

ASSEMBLY BILL NO. 572—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF OFFICE OF THE ATTORNEY GENERAL)

MARCH 26, 2001

Referred to Committee on Commerce and Labor

SUMMARY—Establishes single fraud control unit for insurance within office of attorney general. (BDR 18-487)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: 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 the office of the attorney general; establishing a single fraud control unit for insurance within the office; establishing the duties of the unit; 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 228 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.** *As used in NRS 228.420 and sections 3 and 4 of this act,*  
4     *“fraud control unit” means the fraud control unit for insurance*  
5     *established pursuant to section 3 of this act.*  
6     **Sec. 3.** 1. *The attorney general shall establish within his office a*  
7     *fraud control unit for insurance.*  
8     2. *The fraud control unit shall carry out the duties set forth in NRS*  
9     *228.420 and section 4 of this act.*  
10    3. *The fraud control unit must consist of such persons as are*  
11    *necessary to carry out the duties set forth in NRS 228.420 and section 4*  
12    *of this act, including, without limitation, an attorney, an auditor and an*  
13    *investigator.*  
14    **Sec. 4.** 1. *The attorney general, acting through the fraud control*  
15    *unit, shall:*  
16    (a) *Investigate and prosecute any alleged insurance fraud that violates*  
17    *the provisions of Title 57 of NRS, including, without limitation, those*  
18    *violations reported to it by the commissioner of insurance pursuant to*  
19    *NRS 679B.180; and*



1 (b) *Cooperate with the commissioner of insurance, insurers, and other*  
2 *state and federal investigators and prosecutors in coordinating state and*  
3 *federal investigations and prosecutions involving insurance fraud.*

4 2. *When acting pursuant to this section, the attorney general may*  
5 *commence his investigation and file a criminal action without leave of*  
6 *court, and he has exclusive charge of the conduct of the prosecution.*

7 **Sec. 5.** NRS 228.420 is hereby amended to read as follows:

8 228.420 1. The attorney general has primary jurisdiction to  
9 investigate and prosecute any alleged criminal ~~violations~~ *violation* of  
10 NRS 616D.200, 616D.220, 616D.240, 616D.300, 616D.310 ~~and~~ *and*  
11 616D.350 to 616D.440, inclusive, and any fraud in the administration of  
12 chapter 616A, 616B, 616C, 616D or 617 of NRS or in the provision of  
13 compensation required by chapters 616A to 617, inclusive, of NRS.

14 2. ~~For this purpose, the attorney general shall establish within his~~  
15 ~~office a fraud control unit for industrial insurance. The unit must consist of~~  
16 ~~such persons as are necessary to carry out the duties set forth in this~~  
17 ~~section, including, without limitation, an attorney, an auditor and an~~  
18 ~~investigator.~~

19 ~~3. The attorney general, acting through the fraud control unit :~~  
20 ~~established pursuant to subsection 2:~~

21 (a) Is the single state agency responsible for the investigation and  
22 prosecution of any alleged criminal violations of NRS 616D.200,  
23 616D.220, 616D.240, 616D.300, 616D.310 ~~and~~ *and* 616D.350 to 616D.440,  
24 inclusive, and any fraud in the administration of chapter 616A, 616B,  
25 616C, 616D or 617 of NRS or in the provision of compensation required  
26 by chapters 616A to 617, inclusive, of NRS;

27 (b) Shall cooperate with the division of industrial relations of the  
28 department of business and industry, self-insured employers, associations  
29 of self-insured public or private employers, private carriers, and other state  
30 and federal investigators and prosecutors in coordinating state and federal  
31 investigations and prosecutions involving violations of NRS 616D.200,  
32 616D.220, 616D.240, 616D.300, 616D.310 ~~and~~ *and* 616D.350 to 616D.440,  
33 inclusive, and any fraud in the administration of chapter 616A, 616B,  
34 616C, 616D or 617 of NRS or in the provision of compensation required  
35 by chapters 616A to 617, inclusive, of NRS;

36 (c) Shall protect the privacy of persons who are eligible to receive  
37 compensation pursuant to the provisions of chapter 616A, 616B, 616C,  
38 616D or 617 of NRS and establish procedures to prevent the misuse of  
39 information obtained in carrying out this section; and

40 (d) May, upon request, inspect the records of any self-insured employer,  
41 association of self-insured public or private employers, or private carrier,  
42 the division of industrial relations of the department of business and  
43 industry and the state contractors' board to investigate any alleged  
44 violation of any of the provisions of NRS 616D.200, 616D.220, 616D.240,  
45 616D.300, 616D.310 ~~or~~ *or* 616D.350 to 616D.440, inclusive, or any fraud  
46 in the administration of chapter 616A, 616B, 616C, 616D or 617 of NRS or  
47 in the provision of compensation required by chapters 616A to 617,  
48 inclusive, of NRS.



1 ~~14-1~~ 3. When acting pursuant to this section or NRS 228.175 or  
2 228.410, the attorney general may commence his investigation and file a  
3 criminal action without leave of court, and he has exclusive charge of the  
4 conduct of the prosecution.

5 ~~15-1~~ 4. The attorney general shall report the name of any person who  
6 has been convicted of violating any of the provisions of NRS 616D.200,  
7 616D.220, 616D.240, 616D.300, 616D.310 ~~11~~ or 616D.350 to 616D.440,  
8 inclusive, to the occupational board that issued the person's license or  
9 certificate to provide medical care, remedial care or other services in this  
10 state.

11 ~~16-1~~ 5. The attorney general shall establish a toll-free telephone  
12 number for persons to report information regarding alleged violations of  
13 any of the provisions of NRS 616D.200, 616D.220, 616D.240, 616D.300,  
14 616D.310 ~~11~~ or 616D.350 to 616D.440, inclusive, and any fraud in the  
15 administration of chapter 616A, 616B, 616C, 616D or 617 of NRS or in the  
16 provision of compensation required by chapters 616A to 617, inclusive, of  
17 NRS.

18 ~~17-1~~ 6. As used in this section:

19 (a) "Association of self-insured private employers" has the meaning  
20 ascribed to it in NRS 616A.050.

21 (b) "Association of self-insured public employers" has the meaning  
22 ascribed to it in NRS 616A.055.

23 (c) "Private carrier" has the meaning ascribed to it in NRS 616A.290.

24 (d) "Self-insured employer" has the meaning ascribed to it in  
25 NRS 616A.305.

26 **Sec. 6.** NRS 232.680 is hereby amended to read as follows:

27 232.680 1. The cost of carrying out the provisions of NRS ~~228.420~~  
28 ~~and~~ 232.550 to 232.700, inclusive, and of supporting the division, a full-  
29 time employee of the legislative counsel bureau ~~1, the fraud control unit for~~  
30 ~~industrial insurance established pursuant to NRS 228.420~~ and the  
31 legislative committee on workers' compensation created pursuant to NRS  
32 218.5375, and that portion of the cost of the office for consumer health  
33 assistance established pursuant to NRS 223.550 that is related to providing  
34 assistance to consumers and injured employees concerning workers'  
35 compensation, must be paid from assessments payable by each insurer,  
36 including each employer who provides accident benefits for injured  
37 employees pursuant to NRS 616C.265, based upon expected annual  
38 expenditures for claims for injuries occurring on or after July 1, 1999. The  
39 division shall adopt regulations which establish formulas of assessment  
40 which result in an equitable distribution of costs among the insurers and  
41 employers who provide accident benefits for injured employees. The  
42 formulas may utilize actual expenditures for claims.

43 2. Federal grants may partially defray the costs of the division.

44 3. Assessments made against insurers by the division after the  
45 adoption of regulations must be used to defray all costs and expenses of  
46 administering the program of workers' compensation, including the  
47 payment of:

48 (a) All salaries and other expenses in administering the division,  
49 including the costs of the office and staff of the administrator.



1 (b) All salaries and other expenses of administering NRS 616A.435 to  
2 616A.460, inclusive, the offices of the hearings division of the department  
3 of administration and the programs of self-insurance and review of  
4 premium rates by the commissioner of insurance.

5 (c) The salary and other expenses of a full-time employee of the  
6 legislative counsel bureau whose principal duties are limited to conducting  
7 research and reviewing and evaluating data related to industrial insurance.

8 (d) ~~{All}~~ *Those* salaries and ~~{other}~~ expenses of the fraud control unit  
9 for ~~{industrial}~~ insurance established pursuant to *section 3 of this act that*  
10 *are associated with carrying out the provisions of* NRS 228.420.

11 (e) Claims against uninsured employers arising from compliance with  
12 NRS 616C.220 and 617.401.

13 (f) All salaries and expenses of the members of the legislative  
14 committee on workers' compensation and any other expenses incurred by  
15 the committee in carrying out its duties pursuant to NRS 218.5375 to  
16 218.5378, inclusive.

17 (g) That portion of the salaries and other expenses of the office for  
18 consumer health assistance established pursuant to NRS 223.550 that is  
19 related to providing assistance to consumers and injured employees  
20 concerning workers' compensation.

21 **Sec. 7.** NRS 616A.425 is hereby amended to read as follows:

22 616A.425 1. There is hereby established in the state treasury the fund  
23 for workers' compensation and safety as a special revenue fund. All money  
24 received from assessments levied on insurers and employers by the  
25 administrator pursuant to NRS 232.680 must be deposited in this fund.

26 2. All assessments, penalties, bonds, securities and all other properties  
27 received, collected or acquired by the division for functions supported in  
28 whole or in part from the fund must be delivered to the custody of the state  
29 treasurer for deposit to the credit of the fund.

30 3. All money and securities in the fund must be used to defray all costs  
31 and expenses of administering the program of workmen's compensation,  
32 including the payment of:

33 (a) All salaries and other expenses in administering the division of  
34 industrial relations, including the costs of the office and staff of the  
35 administrator.

36 (b) All salaries and other expenses of administering NRS 616A.435 to  
37 616A.460, inclusive, the offices of the hearings division of the department  
38 of administration and the programs of self-insurance and review of  
39 premium rates by the commissioner.

40 (c) The salary and other expenses of a full-time employee of the  
41 legislative counsel bureau whose principal duties are limited to conducting  
42 research and reviewing and evaluating data related to industrial insurance.

43 (d) ~~{All}~~ *Those* salaries and ~~{other}~~ expenses of the fraud control unit  
44 for ~~{industrial}~~ insurance established pursuant to *section 3 of this act that*  
45 *are associated with carrying out the provisions of* NRS 228.420.

46 (e) Claims against uninsured employers arising from compliance with  
47 NRS 616C.220 and 617.401.

48 (f) All salaries and expenses of the members of the legislative  
49 committee on workers' compensation and any other expenses incurred by



1 the committee in carrying out its duties pursuant to NRS 218.5375 to  
2 218.5378, inclusive.

3 (g) That portion of the salaries and other expenses of the office for  
4 consumer health assistance established pursuant to NRS 223.550 that is  
5 related to providing assistance to consumers and injured employees  
6 concerning workers' compensation.

7 4. The state treasurer may disburse money from the fund only upon  
8 written order of the controller.

9 5. The state treasurer shall invest money of the fund in the same  
10 manner and in the same securities in which he is authorized to invest state  
11 general funds which are in his custody. Income realized from the  
12 investment of the assets of the fund must be credited to the fund.

13 6. The commissioner shall assign an actuary to review the  
14 establishment of assessment rates. The rates must be filed with the  
15 commissioner 30 days before their effective date. Any insurer or employer  
16 who wishes to appeal the rate so filed must do so pursuant to  
17 NRS 679B.310.

18 **Sec. 8.** NRS 616B.018 is hereby amended to read as follows:

19 616B.018 1. The administrator shall establish a method of indexing  
20 claims for compensation that will make information concerning the  
21 claimants of an insurer available to other insurers and the fraud control unit  
22 for ~~industrial~~ insurance established pursuant to ~~NRS 228.420~~ *section 3*  
23 *of this act.*

24 2. Every insurer shall provide the following information if required by  
25 the administrator for establishing and maintaining the index of claims:

26 (a) The first name, last name, middle initial, if any, date of birth and  
27 social security number of the injured employee;

28 (b) The name and tax identification number of the employer of the  
29 injured employee;

30 (c) If the employer of the injured employee is a member of an  
31 association of self-insured public or private employers, the name and tax  
32 identification number of that association;

33 (d) The name and tax identification number of the insurer, unless the  
34 employer of the injured employee is self-insured and this requirement  
35 would duplicate the information required pursuant to paragraph (b);

36 (e) The date upon which the employer's policy of industrial insurance  
37 that covers the claim became effective and the date upon which it will  
38 expire or must be renewed;

39 (f) The number assigned to the claim by the insurer;

40 (g) The date of the injury or of the sustaining of the occupational  
41 disease;

42 (h) The part of the body that was injured or the occupational disease  
43 that was sustained by the injured employee;

44 (i) The percentage of disability as determined by the rating physician or  
45 chiropractor;

46 (j) Which part of the body was permanently impaired, if any;

47 (k) ~~What~~ *The* type of accident or occupational disease that is the  
48 subject of the claim;

49 (l) The date, if any, that the claim was closed; and



- 1 (m) If the claim has been closed, whether the closure was pursuant to  
2 the provisions of:
- 3 (1) Subsection 2 of NRS 616C.235; or  
4 (2) Subsection 1 of NRS 616C.235,  
5 and what type of compensation was provided for the claim.
- 6 3. The administrator shall require information provided pursuant to  
7 subsection 2 to be submitted:
- 8 (a) In a format that is consistent with nationally recognized standards  
9 for the reporting of data regarding industrial insurance; and  
10 (b) Electronically or in another medium approved by the administrator.
- 11 4. The administrator shall ensure that the requirement for an insurer to  
12 provide information pursuant to subsection 2 is administered in a fair and  
13 equal manner so that an insurer is not required to provide more or a  
14 different type of information than another insurer similarly situated.
- 15 5. The provisions of this section do not prevent the administrator from:
- 16 (a) Conducting audits pursuant to the provisions of NRS 616B.003 and  
17 collecting information from such audits;  
18 (b) Receiving and collecting information from the reports that insurers  
19 must submit to the administrator pursuant to the provisions of NRS  
20 616B.009;  
21 (c) Investigating alleged violations of the provisions of chapters 616A  
22 to 617, inclusive, of NRS; or  
23 (d) Enforcing the provisions of chapters 616A to 617, inclusive, of  
24 NRS.
- 25 6. If an employee files a claim with an insurer, the insurer is entitled to  
26 receive from the administrator a list of the prior claims of the employee. If  
27 the insurer desires to inspect the files related to the prior claims, he must  
28 obtain the written consent of the employee.
- 29 7. Any information obtained from the index of claims may be admitted  
30 into evidence in any hearing before an appeals officer, a hearing officer or  
31 the administrator.
- 32 8. The division may assess and collect a reasonable fee for its services  
33 provided pursuant to this section. The fee must be payable monthly or at  
34 such other intervals as determined by the administrator.
- 35 9. If the administrator determines that an insurer has intentionally  
36 failed to provide the information required by subsection 2, the  
37 administrator shall impose an administrative fine of \$1,000 for the initial  
38 violation, and a fine of \$2,000 for a second or subsequent violation.
- 39 10. As used in this section, "tax identification number" means the  
40 number assigned by the Internal Revenue Service of the United States  
41 Department of the Treasury for identification.
- 42 **Sec. 9.** NRS 616D.120 is hereby amended to read as follows:
- 43 616D.120 1. Except as otherwise provided in this section, if the  
44 administrator determines that an insurer, organization for managed care,  
45 health care provider, third-party administrator or employer has:
- 46 (a) Through fraud, coercion, duress or undue influence:  
47 (1) Induced a claimant to fail to report an accidental injury or  
48 occupational disease;



- 1 (2) Persuaded a claimant to settle for an amount which is less than  
2 reasonable;
- 3 (3) Persuaded a claimant to settle for an amount which is less than  
4 reasonable while a hearing or an appeal is pending; or
- 5 (4) Persuaded a claimant to accept less than the compensation found  
6 to be due him by a hearing officer, appeals officer, court of competent  
7 jurisdiction, written settlement agreement, written stipulation or the  
8 division when carrying out its duties pursuant to chapters 616A to 617,  
9 inclusive, of NRS;
- 10 (b) Refused to pay or unreasonably delayed payment to a claimant of  
11 compensation found to be due him by a hearing officer, appeals officer,  
12 court of competent jurisdiction, written settlement agreement, written  
13 stipulation or the division when carrying out its duties pursuant to chapters  
14 616A to 616D, inclusive, or chapter 617 of NRS, if the refusal or delay  
15 occurs:
- 16 (1) Later than 10 days after the date of the settlement agreement or  
17 stipulation;
- 18 (2) Later than 30 days after the date of the decision of a court,  
19 hearing officer, appeals officer or division, unless a stay has been granted;  
20 or
- 21 (3) Later than 10 days after a stay of the decision of a court, hearing  
22 officer, appeals officer or division has been lifted;
- 23 (c) Refused to process a claim for compensation pursuant to chapters  
24 616A to 616D, inclusive, or chapter 617 of NRS;
- 25 (d) Made it necessary for a claimant to initiate proceedings pursuant to  
26 chapters 616A to 616D, inclusive, or chapter 617 of NRS for compensation  
27 found to be due him by a hearing officer, appeals officer, court of  
28 competent jurisdiction, written settlement agreement, written stipulation or  
29 the division when carrying out its duties pursuant to chapters 616A to  
30 616D, inclusive, or chapter 617 of NRS;
- 31 (e) Failed to comply with the division's regulations covering the  
32 payment of an assessment relating to the funding of costs of administration  
33 of chapters 616A to 617, inclusive, of NRS;
- 34 (f) Failed to provide or unreasonably delayed payment to an injured  
35 employee or reimbursement to an insurer pursuant to NRS 616C.165; or
- 36 (g) Intentionally failed to comply with any provision of, or regulation  
37 adopted pursuant to, this chapter or chapter 616A, 616B, 616C or 617 of  
38 NRS,
- 39 the administrator shall impose an administrative fine of \$1,000 for each  
40 initial violation, or a fine of \$10,000 for a second or subsequent violation.
- 41 2. Except as otherwise provided in chapters 616A to 616D, inclusive,  
42 or chapter 617 of NRS, if the administrator determines that an insurer,  
43 organization for managed care, health care provider, third-party  
44 administrator or employer has failed to comply with any provision of this  
45 chapter or chapter 616A, 616B, 616C or 617 of NRS, or any regulation  
46 adopted pursuant thereto, the administrator may take any of the following  
47 actions:
- 48 (a) Issue a notice of correction for:



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

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

7 The notice of correction must set forth with particularity the violation  
8 committed and the manner in which the violation may be corrected. The  
9 provisions of this section do not authorize the administrator to modify or  
10 negate in any manner a determination or any portion of a determination  
11 made by a hearing officer, appeals officer or court of competent  
12 jurisdiction or a provision contained in a written settlement agreement or  
13 written stipulation.

14 (b) Impose an administrative fine for:

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

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

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

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

25 3. If the administrator determines that a violation of any of the  
26 provisions of paragraphs (a) to (d), inclusive, of subsection 1 has occurred,  
27 the administrator shall order the insurer, organization for managed care,  
28 health care provider, third-party administrator or employer to pay to the  
29 claimant a benefit penalty in an amount that is not less than \$5,000 and not  
30 greater than \$25,000. To determine the amount of the benefit penalty, the  
31 administrator shall consider the degree of physical harm suffered by the  
32 injured employee or his dependents as a result of the violation of paragraph  
33 (a), (b), (c) or (d) of subsection 1, the amount of compensation found to be  
34 due the claimant and the number of fines and benefit penalties previously  
35 imposed against the insurer, organization for managed care, health care  
36 provider, third-party administrator or employer pursuant to this section. If  
37 this is the third violation within 5 years for which a benefit penalty has  
38 been imposed against the insurer, organization for managed care, health  
39 care provider, third-party administrator or employer, the administrator shall  
40 also consider the degree of economic harm suffered by the injured  
41 employee or his dependents as a result of the violation of paragraph (a),  
42 (b), (c) or (d) of subsection 1. Except as otherwise provided in this section,  
43 the benefit penalty is for the benefit of the claimant and must be paid  
44 directly to him within 10 days after the date of the administrator's  
45 determination. If the claimant is the injured employee and he dies before  
46 the benefit penalty is paid to him, the benefit penalty must be paid to his  
47 estate. Proof of the payment of the benefit penalty must be submitted to the  
48 administrator within 10 days after the date of his determination unless an  
49 appeal is filed pursuant to NRS 616D.140. Any compensation to which the





1 claimant may otherwise be entitled pursuant to chapters 616A to 616D,  
2 inclusive, or chapter 617 of NRS must not be reduced by the amount of any  
3 benefit penalty received pursuant to this subsection.

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

9 5. If:

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

13 (b) The fraud control unit for ~~industrial~~ insurance established pursuant  
14 to ~~NRS 228.420~~ *section 3 of this act* notifies the administrator that the  
15 unit will not prosecute the person for that violation,  
16 the administrator shall impose an administrative fine of not more than  
17 \$10,000.

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

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

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

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

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

31 **Sec. 10.** NRS 616D.230 is hereby amended to read as follows:

32 616D.230 1. An employer who fails to pay an amount of money  
33 charged to him pursuant to the provisions of NRS 616D.200 or 616D.220  
34 is liable in a civil action commenced by the attorney general for:

35 (a) Any amount charged to the employer by the administrator pursuant  
36 to NRS 616D.200 or 616D.220;

37 (b) Not more than \$10,000 for each act of willful deception;

38 (c) An amount equal to three times the total amount of the reasonable  
39 expenses incurred by the state in enforcing this section; and

40 (d) Payment of interest on the amount charged at the rate fixed pursuant  
41 to NRS 99.040 for the period from the date upon which the amount  
42 charged was due to the date upon which the amount charged is paid.

43 2. A criminal action need not be brought against an employer  
44 described in subsection 1 before civil liability attaches under this section.

45 3. Any payment of money charged pursuant to the provisions of NRS  
46 616D.200 or 616D.220 and collected pursuant to paragraph (a) or (d) of  
47 subsection 1 must be paid into the uninsured employers' claim fund.

48 4. Any penalty collected pursuant to paragraph (b) or (c) of subsection  
49 1 must be used to pay ~~the~~ *those* salaries and ~~other~~ expenses of the fraud



\* A B 5 7 2 \*

1 control unit for ~~industrial~~ insurance established pursuant to *section 3 of*  
2 *this act that are associated with carrying out* the provisions of NRS  
3 228.420. Any money remaining at the end of any fiscal year does not revert  
4 to the state general fund.

5 **Sec. 11.** NRS 616D.430 is hereby amended to read as follows:

6 616D.430 1. A person who receives a payment or benefit to which  
7 he is not entitled by reason of a violation of any of the provisions of NRS  
8 616D.300, 616D.370, 616D.380, 616D.390, 616D.400 or 616D.410 is  
9 liable in a civil action commenced by the attorney general for:

- 10 (a) An amount equal to three times the amount unlawfully obtained;  
11 (b) Not less than \$5,000 for each act of deception;  
12 (c) An amount equal to three times the total amount of the reasonable  
13 expenses incurred by the state in enforcing this section; and  
14 (d) Payment of interest on the amount of the excess payment at the rate  
15 fixed pursuant to NRS 99.040 for the period from the date upon which  
16 payment was made to the date upon which repayment is made.

17 2. A criminal action need not be brought against a person who receives  
18 a payment or benefit to which he is not entitled by reason of a violation of  
19 any of the provisions of NRS 616D.300, 616D.370, 616D.380, 616D.390,  
20 616D.400 or 616D.410 before civil liability attaches under this section.

21 3. A person who unknowingly accepts a payment in excess of the  
22 amount to which he is entitled is liable for the repayment of the excess  
23 amount. It is a defense to any action brought pursuant to this subsection  
24 that the person returned or attempted to return the amount which was in  
25 excess of that to which he was entitled within a reasonable time after  
26 receiving it.

27 4. Any repayment of money collected pursuant to paragraph (a) or (d)  
28 of subsection 1 must be paid to the insurer who made the payment to the  
29 person who violated the provisions of this section. Any payment made to  
30 an insurer may not exceed the amount paid by the insurer to that person.

31 5. Any penalty collected pursuant to paragraph (b) or (c) of subsection  
32 1 must be used to pay ~~the~~ *those* salaries and ~~other~~ expenses of the fraud  
33 control unit for ~~industrial~~ insurance established pursuant to *section 3 of*  
34 *this act that are associated with carrying out the provisions of* NRS  
35 228.420. Any money remaining at the end of any fiscal year does not revert  
36 to the state general fund.

37 **Sec. 12.** NRS 616D.550 is hereby amended to read as follows:

38 616D.550 1. An insurer, organization for managed care, health care  
39 provider, employer, third-party administrator or public officer who  
40 believes, or has reason to believe, that:

41 (a) A fraudulent claim for benefits under a policy of insurance has been  
42 made, or is about to be made;

43 (b) An employer within the provisions of NRS 616B.633 has:

44 (1) Knowingly made a false statement or representation concerning  
45 the amount of payroll upon which a premium is based; or

46 (2) Failed to provide and secure compensation under the terms of  
47 chapters 616A to 616D, inclusive, or chapter 617 of NRS or has failed to  
48 maintain that compensation;



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1 (c) A provider of health care has submitted an invoice for payment for  
2 accident benefits that contains information which the provider knows is  
3 false; or

4 (d) A person has committed any other fraudulent practice under this  
5 chapter or chapter 616A, 616B, 616C or 617 of NRS,  
6 shall report that belief to the fraud control unit for ~~industrial~~ insurance  
7 established pursuant to ~~NRS 228.420~~ *section 3 of this act*.

8 2. The fraud control unit for ~~industrial~~ insurance established pursuant  
9 to ~~NRS 228.420~~ *section 3 of this act* may require a person who submits a  
10 report pursuant to subsection 1 to submit that report on a form prescribed  
11 by the unit.

12 **Sec. 13.** NRS 616D.560 is hereby amended to read as follows:

13 616D.560 The administrator and the fraud control unit for ~~industrial~~  
14 insurance established pursuant to ~~NRS 228.420~~ *section 3 of this act* shall  
15 establish procedures to ensure that:

16 1. The administrator, in accordance with the established procedures,  
17 reports to the unit violations of the provisions of NRS 616D.200,  
18 616D.220, 616D.240, 616D.300, 616D.310 or 616D.350 to 616D.440,  
19 inclusive, of which the administrator becomes aware;

20 2. For the purposes of NRS 616D.120, the unit notifies the  
21 administrator in a timely manner whether the unit will prosecute a person  
22 who has violated the provisions of NRS 616D.200, 616D.220, 616D.240,  
23 616D.300, 616D.310 or 616D.350 to 616D.440, inclusive; and

24 3. The administrator and the unit share other information of which they  
25 are aware relating to violations of the provisions of NRS 616D.200,  
26 616D.220, 616D.240, 616D.300, 616D.310 or 616D.350 to 616D.440,  
27 inclusive.

28 **Sec. 14.** NRS 616D.610 is hereby amended to read as follows:

29 616D.610 1. The books, records and payrolls of an employer  
30 pertinent to the investigation of a violation of any of the provisions of NRS  
31 616D.200, 616D.220, 616D.240, 616D.300, 616D.310 or 616D.350 to  
32 616D.440, inclusive, or any fraud in the administration of this chapter or  
33 chapter 616A, 616B, 616C or 617 of NRS or in the provision of benefits  
34 for industrial insurance, must always be open to inspection by an  
35 investigator for the attorney general for the purpose of ascertaining the  
36 correctness of such information and as may be necessary for the attorney  
37 general to carry out his duties pursuant to NRS 228.420. If the books,  
38 records or payrolls are located outside this state, the employer shall make  
39 any records requested pursuant to this section available in this state for  
40 inspection within 10 working days after the request.

41 2. If an employer refuses to produce any book, record, payroll report  
42 or other document in conjunction with an investigation conducted by the  
43 fraud control unit for ~~industrial insurance~~ *insurance established*  
44 *pursuant to section 3 of this act*, the attorney general may issue a  
45 subpoena to require the production of that document.

46 3. If an employer refuses to produce any document as required by the  
47 subpoena, the attorney general may report to the district court by petition,  
48 setting forth that:



1 (a) Due notice has been given of the time and place of the production of  
2 the document;

3 (b) The employer has been subpoenaed by the attorney general pursuant  
4 to this section; and

5 (c) The employer has failed or refused to produce the document  
6 required by the subpoena,  
7 and asking for an order of the court compelling the employer to produce  
8 the document.

9 4. Upon such petition, the court shall enter an order directing the  
10 employer to appear before the court at a time and place to be fixed by the  
11 court in its order, the time to be not more than 10 days after the date of the  
12 order, and to show cause why he has not produced the document. A  
13 certified copy of the order must be served upon the employer.

14 5. If it appears to the court that the subpoena was regularly issued by  
15 the attorney general, the court shall enter an order that the employer  
16 produce the required document at the time and place fixed in the order.  
17 Failure to obey the order constitutes contempt of court.

18 **Sec. 15.** NRS 616D.620 is hereby amended to read as follows:

19 616D.620 1. If a person is convicted of violating any of the  
20 provisions of NRS 616D.200, 616D.220, 616D.240, 616D.300, 616D.310  
21 or 616D.350 to 616D.440, inclusive, he:

22 (a) Forfeits all rights to compensation under chapters 616A to 616D,  
23 inclusive, or chapter 617 of NRS after conviction for the offense; and

24 (b) Is liable for:

25 (1) The reasonable costs incurred by an insurer and the office of the  
26 attorney general to investigate and act upon the violation;

27 (2) All costs incurred for the prosecution of the person by the court in  
28 which the conviction was obtained; and

29 (3) The payments or benefits fraudulently obtained under chapters  
30 616A to 616D, inclusive, or chapter 617 of NRS.

31 2. A judgment of conviction entered against the person must contain a  
32 provision which requires the person convicted to pay the costs of  
33 investigation and prosecution and the payments or benefits specified in  
34 subsection 1.

35 3. Any money received by the attorney general pursuant to  
36 subparagraph (1) of paragraph (b) of subsection 1 must be used to pay ~~the~~  
37 *those* salaries and ~~other~~ expenses of the fraud control unit for ~~industrial~~  
38 insurance established pursuant to *section 3 of this act associated with*  
39 *carrying out the provisions of* NRS 228.420. Any money remaining at the  
40 end of any fiscal year does not revert to the state general fund.

41 **Sec. 16.** NRS 624.256 is hereby amended to read as follows:

42 624.256 1. Before granting an original or renewal of a contractor's  
43 license to any applicant, the board shall require that the applicant submit to  
44 the board:

45 (a) Proof of industrial insurance and insurance for occupational diseases  
46 which covers his employees;

47 (b) A copy of his certificate of qualification as a self-insured employer  
48 which was issued by the commissioner of insurance;



1 (c) If the applicant is a member of an association of self-insured public  
2 or private employers, a copy of the certificate issued to the association by  
3 the commissioner of insurance; or

4 (d) An affidavit signed by the applicant affirming that he is not subject  
5 to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of  
6 NRS because:

7 (1) He has no employees;

8 (2) He is not or does not intend to be a subcontractor for a principal  
9 contractor; and

10 (3) He has not or does not intend to submit a bid on a job for a  
11 principal contractor or subcontractor.

12 2. The board shall notify the fraud control unit for ~~industrial~~  
13 insurance established pursuant to ~~NRS 228.420~~ *section 3 of this act*  
14 whenever the board learns that an applicant or holder of a contractor's  
15 license has engaged in business as or acted in the capacity of a contractor  
16 within this state without having obtained industrial insurance or insurance  
17 for occupational diseases in violation of the provisions of chapters 616A to  
18 617, inclusive, of NRS.

19 **Sec. 17.** NRS 630.339 is hereby amended to read as follows:

20 630.339 1. If a committee designated by the board to conduct an  
21 investigation of a complaint decides to proceed with disciplinary action, it  
22 shall bring charges against the licensee. If charges are brought, the board  
23 shall fix a time and place for a formal hearing. If the board receives a  
24 report pursuant to subsection ~~4~~ 4 of NRS 228.420, such a hearing must be  
25 held within 30 days after receiving the report. The board shall notify the  
26 licensee of the charges brought against him, the time and place set for the  
27 hearing, and the possible sanctions authorized in NRS 630.352.

28 2. The board, a hearing officer or a panel of its members designated by  
29 the board shall hold the formal hearing on the charges at the time and place  
30 designated in the notification. If the hearing is before a panel, at least one  
31 member of the board who is not a physician must participate in this  
32 hearing.

33 **Sec. 18.** NRS 630A.480 is hereby amended to read as follows:

34 630A.480 1. If, after an investigation by a committee or on its own  
35 initiative, the board decides to proceed with disciplinary action, it shall  
36 bring charges against a licensed homeopathic physician and fix a time and  
37 place for a formal hearing. If the board receives a report pursuant to  
38 subsection ~~4~~ 4 of NRS 228.420, such a hearing must be held within 30  
39 days after receiving the report. The board shall notify the homeopathic  
40 physician of the charges brought against him, including the time and place  
41 set for the hearing, and of the sanctions authorized in NRS 630A.510.

42 2. The board, a hearing officer or a committee of the members of the  
43 board shall hold the formal hearing on the charges at the time and place  
44 designated in the notification. If the hearing is before a committee, at least  
45 one member of the board who is not a physician must participate in the  
46 hearing and in the final recommendation of the committee to the board.

47 **Sec. 19.** NRS 631.360 is hereby amended to read as follows:

48 631.360 1. The board may, upon its own motion, and shall, upon the  
49 verified complaint in writing of any person setting forth facts which, if



1 proven, would constitute grounds for refusal, suspension or revocation of a  
2 license or certificate under this chapter, investigate the actions of any  
3 person holding a certificate.

4 2. The board shall, before refusing to issue, or before suspending or  
5 revoking any certificate, at least 10 days before the date set for the hearing,  
6 notify in writing the applicant or the holder of the certificate of any charges  
7 made. The notice may be served by delivery of it personally to the accused  
8 person or by mailing it by registered or certified mail to the place of  
9 business last specified by the accused person, as registered with the board.

10 3. At the time and place fixed in the notice, the board shall proceed to  
11 hear the charges. If the board receives a report pursuant to subsection ~~15~~ 4  
12 of NRS 228.420, a hearing must be held within 30 days after receiving the  
13 report.

14 4. The board may compel the attendance of witnesses or the  
15 production of documents or objects by subpoena. Any person who is  
16 subpoenaed by the board may request the board to modify the terms of the  
17 subpoena or grant additional time for compliance.

18 5. The board may obtain a search warrant from a magistrate upon a  
19 showing that the warrant is needed for an investigation or hearing being  
20 conducted by the board and that reasonable cause exists to issue the  
21 warrant.

22 6. If the board is not sitting at the time and place fixed in the notice, or  
23 at the time and place to which the hearing has been continued, the board  
24 shall continue the hearing for a period not to exceed 30 days.

25 **Sec. 20.** NRS 632.350 is hereby amended to read as follows:

26 632.350 1. Before suspending or revoking any license or certificate  
27 or taking other disciplinary action against a licensee or holder of a  
28 certificate, the board shall cause an administrative complaint to be filed  
29 against the licensee or holder of the certificate. The board shall notify the  
30 licensee or holder of the certificate in writing of the charges against him,  
31 accompanying the notice with a copy of the administrative complaint.

32 2. Written notice may be served by delivery of it personally to the  
33 licensee or holder of the certificate, or by mailing it by registered or  
34 certified mail to his last known residential address.

35 3. If the licensee or holder of the certificate, after receiving a copy of  
36 the administrative complaint pursuant to subsection 1, submits a written  
37 request, the board shall furnish the licensee or holder of the certificate with  
38 copies of any communications, reports and affidavits in possession of the  
39 board, touching upon or relating to the matter in question.

40 4. As soon as practicable after the filing of the administrative  
41 complaint, the board, or a majority thereof, shall hold a hearing on the  
42 charges at such time and place as the board prescribes. If the board receives  
43 a report pursuant to subsection ~~15~~ 4 of NRS 228.420, the hearing must be  
44 held within 30 days after receiving the report. The hearing must be held, if  
45 the licensee or holder of the certificate desires, within the county where he  
46 resides.

47 **Sec. 21.** NRS 633.621 is hereby amended to read as follows:

48 633.621 If:



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1 1. A complaint charging unprofessional conduct, a conviction or the  
2 suspension or revocation of a license to practice osteopathic medicine is  
3 not frivolous; or

4 2. With respect to a complaint reported by the attorney general, the  
5 board has determined to proceed with disciplinary action,  
6 the secretary of the board shall fix a time and place for a hearing and cause  
7 a notice of the hearing and a formal complaint prepared by the board to be  
8 served on the person charged at least 20 days before the date fixed for the  
9 hearing. If the board receives a report pursuant to subsection ~~15~~ 4 of NRS  
10 228.420, such a hearing must be held within 30 days after receiving the  
11 report.

12 **Sec. 22.** NRS 634.170 is hereby amended to read as follows:

13 634.170 1. When a complaint is filed with the executive director of  
14 the board, it must be considered by the president or a member of the board  
15 designated by him. If, from the complaint or from other official records, it  
16 appears that the complaint may be well founded in fact, the executive  
17 director shall cause written notice of the charges in the complaint to be  
18 served upon the person charged at least 20 days before the date fixed for  
19 the hearing. If the board receives a report pursuant to subsection ~~15~~ 4 of  
20 NRS 228.420, a hearing must be held within 30 days after receiving the  
21 report.

22 2. If the complaint is not deemed by the president or designated  
23 member of the board to be of sufficient import or sufficiently well founded  
24 to merit bringing proceedings against the person charged, the complaint  
25 must be held in abeyance and discussed at the next meeting of the board.

26 **Sec. 23.** NRS 634A.180 is hereby amended to read as follows:

27 634A.180 The board shall not refuse to issue, refuse to renew, suspend  
28 or revoke any license for any of the causes enumerated in NRS 634A.170,  
29 unless the person accused has been given at least 20 days' notice in writing  
30 of the charge against him and a hearing by the board. If the board receives  
31 a report pursuant to subsection ~~15~~ 4 of NRS 228.420, a hearing must be  
32 held within 30 days after receiving the report.

33 **Sec. 24.** NRS 635.150 is hereby amended to read as follows:

34 635.150 Any person against whom charges have been made ~~shall~~  
35 *must* be notified of that fact and a copy of the charges ~~shall~~ *must* be sent  
36 to him by the board. ~~He shall be given~~ *The board shall hold* a fair and  
37 impartial ~~trial by the board, whose decision shall~~ *hearing on the matter.*  
38 *The decision of the board must* be made by a majority vote of its  
39 members. If the board receives a report pursuant to subsection ~~15~~ 4 of  
40 NRS 228.420, a hearing must be held within 30 days after receiving the  
41 report.

42 **Sec. 25.** NRS 636.315 is hereby amended to read as follows:

43 636.315 1. As soon as practicable after the filing of a complaint, the  
44 board shall notify the licensee against whom the complaint is filed and fix  
45 a date for its review of the complaint. If the board receives a report  
46 pursuant to subsection ~~15~~ 4 of NRS 228.420, a hearing must be held within  
47 30 days after receiving the report. The licensee must be allowed a  
48 reasonable amount of time to respond to the allegations of the complaint.



1 The executive director shall notify the licensee of the time, date and place  
2 fixed for the board's review of the complaint.

3 2. After reviewing the complaint, the board shall dismiss the complaint  
4 or file a formal charge against the licensee. If a formal charge is filed, the  
5 executive director shall prepare the charge in accordance with the board's  
6 regulations and send a copy to the licensee. The licensee must be allowed a  
7 reasonable amount of time to file a response to the charge.

8 3. Within a reasonable time after the executive director sends a copy of  
9 the charge to the licensee, the board shall fix the time, date and place for a  
10 hearing and the executive director shall notify the licensee thereof.

11 **Sec. 26.** NRS 637.155 is hereby amended to read as follows:

12 637.155 If the board receives a report pursuant to subsection ~~151~~ 4 of  
13 NRS 228.420, a hearing to consider the report must be held within 30 days  
14 after receiving the report.

15 **Sec. 27.** NRS 637A.270 is hereby amended to read as follows:

16 637A.270 As soon as practicable after the filing of a complaint the  
17 board may, if the board determines that further action is required, fix a date  
18 for the hearing thereof, which date must not be less than 20 days thereafter.  
19 If the board receives a report pursuant to subsection ~~151~~ 4 of NRS 228.420,  
20 a hearing must be held within 30 days after receiving the report. The  
21 secretary shall immediately mail, by registered or certified mail, to the  
22 defendant licensee, a copy of the complaint and a notice showing the date  
23 and place fixed for the hearing.

24 **Sec. 28.** NRS 637B.270 is hereby amended to read as follows:

25 637B.270 Not later than 15 days after the filing of a complaint, the  
26 board shall fix a date for the hearing, which date must not be less than 20  
27 days nor more than 45 days after the date the complaint is filed. If the  
28 board receives a report pursuant to subsection ~~151~~ 4 of NRS 228.420, a  
29 hearing must be held within 30 days after receiving the report. The board  
30 shall immediately mail to the defendant, by certified mail, return receipt  
31 requested, a copy of the complaint and a notice showing the time, date and  
32 place of the hearing.

33 **Sec. 29.** NRS 639.245 is hereby amended to read as follows:

34 639.245 Whenever a hearing has been granted by the board, the  
35 secretary shall serve notice on the respondent of the time and place set for  
36 the hearing on the accusation. If the board receives a report pursuant to  
37 subsection ~~151~~ 4 of NRS 228.420, a hearing must be held within 30 days  
38 after receiving the report. Service may be effected in the same manner as  
39 provided in NRS 639.242.

40 **Sec. 30.** NRS 640.162 is hereby amended to read as follows:

41 640.162 1. As soon as practicable after the board determines that a  
42 complaint merits a hearing, the board shall set a date for the hearing. The  
43 hearing must not be set sooner than 30 days after the date on which the  
44 respondent received notice of the complaint. If the board receives a report  
45 pursuant to subsection ~~151~~ 4 of NRS 228.420, a hearing must be held within  
46 30 days after receiving the report.

47 2. The board's secretary shall:

- 48 (a) Notify the respondent that a complaint against him has been filed;  
49 (b) Inform him of the date, time and place set for the hearing; and



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1 (c) Include a copy of the complaint with the notice.  
2 3. The notice and complaint may be served on the respondent by  
3 delivery to him personally or by mailing to him at his last known address  
4 by registered or certified mail.

5 4. If the respondent so requests, the hearing must be held within the  
6 county where he resides.

7 **Sec. 31.** NRS 640A.200 is hereby amended to read as follows:

8 640A.200 1. The board may, after notice and hearing, suspend,  
9 revoke or refuse to issue or renew a license to practice as an occupational  
10 therapist or occupational therapy assistant, or may impose conditions upon  
11 the use of that license, if the board determines that the holder of or  
12 applicant for the license is guilty of unprofessional conduct which has  
13 endangered or is likely to endanger the public health, safety or welfare. The  
14 board may reinstate a revoked license upon application by the person to  
15 whom the license was issued not less than 1 year after the license is  
16 revoked.

17 2. If the board receives a report pursuant to subsection ~~15~~ 4 of NRS  
18 228.420, a hearing must be held to consider the report within 30 days after  
19 receiving the report.

20 3. As used in this section, "unprofessional conduct" includes:

21 (a) The obtaining of a license by fraud or through the misrepresentation  
22 or concealment of a material fact;

23 (b) The conviction of any crime, except a misdemeanor which does not  
24 involve moral turpitude; and

25 (c) The violation of any provision of this chapter or regulation of the  
26 board adopted pursuant to this chapter.

27 **Sec. 32.** NRS 641.276 is hereby amended to read as follows:

28 641.276 If:

29 1. A complaint charging unprofessional conduct, a conviction or the  
30 suspension or revocation of a license is not frivolous; or

31 2. With respect to a complaint reported by the attorney general, the  
32 board has determined to proceed with an action authorized under this  
33 chapter,

34 the board shall fix a time and place for a hearing and cause a notice of the  
35 hearing and a formal complaint prepared by the board to be served on the  
36 person named in the complaint at least 20 days before the date fixed for the  
37 hearing. If the board receives a report pursuant to subsection ~~15~~ 4 of NRS  
38 228.420, a hearing must be held within 30 days after receiving the report.

39 **Sec. 33.** NRS 652.225 is hereby amended to read as follows:

40 652.225 If the board receives a report pursuant to subsection ~~15~~ 4 of  
41 NRS 228.420, a hearing must be held pursuant to regulations adopted by  
42 the board to consider the contents of the report. The board shall adopt such  
43 regulations as are necessary to carry out the provisions of this section.

44 **Sec. 34.** NRS 679B.158 is hereby amended to read as follows:

45 679B.158 1. The special investigative account is hereby established  
46 in the state general fund for use by the commissioner. The commissioner  
47 shall deposit all money received pursuant to this section with the state  
48 treasurer for credit to the account. Money remaining in the account at the



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1 end of any year does not lapse and may be used by the commissioner in  
2 any subsequent year.

3 2. The commissioner shall authorize expenditures from the special  
4 investigative account to pay the expenses of the program established  
5 pursuant to NRS 679B.153 and ~~to any~~ *the expenses of the fraud control*  
6 *unit for insurance* established ~~in the office of the attorney general which~~  
7 ~~investigates and prosecutes insurance fraud.~~ *pursuant to section 3 of this*  
8 *act that are associated with carrying out the provisions of section 4 of*  
9 *this act.*

10 3. All of the costs of the program established pursuant to NRS  
11 679B.153 must be paid by the insurers authorized to transact insurance in  
12 this state. The commissioner shall annually determine the total cost and  
13 equally divide that amount among the insurers. The annual amount so  
14 assessed must not exceed \$500 per authorized insurer. The commissioner  
15 may adopt regulations regarding the calculation and collection of the  
16 assessment.

17 **Sec. 35.** This act becomes effective on July 1, 2001.

