manager}~~
34 **administrator** pursuant to NRS 616B.670 to 616B.697, inclusive, expires 1
35 year after it is issued unless renewed before that date.

36 **Sec. 21.** NRS 616B.676 is hereby amended to read as follows:

37 616B.676 An applicant for the issuance or renewal of a certificate of
38 ~~{insurance}~~ **registration** must submit to the ~~{manager}~~ **administrator** a
39 written application upon a form provided by the ~~{manager.}~~ **administrator.**

40 **Sec. 22.** NRS 616B.679 is hereby amended to read as follows:

41 616B.679 1. Each application must include:

42 (a) The applicant's name and title of his position with the employee
43 leasing company.

- 1 (b) The applicant's age, place of birth and social security number.
- 2 (c) The applicant's address.
- 3 (d) The business address of the employee leasing company.
- 4 (e) The business address of the resident agent of the employee leasing
- 5 company, if the applicant is not the resident agent.
- 6 (f) If the applicant is a:
 - 7 (1) Partnership, the name of the partnership and the name, address,
 - 8 age, social security number and title of each partner.
 - 9 (2) Corporation, the name of the corporation and the name, address,
 - 10 age, social security number and title of each officer of the corporation.
- 11 (g) Proof of:
 - 12 (1) The payment of any taxes required by chapter 364A of NRS.
 - 13 (2) The payment of any premiums for industrial insurance required by
 - 14 chapters 616A to 617, inclusive, of NRS.
 - 15 (3) The payment of contributions or payments in lieu of contributions
 - 16 required by chapter 612 of NRS.
 - 17 (4) Insurance coverage for any benefit plan from an insurer
 - 18 authorized pursuant to Title 57 of NRS that is offered by the employee
 - 19 leasing company to its employees.
 - 20 ~~[(5) Membership in the National Staff Leasing Association, or its~~
 - 21 ~~successor organization.]~~
 - 22 (h) Any other information the ~~[manager]~~ **administrator** requires.
- 23 2. Each application must be notarized and signed under penalty of
- 24 perjury:
 - 25 (a) If the applicant is a sole proprietorship, by the sole proprietor.
 - 26 (b) If the applicant is a partnership, by each partner.
 - 27 (c) If the applicant is a corporation, by each officer of the corporation.
- 28 3. An applicant shall submit to the ~~[manager]~~ **administrator** any
- 29 change in the information required by this section within 30 days after the
- 30 change occurs. The ~~[manager]~~ **administrator** may revoke the certificate of
- 31 ~~[insurance]~~ **registration** of an employee leasing company which fails to
- 32 comply with **the** provisions of ~~[this subsection. If the manager revokes the~~
- 33 ~~certificate of insurance and cancels the]~~ **NRS 616B.670 to 616B.697,**
- 34 **inclusive.**
- 35 **4. If an insurer cancels an** employee leasing company's policy, the
- 36 ~~[manager]~~ **insurer** shall immediately notify the administrator ~~[, who shall~~
- 37 ~~proceed in accordance with the provisions of NRS 616D.110.]~~ **in writing.**
- 38 **The notice must comply with the provisions of NRS 687B.310 to**
- 39 **687B.355, inclusive, and must be served personally on or sent by first-**
- 40 **class mail or electronic transmission to the administrator.**
- 41 **Sec. 23.** NRS 616B.694 is hereby amended to read as follows:
- 42 616B.694 The ~~[manager, in cooperation with the administrator of the~~
- 43 ~~employment security division of the department of employment, training~~

1 ~~and rehabilitation, shall, and the commissioner of insurance~~ **administrator**
2 may, adopt regulations to carry out the provisions of NRS 616B.670 to
3 616B.697, inclusive.

4 **Sec. 24.** NRS 616B.697 is hereby amended to read as follows:

5 616B.697 An action for damages caused by the failure of an employee
6 leasing company to comply with the provisions of NRS 616B.670 to
7 616B.697, inclusive, may be brought against any person who is required to
8 sign the application for a certificate of ~~insurance~~ **registration** for the
9 employee leasing company.

10 **Sec. 25.** NRS 616C.220 is hereby amended to read as follows:

11 616C.220 1. ***The division shall designate one:***

12 ***(a) Third-party administrator who has a valid certificate issued by the***
13 ***commissioner pursuant to NRS 683A.085; or***

14 ***(b) Insurer, other than a self-insured employer or association of self-***
15 ***insured public or private employers,***
16 ***to administer claims against the uninsured employers' claim fund. The***
17 ***designation must be made pursuant to reasonable competitive bidding***
18 ***procedures established by the administrator.***

19 **2.** An employee may receive compensation from the uninsured
20 employers' claim fund if:

21 (a) He was hired in this state or he is regularly employed in this state;

22 (b) He suffers an accident or injury in this state which arises out of and
23 in the course of his employment;

24 (c) He files a claim for compensation with the division; and

25 (d) He makes an irrevocable assignment to the division of a right to be
26 subrogated to the rights of the injured employee pursuant to NRS
27 616C.215.

28 ~~2.~~ **3.** If the division receives a claim pursuant to subsection ~~1.~~ **2**, the
29 division shall immediately notify the employer of the claim.

30 ~~3.~~ **4.** For the purposes of this section, the employer has the burden of
31 proving that he provided mandatory industrial insurance coverage for the
32 employee or that he was not required to maintain industrial insurance for
33 the employee.

34 ~~4.~~ **5.** Any employer who has failed to provide mandatory coverage
35 required by the provisions of chapters 616A to 616D, inclusive, of NRS is
36 liable for all payments made on his behalf, including any benefits,
37 administrative costs or attorney's fees paid from the uninsured employers'
38 claim fund or incurred by the division.

39 ~~5.~~ **6.** The division:

40 (a) May recover from the employer the payments made by the division
41 that are described in subsection ~~4.~~ **5** and any accrued interest by bringing a
42 civil action in district court.

(b) In any civil action brought against the employer, is not required to prove that negligent conduct by the employer was the cause of the employee's injury.

(c) May enter into a contract with any person to assist in the collection of any liability of an uninsured employer.

(d) In lieu of a civil action, may enter into an agreement or settlement regarding the collection of any liability of an uninsured employer.

~~{6.}~~ 7. The division shall:

(a) Determine whether the employer was insured within 30 days after receiving notice of the claim from the employee.

(b) Assign the claim to the ~~{system}~~ *third-party administrator or insurer designated pursuant to subsection 1* for administration ~~{of the claim, payment of benefits and reimbursement of costs of administration and benefits paid to the system. Upon determining that a claim is invalid, the system}~~ *and payment of compensation. Upon determining whether the claim is accepted or denied, the designated third-party administrator or insurer* shall notify the ~~{claimant, injured employee, the named employer and the division {that the claim will not be assigned for benefits from the uninsured employers' claim fund. —7.} of its determination.~~

(c) Upon demonstration of the:

(1) *Costs incurred by the designated third-party administrator or insurer to administer the claim or pay compensation to the injured employee; or*

(2) *Amount that the designated third-party administrator or insurer will pay for administrative expenses or compensation to the injured employee and that such amounts are justified by the circumstances of the claim, the division shall authorize payment from the uninsured employers' claim fund.*

8. Any party aggrieved by a ~~{decision}~~ *determination* regarding the administration of an assigned claim or a ~~{decision}~~ *determination* made by the division or by the ~~{system}~~ *designated third-party administrator or insurer* regarding any claim made pursuant to this section may appeal that ~~{decision}~~ *determination* within 60 days after the ~~{decision}~~ *determination* is rendered to the hearings division of the department of administration in the manner provided by NRS 616C.305 and 616C.315 to 616C.385, inclusive.

~~{8.}~~ 9. All insurers shall bear a proportionate amount of a claim made pursuant to chapters 616A to 616D, inclusive, of NRS, and are entitled to a proportionate amount of any collection made pursuant to this section as an offset against future liabilities.

1 ~~[9.]~~ 10. An uninsured employer is liable for the interest on any amount
2 paid on his claims from the uninsured employers' claim fund. The interest
3 must be calculated at a rate equal to the prime rate at the largest bank in
4 Nevada, as ascertained by the commissioner of financial institutions, on
5 January 1 or July 1, as the case may be, immediately preceding the date of
6 the claim, plus 3 percent, compounded monthly, from the date the claim is
7 paid from the fund until payment is received by the division from the
8 employer.

9 ~~[10.]~~ 11. Attorney's fees recoverable by the division pursuant to this
10 section must be:

11 (a) If a private attorney is retained by the division, paid at the usual and
12 customary rate for that attorney.

13 (b) If the attorney is an employee of the division, paid at the rate
14 established by regulations adopted by the division.

15 Any money collected must be deposited to the uninsured employers' claim
16 fund.

17 ~~[11.]~~ 12. In addition to any other liabilities provided for in this section,
18 the administrator may impose an administrative fine of not more than
19 \$10,000 against an employer if the employer fails to provide mandatory
20 coverage required by the provisions of chapters 616A to 616D, inclusive,
21 of NRS.

22 **Sec. 26.** NRS 616C.355 is hereby amended to read as follows:

23 616C.355 At any time 10 or more days before a scheduled hearing
24 before an appeals officer, the administrator ~~[, the manager or the~~
25 ~~manager's]~~ **or the administrator's** designee, a party shall mail or deliver to
26 the opposing party any affidavit or declaration which he proposes to
27 introduce into evidence and notice to the effect that unless the opposing
28 party, within 7 days after the mailing or delivery of such affidavit or
29 declaration, mails or delivers to the proponent a request to cross-examine
30 the affiant or declarant, his right to cross-examine the affiant or declarant is
31 waived and the affidavit or declaration, if introduced into evidence, will
32 have the same effect as if the affiant or declarant had given sworn
33 testimony before the appeals officer, the administrator ~~[, the manager or the~~
34 ~~manager's]~~ **or the administrator's** designee.

35 **Sec. 27.** NRS 616C.385 is hereby amended to read as follows:

36 616C.385 If a party petitions the district court for judicial review of a
37 final decision of an appeals officer, the ~~[manager or the manager's]~~
38 **administrator or the administrator's** designee, and the petition is found by
39 the district court to be frivolous or brought without reasonable grounds, the
40 district court may order costs and a reasonable attorney's fee to be paid by
41 the petitioner.

Sec. 28. NRS 616D.050 is hereby amended to read as follows:

616D.050 1. Appeals officers, the administrator ~~[, the manager and the manager's]~~ *and the administrator's* designee, in conducting hearings or other proceedings pursuant to the provisions of chapters 616A to 616D, inclusive, of NRS or regulations adopted pursuant to those chapters may:

(a) Issue subpoenas requiring the attendance of any witness or the production of books, accounts, papers, records and documents.

(b) Administer oaths.

(c) Certify to official acts.

(d) Call and examine under oath any witness or party to a claim.

(e) Maintain order.

(f) Rule upon all questions arising during the course of a hearing or proceeding.

(g) Permit discovery by deposition or interrogatories.

(h) Initiate and hold conferences for the settlement or simplification of issues.

(i) Dispose of procedural requests or similar matters.

(j) Generally regulate and guide the course of a pending hearing or proceeding.

2. Hearing officers, in conducting hearings or other proceedings pursuant to the provisions of chapters 616A to 616D, inclusive, of NRS or regulations adopted pursuant to those chapters, may:

(a) Issue subpoenas requiring the attendance of any witness or the production of books, accounts, papers, records and documents that are relevant to the dispute for which the hearing or other proceeding is being held.

(b) Maintain order.

(c) Permit discovery by deposition or interrogatories.

(d) Initiate and hold conferences for the settlement or simplification of issues.

(e) Dispose of procedural requests or similar matters.

(f) Generally regulate and guide the course of a pending hearing or proceeding.

Sec. 29. NRS 616D.070 is hereby amended to read as follows:

616D.070 If any person:

1. Disobeys an order of an appeals officer, a hearing officer, the administrator ~~[, the manager or the manager's]~~ *or the administrator's* designee, or a subpoena issued by the ~~[manager, manager's designee,]~~ administrator, *administrator's designee*, appeals officer, hearing officer, inspector or examiner;

2. Refuses to permit an inspection; or

3. As a witness, refuses to testify to any matter for which he may be lawfully interrogated,

1 the district judge of the county in which the person resides, on application
2 of the appeals officer, the hearing officer, the administrator ~~[, the manager~~
3 ~~or the manager's]~~ *or the administrator's* designee, shall compel obedience
4 by attachment proceedings as for contempt, as in the case of disobedience
5 of the requirements of subpoenas issued from the court on a refusal to
6 testify therein.

7 **Sec. 30.** NRS 616D.080 is hereby amended to read as follows:

8 616D.080 1. Each officer who serves a subpoena is entitled to
9 receive the same fees as a sheriff.

10 2. Each witness who appears, in obedience to a subpoena which has
11 been issued pursuant to this chapter or chapter 616A, 616B or 616C of
12 NRS, before an appeals officer, a hearing officer, the administrator ~~[, the~~
13 ~~manager or the manager's]~~ *or the administrator's* designee, is entitled to
14 receive for his attendance the fees and mileage provided for witnesses in
15 civil cases in courts of record. *For subpoenas issued on behalf of this*
16 *state or an officer or agency thereof, the fees and mileage are not*
17 *required to be tendered at the same time that the subpoena is delivered to*
18 *the person named therein.*

19 3. The appeals officer, hearing officer, administrator ~~[, manager or the~~
20 ~~manager's]~~ *or the administrator's* designee shall:

21 (a) Authorize payment from his administrative budget of the fees and
22 mileage due to such a witness; or

23 (b) Impose those costs upon the party at whose instance the witness was
24 subpoenaed or, for good cause shown, upon any other party.

25 **Sec. 31.** NRS 616D.100 is hereby amended to read as follows:

26 616D.100 1. A transcribed copy of the evidence and proceedings, or
27 any specific part thereof, of any final hearing or investigation, made by a
28 stenographer appointed by an appeals officer, a hearing officer, the
29 administrator ~~[, the manager or the manager's]~~ *or the administrator's*
30 designee, being certified by that stenographer to be a true and correct
31 transcript of the testimony in the final hearing or investigation, or of a
32 particular witness, or of a specific part thereof, and carefully compared by
33 him with his original notes, and to be a correct statement of the evidence
34 and proceedings had on the final hearing or investigation so purporting to
35 be taken and transcribed, may be received in evidence with the same effect
36 as if the stenographer had been present and testified to the facts so certified.

37 2. A copy of the transcript must be furnished on demand to any party
38 upon the payment of the fee required for transcripts in courts of record.

39 **Sec. 32.** NRS 616D.200 is hereby amended to read as follows:

40 616D.200 1. If the administrator finds that an employer within the
41 provisions of NRS 616B.633 has failed to provide and secure
42 compensation as required by the terms of chapters 616A to 616D,
43 inclusive, of NRS or that the employer has provided and secured that

1 compensation but has failed to maintain it, he shall make a determination
2 thereon and may charge the employer an amount equal to the sum of:

3 (a) The premiums that would otherwise have been owed to the system *or*
4 *a private carrier* pursuant to the terms of chapters 616A to 616D, inclusive,
5 of NRS for the period that the employer was doing business in this state
6 without providing, securing or maintaining that compensation, but not to
7 exceed 6 years; *and*

8 (b) ~~{The actual costs incurred by the system in reinstating the policy, but~~
9 ~~not to exceed 10 percent of the premiums owed by the employer; and~~

10 ~~—(c)—~~ Interest at a rate determined pursuant to NRS 17.130 computed
11 from the time that the premiums should have been paid.

12 *The money collected pursuant to this subsection must be paid into the*
13 *uninsured employers' claim fund.*

14 2. The administrator shall deliver a copy of his determination to the
15 employer. An employer who is aggrieved by the determination of the
16 administrator may appeal from the determination pursuant to subsection 2
17 of NRS 616D.220.

18 3. Any employer within the provisions of NRS 616B.633 who fails to
19 provide, secure or maintain compensation as required by the terms of
20 chapters 616A to 616D, inclusive, of NRS, is:

21 (a) For the first offense, guilty of a misdemeanor.

22 (b) For a second or subsequent offense committed within 7 years after
23 the previous offense, guilty of a category C felony and shall be punished as
24 provided in NRS 193.130.

25 Any criminal penalty imposed must be in addition to the amount charged
26 pursuant to subsection 1.

27 **Sec. 33.** NRS 616D.210 is hereby amended to read as follows:

28 616D.210 1. Any person who:

29 (a) Is the legal or beneficial owner of 25 percent or more of a business
30 which terminates operations while owing a premium, *interest or penalty* to
31 the system or a private carrier and becomes, or induces or procures another
32 person to become, the legal or beneficial owner of 25 percent or more of a
33 new business engaging in similar operations; or

34 (b) Knowingly aids or abets another person in carrying out such
35 conduct,

36 is liable in a civil action for the payment of any premium, interest and
37 penalties owed to the system or the private carrier and the reasonable costs
38 incurred by the system or private carrier to investigate and act upon such
39 conduct.

40 2. The system or private carrier shall not insure any business which
41 engages in the conduct described in subsection 1 unless the premium and
42 any interest and penalties owed to the ~~{system or private carrier}~~ *prior*

43 *insurer* have been paid ~~{}~~ *to that insurer.*

1 3. As used in this section, "business" includes, but is not limited to, a
2 firm, sole proprietorship, voluntary association or private corporation.

3 **Sec. 34.** NRS 616D.220 is hereby amended to read as follows:

4 616D.220 1. If the administrator finds that any employer or any
5 employee, officer or agent of any employer has knowingly:

6 (a) Made a false statement or has knowingly failed to report a material
7 fact concerning the amount of payroll upon which a premium is based; or

8 (b) Misrepresented the classification or duties of an employee,
9 he shall make a determination thereon and charge the employer's account

10 an amount equal to ~~{three-times}~~ the amount of the premium ~~{due-}~~ *that*
11 *would have been due had the proper information been submitted.* The
12 administrator shall deliver a copy of his determination to the employer. *The*
13 *money collected pursuant to this subsection must be paid into the*
14 *uninsured employers' claim fund.*

15 2. An employer who is aggrieved by the determination of the
16 administrator may appeal from the determination by filing a request for a
17 hearing. The request must be filed within 30 days after the date on which a
18 copy of the determination was delivered to the employer. The administrator
19 shall hold a hearing within 30 days after he receives the request. The
20 determination of the administrator made pursuant to a hearing is a final
21 decision for the purposes of judicial review. The amount of the
22 determination as finally decided by the administrator becomes due within
23 30 days after the determination is served on the employer.

24 3. A person who knowingly:

25 (a) Makes a false statement or representation or who knowingly fails to
26 report a material fact concerning the amount of payroll upon which a
27 premium is based; or

28 (b) Misrepresents the classification or duties of an employee,
29 is guilty of a gross misdemeanor. Any criminal penalty imposed must be in
30 addition to the amount charged pursuant to subsection 1.

31 **Sec. 35.** NRS 617.105 is hereby amended to read as follows:

32 617.105 Any real estate licensee doing business in this state and
33 receiving wages, commissions or other compensation based upon sales
34 shall be deemed for the purpose of this chapter to earn wages of ~~{ \$900 }~~
35 *\$1,500* per month.

36 **Sec. 36.** NRS 617.207 is hereby amended to read as follows:

37 617.207 1. If a quasi-public or private corporation or limited-liability
38 company is required to be insured pursuant to this chapter, an officer of the
39 corporation or a manager of the company who:

40 (a) Receives pay for service performed shall be deemed for the purposes
41 of this chapter to receive a minimum pay of \$6,000 per ~~{calendar}~~ year *the*
42 *policy of industrial insurance for the employer is effective* and a

1 maximum pay of \$36,000 per ~~calendar year.~~ *year the policy of industrial*
2 *insurance is effective.*

3 (b) Does not receive pay for services performed shall be deemed for the
4 purposes of this chapter to receive a minimum pay of \$500 per month or
5 \$6,000 per ~~calendar year.~~ *year the policy of industrial insurance is*
6 *effective.*

7 2. An officer or manager who does not receive pay for services
8 performed may elect to reject coverage by filing written notice thereof with
9 the corporation or company and the insurer. The rejection is effective upon
10 receipt of the notice by the insurer.

11 3. An officer or manager who has rejected coverage may rescind that
12 rejection by filing written notice thereof with the corporation or company
13 and the insurer. The rescission is effective upon receipt of the notice by the
14 insurer.

15 **Sec. 37.** NRS 617.401 is hereby amended to read as follows:

16 617.401 1. *The division shall designate one:*

17 *(a) Third-party administrator who has a valid certificate issued by the*
18 *commissioner pursuant to NRS 683A.085; or*

19 *(b) Insurer, other than a self-insured employer or association of self-*
20 *insured public or private employers,*
21 *to administer claims against the uninsured employers' claim fund. The*
22 *designation must be made pursuant to reasonable competitive bidding*
23 *procedures established by the administrator.*

24 2. An employee may receive compensation from the uninsured
25 employers' claim fund if:

26 (a) He was hired in this state or he is regularly employed in this state;

27 (b) He contracts an occupational disease as a result of work performed
28 in this state;

29 (c) He files a claim for compensation with the division; and

30 (d) He makes an irrevocable assignment to the division of a right to be
31 subrogated to the rights of the employee pursuant to NRS 616C.215.

32 ~~2.~~ 3. If the division receives a claim pursuant to subsection ~~1.~~ 2, the
33 division shall immediately notify the employer of the claim.

34 ~~3.~~ 4. For the purposes of this section, the employer has the burden of
35 proving that he provided mandatory coverage for occupational diseases for
36 the employee or that he was not required to maintain industrial insurance
37 for the employee.

38 ~~4.~~ 5. Any employer who has failed to provide mandatory coverage
39 required by the provisions of this chapter is liable for all payments made on
40 his behalf, including, but not limited to, any benefits, administrative costs
41 or attorney's fees paid from the uninsured employers' claim fund or
42 incurred by the division.

~~[5.]~~ 6. The division:

(a) May recover from the employer the payments made by the division that are described in subsection ~~[4]~~ 5 and any accrued interest by bringing a civil action in district court.

(b) In any civil action brought against the employer, is not required to prove that negligent conduct by the employer was the cause of the occupational disease.

(c) May enter into a contract with any person to assist in the collection of any liability of an uninsured employer.

(d) In lieu of a civil action, may enter into an agreement or settlement regarding the collection of any liability of an uninsured employer.

~~[6.]~~ 7. The division shall:

(a) Determine whether the employer was insured within 30 days after receiving the claim from the employee.

(b) Assign the claim to the ~~[system]~~ *third-party administrator or insurer designated pursuant to subsection 1* for administration ~~[of the claim, payment of benefits and reimbursement of costs of administration and benefits paid to the system. Upon determining that a claim is invalid, the system] and payment of compensation.~~

Upon determining whether the claim is accepted or denied, the designated third-party administrator or insurer shall notify the ~~[claimant, injured employee,~~ the named employer and the division ~~[that the claim will not be assigned for benefits from the uninsured employers' claim fund. —7.] of its determination.~~

(c) Upon demonstration of the:

(1) Costs incurred by the designated third-party administrator or insurer to administer the claim or pay compensation to the injured employee; or

(2) Amount that the designated third-party administrator or insurer will pay for administrative expenses or compensation to the injured employee and that such amounts are justified by the circumstances of the claim,
the division shall authorize payment from the uninsured employers' claim fund.

8. Any party aggrieved by a ~~[decision]~~ *determination* regarding the administration of an assigned claim or a ~~[decision]~~ *determination* made by the division or by the ~~[system]~~ *designated third-party administrator or insurer* regarding any claim made pursuant to this section may appeal that ~~[decision]~~ *determination* within 60 days after the ~~[decision]~~ *determination* is rendered to the hearings division of the department of administration in the manner provided by NRS 616C.305 and 616C.315 to 616C.385, inclusive.

1 ~~[8.]~~ 9. All insurers shall bear a proportionate amount of a claim made
2 pursuant to this chapter, and are entitled to a proportionate amount of any
3 collection made pursuant to this section as an offset against future
4 liabilities.

5 ~~[9.]~~ 10. An uninsured employer is liable for the interest on any amount
6 paid on his claims from the uninsured employers' claim fund. The interest
7 must be calculated at a rate equal to the prime rate at the largest bank in
8 Nevada, as ascertained by the commissioner of financial institutions, on
9 January 1 or July 1, as the case may be, immediately preceding the date of
10 the claim, plus 3 percent, compounded monthly, from the date the claim is
11 paid from the fund until payment is received by the division from the
12 employer.

13 ~~[10.]~~ 11. Attorney's fees recoverable by the division pursuant to this
14 section must be:

15 (a) If a private attorney is retained by the division, paid at the usual and
16 customary rate for that attorney.

17 (b) If the attorney is an employee of the division, paid at the rate
18 established by regulations adopted by the division.

19 Any money collected must be deposited to the uninsured employers' claim
20 fund.

21 ~~[11.]~~ 12. In addition to any other liabilities provided for in this section,
22 the administrator may impose an administrative fine of not more than
23 \$10,000 against an employer if the employer fails to provide mandatory
24 coverage required by the provisions of this chapter.

25 **Sec. 38.** NRS 209.189 is hereby amended to read as follows:

26 209.189 1. The fund for prison industries is hereby created as an
27 enterprise fund to receive all revenues derived from programs for
28 vocational training and employment of offenders and the operation of the
29 prison farm and to receive all revenues raised by the department from
30 private employers for the leasing of space, facilities or equipment within
31 the institutions or facilities of the department of prisons.

32 2. Money in the fund must be maintained in separate budgetary
33 accounts, including at least one account for industrial programs and one for
34 the prison farm.

35 3. Subject to the approval of the state board of examiners, the director
36 may expend money deposited in this fund for the promotion and
37 development of these programs and the prison farm. The director shall
38 expend money deposited in this fund to pay ~~[to the state industrial~~
39 ~~insurance system]~~ the premiums required for coverage of offenders under
40 the modified program of industrial insurance adopted pursuant to NRS
41 616B.185.

42 4. The interest and income earned on the money in the fund, after
43 deducting any applicable charges, must be credited to the fund.

1 5. If money owed to the department for the leasing of space, facilities
2 or equipment within the institutions or facilities of the department or for the
3 purchase of goods or services, which must be deposited into the fund for
4 prison industries pursuant to subsection 1, is not paid on or before the date
5 due, the department shall charge and collect, in addition to the money due,
6 interest on the money due at the rate of 1.5 percent per month or fraction
7 thereof from the date on which the money became due until the date of
8 payment.

9 **Sec. 39.** NRS 280.270 is hereby amended to read as follows:

10 280.270 The county auditor or comptroller of a county in which a
11 department is located shall comply with the provisions of NRS ~~616B.230~~
12 **616B.224** on behalf of the department.

13 **Sec. 40.** NRS 680A.200 is hereby amended to read as follows:

14 680A.200 1. ~~The~~ **Except as otherwise provided in NRS 616B.472,**
15 **the** commissioner may refuse to continue or may suspend, limit or revoke
16 an insurer's certificate of authority if he finds after a hearing thereon, or
17 upon waiver of hearing by the insurer, that the insurer has:

18 (a) Violated or failed to comply with any lawful order of the
19 commissioner;

20 (b) Conducted his business in an unsuitable manner;

21 (c) Willfully violated or willfully failed to comply with any lawful
22 regulation of the commissioner; or

23 (d) Violated any provision of this code other than one for violation of
24 which suspension or revocation is mandatory.

25 In lieu of such a suspension or revocation, the commissioner may levy upon
26 the insurer, and the insurer shall pay forthwith, an administrative fine of not
27 more than \$2,000 for each act or violation.

28 2. Except as otherwise provided in chapter 696B of NRS, the
29 commissioner shall suspend or revoke an insurer's certificate of authority
30 on any of the following grounds if he finds after a hearing thereon that the
31 insurer:

32 (a) Is in unsound condition, is being fraudulently conducted, or is in
33 such a condition or is using such methods and practices in the conduct of its
34 business as to render its further transaction of insurance in this state
35 currently or prospectively hazardous or injurious to policyholders or to the
36 public.

37 (b) With such frequency as to indicate its general business practice in
38 this state:

39 (1) Has without just cause failed to pay, or delayed payment of,
40 claims arising under its policies, whether the claims are in favor of an
41 insured or in favor of a third person with respect to the liability of an
42 insured to the third person;

or

1 (2) Without just cause compels insureds or claimants to accept less
2 than the amount due them or to employ attorneys or to bring suit against the
3 insurer or such an insured to secure full payment or settlement of such
4 claims.

5 (c) Refuses to be examined, or its directors, officers, employees or
6 representatives refuse to submit to examination relative to its affairs, or to
7 produce its books, papers, records, contracts, correspondence or other
8 documents for examination by the commissioner when required, or refuse
9 to perform any legal obligation relative to the examination.

10 (d) Except as otherwise provided in NRS 681A.110, has reinsured all its
11 risks in their entirety in another insurer.

12 (e) Has failed to pay any final judgment rendered against it in this state
13 upon any policy, bond, recognizance or undertaking as issued or guaranteed
14 by it, within 30 days after the judgment became final or within 30 days after
15 dismissal of an appeal before final determination, whichever date is the
16 later.

17 3. The commissioner may, without advance notice or a hearing
18 thereon, immediately suspend the certificate of authority of any insurer as
19 to which proceedings for receivership, conservatorship, rehabilitation or
20 other delinquency proceedings have been commenced in any state by the
21 public officer who supervises insurance for that state.

22 4. No proceeding to suspend, limit or revoke a certificate of authority
23 pursuant to this section may be maintained unless it is commenced by the
24 giving of notice to the insurer within 5 years after the occurrence of the
25 charged act or omission. This limitation does not apply if the commissioner
26 finds fraudulent or willful evasion of taxes.

27 **Sec. 41.** Section 11 of Senate Bill No. 92 of this session is hereby
28 amended to read as follows:

29 **Sec. 11.** NRS 616B.095 is hereby amended to read as follows:

30 616B.095 If the provisions of NRS 616B.224 concerning the
31 state insurance fund, or the provisions of chapters 616A to 616D,
32 inclusive, **or chapter 617** of NRS making the compensation to the
33 workman provided in those chapters exclusive of any other remedy
34 on the part of the workman, ~~{shall be}~~ **are** held invalid, each of
35 those chapters ~~{shall}~~ **must** be thereby invalidated, except the
36 provisions of NRS 616B.101, and an accounting according to the
37 justice of the case ~~{shall}~~ **must** be had on ~~{moneys}~~ **money** received.
38 In other respects an adjudication of invalidity of any part of this
39 chapter or chapter 616A, 616C, ~~{or}~~ 616D **or 617** of NRS ~~{shall}~~
40 **must** not affect the validity of any of those chapters as a whole or
41 any part thereof.

1 **Sec. 42.** Section 15 of Senate Bill No. 92 of this session is hereby
2 amended to read as follows:

3 **Sec. 15.** NRS 616B.224 is hereby amended to read as follows:

4 616B.224 1. Every private or public employer who is not a
5 self-insured employer or a member of an association of self-insured
6 public or private employers shall, at intervals and on or before dates
7 established by his insurer, furnish the insurer with:

8 (a) A true and accurate payroll showing:

9 (1) The total amount paid to employees for services
10 performed;

11 (2) The amount of tips reported to him by every employee
12 pursuant to 26 U.S.C. § 6053(a) whose tips in cash totaled \$20 or
13 more; and

14 (3) A segregation of employment in accordance with the
15 requirements of the commissioner; and

16 (b) Any premium due pursuant to the terms of the policy of
17 industrial insurance.

18 The payroll reports and any premium may be furnished to the
19 insurer on different dates, as established by the insurer.

20 2. Failure of any employer to comply with the provisions of this
21 section operates as a rejection of chapters 616A to 616D, inclusive,
22 **and chapter 617** of NRS, effective on the date established by the
23 insurer pursuant to subsection 1. The insurer shall notify the
24 administrator of each such rejection.

25 3. The insurer shall notify any employer or his representative
26 by first-class mail of any failure on his part to comply with the
27 provisions of this section. The notice or its omission does not
28 modify or waive the requirements or effective rejection of chapters
29 616A to 616D, inclusive, and **chapter** 617 of NRS as otherwise
30 provided in those chapters.

31 4. The system may impose a penalty not to exceed 10 percent
32 of the premiums which are due for the failure of an employer
33 insured by the system to submit the information and premium
34 required in subsection 1 within the time allowed, unless the
35 employer has applied for and been granted an extension of that time
36 by the manager.

37 5. To the extent permitted by federal law, the insurer shall
38 vigorously pursue the collection of premiums that are due under the
39 provisions of chapters 616A to 616D, inclusive, and **chapter** 617 of
40 NRS even if an employer's debts have been discharged in a
41 bankruptcy proceeding.

42 6. Every employer insured by the system shall pay its premiums
43 to the state insurance fund. All money received by the system

1 pursuant to this section must be deposited with the state treasurer to
2 the credit of the state insurance fund.

3 **Sec. 43.** Section 41 of Senate Bill No. 92 of this session is hereby
4 amended to read as follows:

5 **Sec. 41.** NRS 616D.050 is hereby amended to read as follows:

6 616D.050 1. Appeals officers, the administrator and the
7 administrator's designee, in conducting hearings or other
8 proceedings pursuant to the provisions of chapters 616A to 616D,
9 inclusive, **or chapter 617** of NRS or regulations adopted pursuant to
10 those chapters may:

11 (a) Issue subpoenas requiring the attendance of any witness or
12 the production of books, accounts, papers, records and documents.

13 (b) Administer oaths.

14 (c) Certify to official acts.

15 (d) Call and examine under oath any witness or party to a claim.

16 (e) Maintain order.

17 (f) Rule upon all questions arising during the course of a hearing
18 or proceeding.

19 (g) Permit discovery by deposition or interrogatories.

20 (h) Initiate and hold conferences for the settlement or
21 simplification of issues.

22 (i) Dispose of procedural requests or similar matters.

23 (j) Generally regulate and guide the course of a pending hearing
24 or proceeding.

25 2. Hearing officers, in conducting hearings or other
26 proceedings pursuant to the provisions of chapters 616A to 616D,
27 inclusive, **or chapter 617** of NRS or regulations adopted pursuant to
28 those chapters, may:

29 (a) Issue subpoenas requiring the attendance of any witness or
30 the production of books, accounts, papers, records and documents
31 that are relevant to the dispute for which the hearing or other
32 proceeding is being held.

33 (b) Maintain order.

34 (c) Permit discovery by deposition or interrogatories.

35 (d) Initiate and hold conferences for the settlement or
36 simplification of issues.

37 (e) Dispose of procedural requests or similar matters.

38 (f) Generally regulate and guide the course of a pending hearing
39 or proceeding.

1 **Sec. 44.** Section 43 of Senate Bill No. 92 of this session is hereby
2 amended to read as follows:

3 **Sec. 43.** NRS 616D.080 is hereby amended to read as follows:

4 616D.080 1. Each officer who serves a subpoena is entitled to
5 receive the same fees as a sheriff.

6 2. Each witness who appears, in obedience to a subpoena which
7 has been issued pursuant to this chapter or chapter 616A, 616B ,
8 ~~for~~ 616C **or 617** of NRS, before an appeals officer, a hearing
9 officer, the administrator or the administrator's designee, is entitled
10 to receive for his attendance the fees and mileage provided for
11 witnesses in civil cases in courts of record. For subpoenas issued on
12 behalf of this state or an officer or agency thereof, the fees and
13 mileage are not required to be tendered at the same time that the
14 subpoena is delivered to the person named therein.

15 3. The appeals officer, hearing officer, administrator or the
16 administrator's designee shall:

17 (a) Authorize payment from his administrative budget of the fees
18 and mileage due to such a witness; or

19 (b) Impose those costs upon the party at whose instance the
20 witness was subpoenaed or, for good cause shown, upon any other
21 party.

22 **Sec. 45.** Section 1 of Senate Bill No. 175 of this session is hereby
23 amended to read as follows:

24 **Section 1.** NRS 616D.200 is hereby amended to read as
25 follows:

26 616D.200 1. If the administrator finds that an employer
27 within the provisions of NRS 616B.633 has failed to provide and
28 secure compensation as required by the terms of chapters 616A to
29 616D, inclusive, or chapter 617 of NRS or that the employer has
30 provided and secured that compensation but has failed to maintain
31 it, he shall make a determination thereon and may charge the
32 employer an amount equal to the sum of:

33 (a) The premiums that would otherwise have been owed to the
34 system or a private carrier pursuant to the terms of chapters 616A to
35 616D, inclusive, or chapter 617 of NRS for the period that the
36 employer was doing business in this state without providing,
37 securing or maintaining that compensation, but not to exceed 6
38 years; and

39 (b) Interest at a rate determined pursuant to NRS 17.130
40 computed from the time that the premiums should have been
41 paid.

42 The money collected pursuant to this subsection must be paid into
43 the uninsured employers' claim fund.

1 2. The administrator shall deliver a copy of his determination to
2 the employer. An employer who is aggrieved by the determination
3 of the administrator may appeal from the determination pursuant to
4 subsection 2 of NRS 616D.220.

5 3. Any employer within the provisions of NRS 616B.633 who
6 fails to provide, secure or maintain compensation as required by the
7 terms of chapters 616A to 616D, inclusive, or chapter 617 of NRS,
8 ~~is:~~

9 ~~—(a) For the first offense, guilty of a misdemeanor.~~

10 ~~—(b) For a second or subsequent offense committed within 7 years~~
11 ~~after the previous offense, guilty of a category C felony and shall be~~
12 ~~punished as provided in NRS 193.130.] shall be punished as~~
13 ~~follows:~~

14 *(a) Except as otherwise provided in paragraph (b), if it is a first*
15 *offense, for a misdemeanor.*

16 *(b) If it is a first offense and, during the period the employer*
17 *was doing business in this state without providing, securing or*
18 *maintaining compensation, one of his employees suffers an injury*
19 *arising out of and in the course of his employment that results in*
20 *substantial bodily harm to the employee or the death of the*
21 *employee, for a category C felony punishable by imprisonment in*
22 *the state prison for a minimum term of not less than 1 year and a*
23 *maximum term of not more than 5 years and by a fine of not less*
24 *than \$1,000 nor more than \$50,000.*

25 *(c) If it is a second or subsequent offense committed within 7*
26 *years after the previous offense, for a category C felony*
27 *punishable by imprisonment in the state prison for a minimum*
28 *term of not less than 1 year and a maximum term of not more*
29 *than 5 years and by a fine of not less than \$1,000 nor more than*
30 *\$50,000.*

31 4. *In addition to any other penalty imposed pursuant to*
32 *paragraph (b) or (c) of subsection 3, the court shall order the*
33 *employer to:*

34 *(a) Pay restitution to an insurer who has incurred costs as a*
35 *result of the violation in an amount equal to the costs that have*
36 *been incurred minus any costs incurred that have otherwise been*
37 *recovered; and*

38 *(b) Reimburse the uninsured employers' claim fund for all*
39 *payments made from the fund on the employer's behalf,*
40 *including any benefits, administrative costs or attorney's fees paid*
41 *from the fund, that have not otherwise been recovered pursuant to*
42 *NRS*

616C.220.

1 **5.** Any criminal penalty imposed *pursuant to subsections 3*
2 *and 4* must be in addition to the amount charged pursuant to
3 subsection 1.

4 **Sec. 46.** Senate Bill No. 175 of this session is hereby amended by
5 adding thereto a new section designated sec. 2, following section 1, to read
6 as follows:

7 **Sec. 2.** This act becomes effective at 12:01 a.m. on October 1,
8 1999.

9 **Sec. 47.** 1. NRS 616A.235, 616B.218, 616B.389 and 616C.535 are
10 hereby repealed.

11 2. NRS 616B.230 is hereby repealed.

12 **Sec. 48.** 1. This section and sections 2, 5 to 9, inclusive, 11, 14, 19
13 to 24, inclusive, 26 to 32, inclusive, 34, 35, 36, 38, 39, 40 to 46, inclusive,
14 and subsection 1 of section 47 of this act become effective on July 1, 1999.

15 2. Sections 1, 3, 4, 10, 12, 15, 16, 17, 18, 25, 33, 37 and subsection 2
16 of section 47 of this act become effective at 12:01 a.m. on July 1, 1999.

17 3. Section 13 of this act becomes effective at 12:02 a.m. on July 1,
18 1999.

LEADLINES OF REPEALED SECTIONS

616A.235 "Extended claim" defined.

616B.218 Payment of premiums or deposit upon entering or
resuming business.

616B.230 Payment of premiums by public employers. [Effective
July 1, 1999.]

616B.389 Membership in association: Required period of
insurance coverage by system upon termination or cancellation of
membership; determination of premium; exception.

616C.535 System authorized to execute agreement for provision of
vocational rehabilitation services by state or federal agency; use of
programs located outside state.