

Senate Bill No. 202—Committee on Government Affairs

CHAPTER.....

AN ACT relating to state financial administration; revising the requirement of financial reporting by the state controller; changing the designation of certain funds and accounts; making various changes relating to warrants of the state controller; requiring the state controller to present funds in annual financial statements in conformity with generally accepted accounting principles; and providing other matters properly relating thereto.

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

**Section 1.** NRS 227.110 is hereby amended to read as follows:

227.110 1. The state controller shall *annually* digest, prepare and report to the governor ~~not later than 60 days after the close of each fiscal year or 60 days after the latest date in the succeeding fiscal year fixed by the legislature for the closing of accounts and final disposition of unexpended funds, to be laid before the legislature at each regular session;~~ *and the legislature:*

(a) A complete statement of the condition of the revenue, taxable funds, resources, income and property of the state, and the amount of the expenditures for the preceding fiscal year.

(b) A full and detailed statement of the public debt.

(c) A tabular statement showing separately the whole amount of each appropriation of money made by law, the amount paid under each of those appropriations, and the balance unexpended.

(d) A tabular statement showing the amount of revenue collected from each county for the preceding year.

2. ~~In his report the~~ *The* state controller ~~shall~~ *may* recommend such plans as he deems expedient for the support of the public credit, for promoting frugality and economy, and for the better management and more perfect understanding of the fiscal affairs of the state.

**Sec. 2.** NRS 227.160 is hereby amended to read as follows:

227.160 1. The state controller shall:

(a) Audit all claims against the state, for the payment of which an appropriation or authorization has been made but of which the amount has not been definitely fixed by law, which have been examined and passed upon by the state board of examiners, or which have been presented to the board and not examined and passed upon by it within 30 days from their presentation.

(b) Allow of those claims mentioned in paragraph (a) as not having been passed upon by the state board of examiners within 30 days after presentation the whole, or such portion thereof as he deems just and legal; and of claims examined and passed upon by the state board of examiners, such an amount as he decrees just and legal not exceeding the amount allowed by the board.

2. No claim for services rendered or advances made to the state or any officer thereof may be audited or allowed unless the services or advancement have been specially authorized by law and an appropriation or authorization made for its payment.

3. For the purpose of satisfying himself of the justness and legality of any claim, the state controller may examine witnesses under oath and receive and consider documentary evidence in addition to that furnished him by the state board of examiners. ~~Except as otherwise provided in NRS 227.215, he~~ *The state controller* shall draw warrants on the state treasurer for such amounts as ~~he~~ *the state controller* allows of claims of the character described in this section, and also for all claims of which the amount has been definitely fixed by law and for the payment of which an appropriation or authorization has been made.

**Sec. 3.** NRS 227.200 is hereby amended to read as follows:

227.200 ~~Except as otherwise provided in NRS 227.215, the~~ *The* state controller shall:

1. Draw a warrant in favor of any person or governmental payee certified by an agency of state government to receive money from the treasury and deliver or mail the warrant to the state treasurer who shall sign the warrant and:

(a) Deliver or mail the countersigned warrant, if it is for an account payable, directly to the payee or his representative;

(b) ~~Deliver the warrant, if~~ *If* it is for payment of an employee ~~it~~ :

*(1) Deliver or mail the warrant* to the employee or to the appropriate state agency for distribution; or

*(2) Deposit the warrant to the credit of the employee by direct deposit at a bank or credit union in which the employee has an account, if the employee has authorized the direct deposit; or*

(c) Deposit the warrant to the credit of the payee through a funds transfer.

2. Keep a warrant register, in which he shall enter all warrants drawn by him. The arrangement of this book must be such as to show the bill and warrant number, the amount, out of which fund the warrants are payable, and a distribution of the warrants under the various appropriations.

3. Credit the state treasurer with all warrants paid.

**Sec. 4.** NRS 232.355 is hereby amended to read as follows:

232.355 1. Except for gifts or grants specifically accounted for in another fund, all gifts or grants of money or other property which the divisions of the department of human resources are authorized to accept must be accounted for in the department of human resources' gift fund, *which is* hereby created as a ~~trust~~ *special revenue* fund. The fund is a continuing fund without reversion. The department may establish such accounts in the fund as are necessary to account properly for gifts received. All *such* money received by the ~~division~~ *divisions* must be deposited in the state treasury for credit to the fund. The money in the fund must be paid out on claims as other claims against the state are paid. Unless otherwise specifically provided by statute, claims against the fund must be approved by the director or his delegate.

2. Gifts of property other than money may be sold or exchanged when this is deemed by the head of the facility or agency responsible for the gift to be in the best interest of the facility or agency. The sale price must not be less than 90 percent of the value determined by a qualified appraiser appointed by the head of the facility or agency. All money received from the sale must be deposited in the state treasury to the credit of the

appropriate gift account in the department of human resources' gift fund. The money may be spent only for the purposes of the facility or agency named in the title of the account. The property may not be sold or exchanged if to do so would violate the terms of the gift.

**Sec. 5.** NRS 232.960 is hereby amended to read as follows:

232.960 1. Except for gifts or grants specifically accounted for in another fund, all gifts or grants of money or other property which the rehabilitation division of the department is authorized to accept must be accounted for in the department of employment, training and rehabilitation's gift fund, which is hereby created as a ~~trust~~ *special revenue* fund. The fund is a continuing fund without reversion. The department may establish such accounts in the fund as are necessary to account properly for gifts received. All *such* money received by the division must be deposited in the state treasury for credit to the fund. The money in the fund must be paid out on claims as other claims against the state are paid. Unless otherwise specifically provided by statute, claims against the fund must be approved by the director or his delegate.

2. Gifts of property other than money may be sold or exchanged when it is deemed by the director to be in the best interest of the rehabilitation division. The sale price must not be less than 90 percent of the value determined by a qualified appraiser appointed by the director. All money received from the sale must be deposited in the state treasury to the credit of the fund. The money may be spent only for the purposes of the division. The property may not be sold or exchanged if to do so would violate the terms of the gift.

**Sec. 6.** NRS 349.952 is hereby amended to read as follows:

349.952 1. Except as otherwise provided in subsection 3 and NRS 349.951, all amounts received by the director from an obligor in connection with any financing undertaken pursuant to NRS 349.935 to 349.961, inclusive, must be deposited with the state treasurer for credit to the account for the financing of water projects which is hereby created in the fund for ~~the municipal bond bank.~~ *natural resources, which is hereby created as a special revenue fund.*

2. Any revenue from water projects financed with state securities which is in the account must be applied in the following order of priority:

(a) Deposited into the consolidated bond interest and redemption fund in amounts necessary to pay the principal of, interest on and redemption premiums due in connection with state securities issued for water projects.

(b) Deposited into any reserve account created for the payment of the principal of, interest on and redemption premiums due in connection with state securities issued for water projects, in amounts and at times determined to be necessary.

(c) Paid out for expenses of operation and maintenance.

3. Any revenue from water projects financed with revenue bonds may:

(a) Be deposited in the account for the financing of water projects and subject to the provisions of subsection 2; or

(b) Subject to any agreement with the holders of the bonds, be invested, deposited or held by the director in such funds or accounts as he deems necessary or desirable. If the director is acting pursuant to this subsection, he need not deposit the money in the state treasury and the provisions of

chapters 355 and 356 of NRS do not apply to any investments or deposits made pursuant to this subsection.

**Sec. 7.** NRS 350A.190 is hereby amended to read as follows:

350A.190 1. All revenues from lending projects must be deposited in the fund for the municipal bond bank in the state treasury, which is hereby created as ~~the special revenue~~ **an enterprise** fund.

2. Any revenue from lending projects which is in the fund must be applied in the following order of priority:

(a) Deposited into the consolidated bond interest and redemption fund created pursuant to NRS 349.090 in amounts necessary to pay the principal of, interest on and redemption premiums due in connection with state securities issued pursuant to this chapter.

(b) Deposited into any reserve account created for the payment of the principal of, interest on and redemption premiums due in connection with state securities issued pursuant to this chapter, in amounts and at times determined to be necessary.

(c) Paid out for expenses of operation and maintenance.

(d) On July 1 of each odd-numbered year, to the extent of any uncommitted balance in the fund, deposited in the state general fund.

**Sec. 8.** Chapter 353 of NRS is hereby amended by adding thereto a new section to read as follows:

***“Generally accepted accounting principles” means generally accepted accounting principles for government as prescribed by the Governmental Accounting Standards Board.***

**Sec. 9.** NRS 353.130 is hereby amended to read as follows:

353.130 All state controller’s warrants issued in payment of claims against the state become void if not presented for payment to the state treasurer within 180 days after the date of issuance. All such warrants remaining unpaid after the expiration of the 180 days ~~if, whether outstanding or uncalled for in the office of the state controller,~~ must be canceled by the state controller, and the state treasurer must be notified immediately of the cancellation. The state treasurer shall not pay a warrant presented for payment more than 180 days after the date of issuance.

**Sec. 10.** NRS 353.140 is hereby amended to read as follows:

353.140 1. The state controller shall establish an account for lost and stale warrants in each fund and credit to it the amount of each warrant canceled ~~if~~ **pursuant to NRS 353.130.**

2. If a state controller’s warrant has been lost or destroyed, the person in whose favor the warrant was drawn may, within ~~1 year from~~ **6 years after** the date of the original warrant, ~~file~~ **request another warrant in lieu of the original warrant by:**

(a) **Filing** with the state controller an affidavit ~~setting~~ **:**

(1) **Providing sufficient information for the state controller to identify the original warrant;**

(2) **Setting** forth the reasons for the failure to present the warrant for payment ; and

(3) **Affirming** that the warrant is not , to the knowledge of **the** affiant , held by any other person or persons ~~if~~ **;** and

(b) **If he files the affidavit more than 180 days after the date of the original warrant, renewing his claim against the state.**

If the state controller is satisfied that the original warrant is lost or destroyed, and the claim has not been paid by the state, he may issue another warrant in lieu of the original warrant. ~~and~~

*3. If the state controller issues another warrant in lieu of an original warrant canceled pursuant to NRS 353.130, he shall, except as otherwise provided by specific statute, charge the amount thereof to the account for lost and stale warrants in the fund upon which the original warrant was drawn.*

~~3-1~~ 4. In June of each year, as to each warrant whose original date is at least ~~11-year~~ *6 years* old and whose amount credited to the account for lost and stale warrants has not been charged out as provided in subsection ~~2,~~ *3*, the state controller shall, except as otherwise ~~provided in subsection 4, credit~~ *provided by specific statute, recognize as revenue in* the fund upon which the original warrant was drawn ~~for~~ an amount equivalent to the original warrant ~~1~~ and shall charge the account for lost and stale warrants.

~~4. The state controller shall credit the wildlife account in the state general fund for any such warrant drawn from that account.~~

**Sec. 11.** NRS 353.295 is hereby amended to read as follows:

353.295 As used in the State Accounting Procedures Law, unless the context otherwise requires, and in all accounting procedures and reports pursuant to this chapter, the words and terms defined in NRS 353.2961 to 353.3135, inclusive, *and section 8 of this act* have the meanings ascribed to them in those sections.

**Sec. 12.** NRS 353.321 is hereby amended to read as follows:

353.321 1. The state controller shall report each fund ~~and account group~~ in one of the following categories for purposes of annual financial statements:

- (a) State general fund;
- (b) Special revenue funds;
- (c) ~~Funds for the construction of capital projects;~~ *Capital projects funds;*
- (d) ~~Internal service funds;~~
- ~~(e) Enterprise funds;~~
- ~~(f) Fiduciary funds;~~
- ~~(g) Debt service funds;~~
- ~~(h) General long-term debt account group; or~~
- ~~(i) General fixed assets account group.~~
- (e) Permanent funds;*
- (f) Enterprise funds;*
- (g) Internal service funds;*
- (h) Pension trust funds;*
- (i) Investment trust funds;*
- (j) Private purpose trust funds; or*
- (k) Agency funds.*

2. All resources and financial transactions of the state government must be accounted for within a fund. ~~for account group.~~ The state controller shall assign each existing fund ~~and account group~~ which is created by statute to the proper category ~~unless the category is designated by statute.~~ *necessary to present the annual financial statements in*

*conformity with generally accepted accounting principles, notwithstanding any statutory designation to the contrary.*

**Sec. 13.** NRS 385.095 is hereby amended to read as follows:

385.095 Except as otherwise provided in NRS 385.091:

1. All gifts of money which the state board is authorized to accept must be deposited in a ~~{permanent trust}~~ *special revenue* fund in the state treasury designated as the education gift fund.

2. The money available in the education gift fund must be used only for the purpose specified by the donor, within the scope of the state board's powers and duties, and no expenditure may be made until approved by the legislature in an authorized expenditure act or by the interim finance committee if the legislature is not in session.

3. If all or part of the money accepted by the state board from a donor is not expended before the end of any fiscal year, the remaining balance of the amount donated must remain in the education gift fund until needed for the purpose specified by the donor.

**Sec. 14.** NRS 397.063 is hereby amended to read as follows:

397.063 1. All contributions from students must be accounted for in the Western Interstate Commission for Higher Education's fund for student loans which is hereby created as ~~{a special revenue}~~ *an enterprise* fund.

2. The three commissioners from the State of Nevada, acting jointly, shall administer the fund and the money in the fund must be used solely to provide:

(a) Loans to; and

(b) Contractual arrangements for educational services and facilities for, residents of Nevada who are certified to attend graduate or professional schools in accordance with the provisions of the Western Regional Higher Education Compact.

3. Loans from the Western Interstate Commission for Higher Education's fund for student loans, before July 1, 1985, and loans made to students classified as continuing students before July 1, 1985, must be made upon the following terms:

(a) All student loans must bear interest at 5 percent per annum from the date when the student receives the loan.

(b) Each student receiving a loan must repay the loan with interest following the termination of his education or completion of his internship in accordance with the following schedule:

(1) Within 5 years for loans which total less than \$10,000.

(2) Within 8 years for loans which total \$10,000 or more but less than \$20,000.

(3) Within 10 years for loans which total \$20,000 or more.

(c) No student loan may exceed 50 percent of the student fees for any academic year.

**Sec. 15.** NRS 407.075 is hereby amended to read as follows:

407.075 1. The state park grant and gift fund is hereby created as a ~~{trust}~~ *special revenue* fund for the use of the division.

2. All grants and gifts of money which the division is authorized to accept must be deposited with the state treasurer for credit to the state park grant and gift fund.

3. Expenditures from the state park grant and gift fund must be made only for the purpose of carrying out the provisions of this chapter and other programs or laws administered by the division.

**Sec. 16.** NRS 445A.120 is hereby amended to read as follows:

445A.120 1. The account to finance the construction of treatment works and the implementation of pollution control projects is hereby created in the fund for ~~{the municipal bond bank-}~~ *water projects loans, which is hereby created as an enterprise fund.*

2. The money in the account must be used only for the purposes set forth in 33 U.S.C. §§ 1381 et seq.

3. All claims against the account must be paid as other claims against the state are paid.

4. The faith of the state is hereby pledged that the money in the account will not be used for purposes other than those authorized by 33 U.S.C. §§ 1381 et seq.

**Sec. 17.** NRS 445A.255 is hereby amended to read as follows:

445A.255 1. The account to finance the construction of projects, to be known as the account for the revolving fund, is hereby created in the fund for ~~{the municipal bond bank-}~~ *water projects loans.*

2. The account to fund activities, other than projects, authorized by the Safe Drinking Water Act, to be known as the account for set-aside programs, is hereby created in the fund for the municipal bond bank.

3. The money in the account for the revolving fund and the account for set-aside programs may be used only for the purposes set forth in the Safe Drinking Water Act.

4. All claims against the account for the revolving fund and the account for set-aside programs must be paid as other claims against the state are paid.

5. The faith of the state is hereby pledged that the money in the account for the revolving fund and the account for set-aside programs will not be used for purposes other than those authorized by the Safe Drinking Water Act.

**Sec. 18.** NRS 463.331 is hereby amended to read as follows:

463.331 1. An investigative fund is hereby created as ~~{a special revenue}~~ *an enterprise* fund for the purposes of paying all expenses incurred by the board and the commission for investigation of an application for a license, finding of suitability or approval under the provisions of this chapter. The special revenue of the investigative fund is the money received by the state from the respective applicants. The amount to be paid by each applicant is the amount determined by the board in each case, but the board may not charge any amount to an applicant for a finding of suitability to be associated with a gaming enterprise pursuant to paragraph (a) of subsection 2 of NRS 463.167.

2. Expenses may be advanced from the investigative fund by the chairman, and expenditures from the fund may be made without regard to NRS 281.160. Any money received from the applicant in excess of the costs and charges incurred in the investigation or the processing of the application must be refunded pursuant to regulations adopted by the board and the commission. At the conclusion of the investigation, the board shall



give to the applicant a written accounting of the costs and charges so incurred.

3. Within 3 months after the end of a fiscal year, the amount of the balance in the fund in excess of \$2,000 must be deposited in the state general fund.

**Sec. 19.** NRS 616A.425 is hereby amended to read as follows:

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

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

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

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

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

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

(d) All salaries and other expenses of the fraud control unit for industrial insurance established pursuant to NRS 228.420.

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

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

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

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

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

**Sec. 20.** NRS 616A.430 is hereby amended to read as follows:

616A.430 1. There is hereby established ~~as a special revenue fund~~ in the state treasury the uninsured employers' claim ~~fund~~ *account in the*



*fund for workers' compensation and safety*, which may be used only for the purpose of making payments in accordance with the provisions of NRS 616C.220 and 617.401. The administrator shall administer the ~~fund~~ *account* and shall credit any excess money toward the assessments of the insurers for the succeeding years.

2. All assessments, penalties, bonds, securities and all other properties received, collected or acquired by the administrator for the uninsured employers' claim ~~fund~~ *account* must be delivered to the custody of the state treasurer.

3. All money and securities in the ~~fund~~ *account* must be held by the state treasurer as custodian thereof to be used solely for workers' compensation.

4. The state treasurer may disburse money from the ~~fund~~ *account* only upon written order of the state controller.

5. The state treasurer shall invest money of the ~~fund~~ *account* in the same manner and in the same securities in which he is authorized to invest money of the state general fund. Income realized from the investment of the assets of the ~~fund~~ *account* must be credited to the ~~fund~~ *account*.

6. The administrator shall assess each insurer, including each employer who provides accident benefits for injured employees pursuant to NRS 616C.265, an amount to be deposited in the uninsured employers' claim ~~fund~~ *account*. To establish the amount of the assessment, the administrator shall determine the amount of money necessary to maintain an appropriate balance in the ~~fund~~ *account* for each fiscal year and shall allocate a portion of that amount to be payable by private carriers, a portion to be payable by self-insured employers, a portion to be payable by associations of self-insured public or private employers and a portion to be payable by the employers who provide accident benefits pursuant to NRS 616C.265, based upon the expected annual expenditures for claims of each group of insurers. After allocating the amounts payable, the administrator shall apply an assessment rate to the:

(a) Private carriers that reflects the relative hazard of the employments covered by the private carriers, results in an equitable distribution of costs among the private carriers and is based upon expected annual premiums to be received;

(b) Self-insured employers that results in an equitable distribution of costs among the self-insured employers and is based upon expected annual expenditures for claims;

(c) Associations of self-insured public or private employers that results in an equitable distribution of costs among the associations of self-insured public or private employers and is based upon expected annual expenditures for claims; and

(d) Employers who provide accident benefits pursuant to NRS 616C.265 that reflects the relative hazard of the employments covered by those employers, results in an equitable distribution of costs among the employers and is based upon expected annual expenditures for claims.

The administrator shall adopt regulations for the establishment and administration of the assessment rates, payments and any penalties that the administrator determines are necessary to carry out the provisions of this

subsection. As used in this subsection, the term "group of insurers" includes the group of employers who provide accident benefits for injured employees pursuant to NRS 616C.265.

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

**Sec. 21.** NRS 616B.368 is hereby amended to read as follows:

616B.368 1. The board of trustees of an association of self-insured public or private employers is responsible for the money collected and disbursed by the association.

2. The board of trustees shall:

(a) Establish a claims account in a financial institution in this state which is approved by the commissioner and which is federally insured or insured by a private insurer approved pursuant to NRS 678.755. Except as otherwise provided in subsection 3, at least 75 percent of the annual assessment collected by the association from its members must be deposited in this account to pay:

(1) Claims;

(2) Expenses related to those claims;

(3) The costs associated with the association's policy of excess insurance; and

(4) Assessments, payments and penalties related to the subsequent injury ~~fund~~ **account** and the uninsured employers' claim ~~fund~~ **account**.

(b) Establish an administrative account in a financial institution in this state which is approved by the commissioner and which is federally insured or insured by a private insurer approved pursuant to NRS 678.755. The amount of the annual assessment collected by the association that is not deposited in its claims account must be deposited in this account to pay the administrative expenses of the association.

3. The commissioner may authorize an association to deposit less than 75 percent of its annual assessment in its claims account if the association presents evidence to the satisfaction of the commissioner that:

(a) More than 25 percent of the association's annual assessment is needed to maintain its programs for loss control and occupational safety; and

(b) The association's policy of excess insurance attaches at less than 75 percent.

4. The board of trustees may invest the money of the association not needed to pay the obligations of the association pursuant to chapter 682A of NRS.

5. The commissioner shall review the accounts of an association established pursuant to this section at such times as he deems necessary to ensure compliance with the provisions of this section.

**Sec. 22.** NRS 616B.545 is hereby amended to read as follows:

616B.545 As used in NRS 616B.545 to 616B.560, inclusive, unless the context otherwise requires, "board" means the board for the administration of the subsequent injury ~~fund~~ **account** for self-insured employers created pursuant to NRS 616B.548.

**Sec. 23.** NRS 616B.548 is hereby amended to read as follows:

616B.548 1. There is hereby created the board for the administration of the subsequent injury ~~fund~~ *account* for self-insured employers, consisting of five members who are self-insured employers. The members must be appointed by the governor.

2. The members of the board shall elect a chairman and vice chairman from among the members appointed. After the initial election of a chairman and vice chairman, each of those officers shall hold office for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the chairmanship or vice chairmanship, the members of the board shall elect a replacement for the remainder of the unexpired term.

3. Vacancies on the board must be filled in the same manner as original appointments.

4. The members of the board serve without compensation.

5. A legal counsel that has been appointed by or has contracted with the division pursuant to NRS 232.660 shall serve as legal counsel of the board.

**Sec. 24.** NRS 616B.551 is hereby amended to read as follows:

616B.551 1. The members of the board may meet throughout each year at the times and places specified by a call of the chairman or a majority of the board. The board may prescribe rules and regulations for its own management and government. Three members of the board constitute a quorum, and a quorum may exercise all the power and authority conferred on the board. If a member of the board submits a claim against the subsequent injury ~~fund~~ *account* for self-insured employers, that member shall not vote on or otherwise participate in the decision of the board concerning that claim.

2. The board shall administer the subsequent injury ~~fund~~ *account* for self-insured employers in accordance with the provisions of NRS 616B.554, 616B.557 and 616B.560.

**Sec. 25.** NRS 616B.554 is hereby amended to read as follows:

616B.554 1. There is hereby ~~established as a special revenue fund~~ *created in the fund for workers' compensation and safety* in the state treasury the subsequent injury ~~fund~~ *account* for self-insured employers, which may be used only to make payments in accordance with the provisions of NRS 616B.557 and 616B.560. The board shall administer the ~~fund~~ *account* based upon recommendations made by the administrator pursuant to subsection 8.

2. All assessments, penalties, bonds, securities and all other properties received, collected or acquired by the board for the subsequent injury ~~fund~~ *account* for self-insured employers must be delivered to the custody of the state treasurer.

3. All money and securities in the ~~fund~~ *account* must be held by the state treasurer as custodian thereof to be used solely for workers' compensation for employees of self-insured employers.

4. The state treasurer may disburse money from the ~~fund~~ *account* only upon written order of the board.

5. The state treasurer shall invest money of the ~~fund~~ *account* in the same manner and in the same securities in which he is authorized to invest

state general funds which are in his custody. Income realized from the investment of the assets of the ~~fund~~ **account** must be credited to the fund.

6. The board shall adopt regulations for the establishment and administration of assessment rates, payments and penalties. Assessment rates must result in an equitable distribution of costs among the self-insured employers and must be based upon expected annual expenditures for claims for payments from the subsequent injury ~~fund~~ **account** for self-insured employers.

7. The commissioner shall assign an actuary to review the establishment of assessment rates. The rates must be filed with the commissioner 30 days before their effective date. Any self-insured employer who wishes to appeal the rate so filed must do so pursuant to NRS 679B.310.

8. The administrator shall:

(a) Evaluate any claim submitted to the board for payment or reimbursement from the subsequent injury ~~fund~~ **account** for self-insured employers and recommend to the board any appropriate action to be taken concerning the claim; and

(b) Submit to the board any other recommendations relating to the ~~fund~~ **account**.

**Sec. 26.** NRS 616B.557 is hereby amended to read as follows:

616B.557 Except as otherwise provided in NRS 616B.560:

1. If an employee of a self-insured employer has a permanent physical impairment from any cause or origin and incurs a subsequent disability by injury arising out of and in the course of his employment which entitles him to compensation for disability that is substantially greater by reason of the combined effects of the preexisting impairment and the subsequent injury than that which would have resulted from the subsequent injury alone, the compensation due must be charged to the subsequent injury ~~fund~~ **account** for self-insured employers in accordance with regulations adopted by the board.

2. If the subsequent injury of such an employee results in his death and it is determined that the death would not have occurred except for the preexisting permanent physical impairment, the compensation due must be charged to the subsequent injury ~~fund~~ **account** for self-insured employers in accordance with regulations adopted by the board.

3. As used in this section, “permanent physical impairment” means any permanent condition, whether congenital or caused by injury or disease, of such seriousness as to constitute a hindrance or obstacle to obtaining employment or to obtaining reemployment if the employee is unemployed. For the purposes of this section, a condition is not a “permanent physical impairment” unless it would support a rating of permanent impairment of 6 percent or more of the whole man if evaluated according to the American Medical Association’s Guides to the Evaluation of Permanent Impairment as adopted and supplemented by the division pursuant to NRS 616C.110.

4. To qualify under this section for reimbursement from the subsequent injury ~~fund~~ **account** for self-insured employers, the self-insured employer must establish by written records that the self-insured employer had knowledge of the “permanent physical impairment” at the

time the employee was hired or that the employee was retained in employment after the self-insured employer acquired such knowledge.

5. A self-insured employer shall notify the board of any possible claim against the subsequent injury ~~fund~~ account for self-insured employers as soon as practicable, but not later than 100 weeks after the injury or death.

6. The board shall adopt regulations establishing procedures for submitting claims against the subsequent injury ~~fund~~ account for self-insured employers. The board shall notify the self-insured employer of his decision on such a claim within 90 days after the claim is received.

7. An appeal of any decision made concerning a claim against the subsequent injury ~~fund~~ account for self-insured employers must be submitted directly to the district court.

**Sec. 27.** NRS 616B.560 is hereby amended to read as follows:

616B.560 1. A self-insured employer who pays compensation due to an employee who has a permanent physical impairment from any cause or origin and incurs a subsequent disability by injury arising out of and in the course of his employment which entitles him to compensation for disability that is substantially greater by reason of the combined effects of the preexisting impairment and the subsequent injury than that which would have resulted from the subsequent injury alone is entitled to be reimbursed from the subsequent injury ~~fund~~ account for self-insured employers if:

(a) The employee knowingly made a false representation as to his physical condition at the time he was hired by the self-insured employer;

(b) The self-insured employer relied upon the false representation and this reliance formed a substantial basis of the employment; and

(c) A causal connection existed between the false representation and the subsequent disability.

If the subsequent injury of the employee results in his death and it is determined that the death would not have occurred except for the preexisting permanent physical impairment, any compensation paid is entitled to be reimbursed from the subsequent injury ~~fund~~ account for self-insured employers.

2. A self-insured employer shall notify the board of any possible claim against the subsequent injury ~~fund~~ account for self-insured employers pursuant to this section no later than 60 days after the date of the subsequent injury or the date the self-insured employer learns of the employee's false representation, whichever is later.

**Sec. 28.** NRS 616B.563 is hereby amended to read as follows:

616B.563 As used in NRS 616B.563 to 616B.581, inclusive, unless the context otherwise requires, "board" means the board for the administration of the subsequent injury ~~fund~~ account for associations of self-insured public or private employers created pursuant to NRS 616B.569.

**Sec. 29.** NRS 616B.569 is hereby amended to read as follows:

616B.569 1. There is hereby created the board for the administration of the subsequent injury ~~fund~~ account for associations of self-insured public or private employers, consisting of five members who are members of an association of self-insured public or private employers. The members of the board must be appointed by the governor.

2. The members of the board shall elect a chairman and vice chairman from among the members appointed. After the initial election of a chairman and vice chairman, each of those officers shall hold office for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the chairmanship or vice chairmanship, the members of the board shall elect a replacement for the remainder of the unexpired term.

3. Vacancies on the board must be filled in the same manner as original appointments.

4. The members of the board serve without compensation.

5. A legal counsel that has been appointed by or has contracted with the division pursuant to NRS 232.660 shall serve as legal counsel of the board.

**Sec. 30.** NRS 616B.572 is hereby amended to read as follows:

616B.572 1. The members of the board may meet throughout each year at the times and places specified by a call of the chairman or a majority of the board. The board may prescribe rules and regulations for its own management and government. Three members of the board constitute a quorum, and a quorum may exercise all the power and authority conferred on the board. If a member of the board submits a claim against the subsequent injury ~~{fund}~~ *account* for associations of self-insured public or private employers, that member shall not vote on or otherwise participate in the decision of the board concerning that claim.

2. The board shall administer the subsequent injury ~~{fund}~~ *account* for associations of self-insured public or private employers in accordance with the provisions of NRS 616B.575, 616B.578 and 616B.581.

**Sec. 31.** NRS 616B.575 is hereby amended to read as follows:

616B.575 1. There is hereby ~~established as a special revenue fund~~ *created in the fund for workers' compensation and safety* in the state treasury the subsequent injury ~~{fund}~~ *account* for associations of self-insured public or private employers, which may be used only to make payments in accordance with the provisions of NRS 616B.578 and 616B.581. The board shall administer the ~~{fund}~~ *account* based upon recommendations made by the administrator pursuant to subsection 8.

2. All assessments, penalties, bonds, securities and all other properties received, collected or acquired by the board for the subsequent injury ~~{fund}~~ *account* for associations of self-insured public or private employers must be delivered to the custody of the state treasurer.

3. All money and securities in the ~~{fund}~~ *account* must be held by the state treasurer as custodian thereof to be used solely for workers' compensation for employees of members of associations of self-insured public or private employers.

4. The state treasurer may disburse money from the ~~{fund}~~ *account* only upon written order of the board.

5. The state treasurer shall invest money of the ~~{fund}~~ *account* in the same manner and in the same securities in which he is authorized to invest state general funds which are in his custody. Income realized from the investment of the assets of the ~~{fund}~~ *account* must be credited to the ~~{fund}~~ *account*.

6. The board shall adopt regulations for the establishment and administration of assessment rates, payments and penalties. Assessment

rates must result in an equitable distribution of costs among the associations of self-insured public or private employers and must be based upon expected annual expenditures for claims for payments from the subsequent injury ~~fund~~ **account** for associations of self-insured public or private employers.

7. The commissioner shall assign an actuary to review the establishment of assessment rates. The rates must be filed with the commissioner 30 days before their effective date. Any association of self-insured public or private employers that wishes to appeal the rate so filed must do so pursuant to NRS 679B.310.

8. The administrator shall:

(a) Evaluate any claim submitted to the board for payment or reimbursement from the subsequent injury ~~fund~~ **account** for associations of self-insured public or private employers and recommend to the board any appropriate action to be taken concerning the claim; and

(b) Submit to the board any other recommendations relating to the ~~fund~~ **account**.

**Sec. 32.** NRS 616B.578 is hereby amended to read as follows:

616B.578 Except as otherwise provided in NRS 616B.581:

1. If an employee of a member of an association of self-insured public or private employers has a permanent physical impairment from any cause or origin and incurs a subsequent disability by injury arising out of and in the course of his employment which entitles him to compensation for disability that is substantially greater by reason of the combined effects of the preexisting impairment and the subsequent injury than that which would have resulted from the subsequent injury alone, the compensation due must be charged to the subsequent injury ~~fund~~ **account** for associations of self-insured public or private employers in accordance with regulations adopted by the board.

2. If the subsequent injury of such an employee results in his death and it is determined that the death would not have occurred except for the preexisting permanent physical impairment, the compensation due must be charged to the subsequent injury ~~fund~~ **account** for associations of self-insured public or private employers in accordance with regulations adopted by the board.

3. As used in this section, “permanent physical impairment” means any permanent condition, whether congenital or caused by injury or disease, of such seriousness as to constitute a hindrance or obstacle to obtaining employment or to obtaining reemployment if the employee is unemployed. For the purposes of this section, a condition is not a “permanent physical impairment” unless it would support a rating of permanent impairment of 6 percent or more of the whole man if evaluated according to the American Medical Association’s Guides to the Evaluation of Permanent Impairment as adopted and supplemented by the division pursuant to NRS 616C.110.

4. To qualify under this section for reimbursement from the subsequent injury ~~fund~~ **account** for associations of self-insured public or private employers, the association of self-insured public or private employers must establish by written records that the employer had knowledge of the “permanent physical impairment” at the time the



employee was hired or that the employee was retained in employment after the employer acquired such knowledge.

5. An association of self-insured public or private employers shall notify the board of any possible claim against the subsequent injury ~~fund~~ *account* for associations of self-insured public or private employers as soon as practicable, but not later than 100 weeks after the injury or death.

6. The board shall adopt regulations establishing procedures for submitting claims against the subsequent injury ~~fund~~ *account* for associations of self-insured public or private employers. The board shall notify the association of self-insured public or private employers of its decision on such a claim within 90 days after the claim is received.

7. An appeal of any decision made concerning a claim against the subsequent injury ~~fund~~ *account* for associations of self-insured public or private employers must be submitted directly to the district court.

**Sec. 33.** NRS 616B.581 is hereby amended to read as follows:

616B.581 1. An association of self-insured public or private employers that pays compensation due to an employee who has a permanent physical impairment from any cause or origin and incurs a subsequent disability by injury arising out of and in the course of his employment which entitles him to compensation for disability that is substantially greater by reason of the combined effects of the preexisting impairment and the subsequent injury than that which would have resulted from the subsequent injury alone is entitled to be reimbursed from the subsequent injury ~~fund~~ *account* for associations of self-insured public or private employers if:

(a) The employee knowingly made a false representation as to his physical condition at the time he was hired by the member of the association of self-insured public or private employers;

(b) The employer relied upon the false representation and this reliance formed a substantial basis of the employment; and

(c) A causal connection existed between the false representation and the subsequent disability.

If the subsequent injury of the employee results in his death and it is determined that the death would not have occurred except for the preexisting permanent physical impairment, any compensation paid is entitled to be reimbursed from the subsequent injury ~~fund~~ *account* for associations of self-insured public or private employers.

2. An association of self-insured public or private employers shall notify the board of any possible claim against the subsequent injury ~~fund~~ *account* for associations of self-insured public or private employers pursuant to this section no later than 60 days after the date of the subsequent injury or the date the employer learns of the employee's false representation, whichever is later.

**Sec. 34.** NRS 616B.584 is hereby amended to read as follows:

616B.584 1. There is hereby ~~established as a special revenue fund~~ *created in the fund for workers' compensation and safety* in the state treasury the subsequent injury ~~fund~~ *account* for private carriers, which may be used only to make payments in accordance with the provisions of NRS 616B.587 and 616B.590. The administrator shall administer the ~~fund~~ *account*.

2. All assessments, penalties, bonds, securities and all other properties received, collected or acquired by the administrator for the subsequent injury ~~fund~~ **account** for private carriers must be delivered to the custody of the state treasurer.

3. All money and securities in the ~~fund~~ **account** must be held by the state treasurer as custodian thereof to be used solely for workers' compensation for employees whose employers are insured by private carriers.

4. The state treasurer may disburse money from the ~~fund~~ **account** only upon written order of the state controller.

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

6. The administrator shall adopt regulations for the establishment and administration of assessment rates, payments and penalties. Assessment rates must reflect the relative hazard of the employments covered by private carriers, must result in an equitable distribution of costs among the private carriers and must be based upon expected annual premiums to be received.

7. The commissioner shall assign an actuary to review the establishment of assessment rates. The rates must be filed with the commissioner 30 days before their effective date. Any private carrier who wishes to appeal the rate so filed must do so pursuant to NRS 679B.310.

**Sec. 35.** NRS 616B.587 is hereby amended to read as follows:

616B.587 Except as otherwise provided in NRS 616B.590:

1. If an employee of an employer who is insured by a private carrier has a permanent physical impairment from any cause or origin and incurs a subsequent disability by injury arising out of and in the course of his employment which entitles him to compensation for disability that is substantially greater by reason of the combined effects of the preexisting impairment and the subsequent injury than that which would have resulted from the subsequent injury alone, the compensation due must be charged to the subsequent injury ~~fund~~ **account** for private carriers in accordance with regulations adopted by the administrator.

2. If the subsequent injury of such an employee results in his death and it is determined that the death would not have occurred except for the preexisting permanent physical impairment, the compensation due must be charged to the subsequent injury ~~fund~~ **account** for private carriers in accordance with regulations adopted by the administrator.

3. As used in this section, "permanent physical impairment" means any permanent condition, whether congenital or caused by injury or disease, of such seriousness as to constitute a hindrance or obstacle to obtaining employment or to obtaining reemployment if the employee is unemployed. For the purposes of this section, a condition is not a "permanent physical impairment" unless it would support a rating of permanent impairment of 6 percent or more of the whole man if evaluated according to the American Medical Association's Guides to the Evaluation

of Permanent Impairment as adopted and supplemented by the division pursuant to NRS 616C.110.

4. To qualify under this section for reimbursement from the subsequent injury ~~fund~~ account for private carriers, the private carrier must establish by written records that the employer had knowledge of the “permanent physical impairment” at the time the employee was hired or that the employee was retained in employment after the employer acquired such knowledge.

5. A private carrier shall notify the administrator of any possible claim against the subsequent injury ~~fund~~ account for private carriers as soon as practicable, but not later than 100 weeks after the injury or death.

6. The administrator shall adopt regulations establishing procedures for submitting claims against the subsequent injury ~~fund~~ account for private carriers. The administrator shall notify the private carrier of his decision on such a claim within 90 days after the claim is received.

7. An appeal of any decision made concerning a claim against the subsequent injury ~~fund~~ account for private carriers must be submitted directly to the appeals officer. The appeals officer shall hear such an appeal within 45 days after the appeal is submitted to him.

**Sec. 36.** NRS 616B.590 is hereby amended to read as follows:

616B.590 1. A private carrier who pays compensation due to an employee who has a permanent physical impairment from any cause or origin and incurs a subsequent disability by injury arising out of and in the course of his employment which entitles him to compensation for disability that is substantially greater by reason of the combined effects of the preexisting impairment and the subsequent injury than that which would have resulted from the subsequent injury alone is entitled to be reimbursed from the subsequent injury ~~fund~~ account for private carriers if:

(a) The employee knowingly made a false representation as to his physical condition at the time he was hired by the employer insured by a private carrier;

(b) The employer relied upon the false representation and this reliance formed a substantial basis of the employment; and

(c) A causal connection existed between the false representation and the subsequent disability.

If the subsequent injury of the employee results in his death and it is determined that the death would not have occurred except for the preexisting permanent physical impairment, any compensation paid is entitled to be reimbursed from the subsequent injury ~~fund~~ account for private carriers.

2. A private carrier shall notify the administrator of any possible claim against the subsequent injury ~~fund~~ account for private carriers pursuant to this section no later than 60 days after the date of the subsequent injury or the date the employer learns of the employee’s false representation, whichever is later.

**Sec. 37.** NRS 616C.215 is hereby amended to read as follows:

616C.215 1. If an injured employee or, in the event of his death, his dependents, bring an action in tort against his employer to recover payment for an injury which is compensable pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS and, notwithstanding the

provisions of NRS 616A.020, receive payment from the employer for that injury:

(a) The amount of compensation the injured employee or his dependents are entitled to receive pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS, including any future compensation, must be reduced by the amount paid by the employer.

(b) The insurer, or in the case of claims involving the uninsured employer's claim ~~fund~~ **account** or a subsequent injury ~~fund~~ **account** the administrator, has a lien upon the total amount paid by the employer if the injured employee or his dependents receive compensation pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS.

This subsection is applicable whether the money paid to the employee or his dependents by the employer is classified as a gift, a settlement or otherwise. The provisions of this subsection do not grant to an injured employee any right of action in tort to recover damages from his employer for his injury.

2. When an employee receives an injury for which compensation is payable pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS and which was caused under circumstances creating a legal liability in some person, other than the employer or a person in the same employ, to pay damages in respect thereof:

(a) The injured employee, or in case of death his dependents, may take proceedings against that person to recover damages, but the amount of the compensation the injured employee or his dependents are entitled to receive pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS, including any future compensation, must be reduced by the amount of the damages recovered, notwithstanding any act or omission of the employer or a person in the same employ which was a direct or proximate cause of the employee's injury.

(b) If the injured employee, or in case of death his dependents, receive compensation pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS, the insurer, or in case of claims involving the uninsured employers' claim ~~fund~~ **account** or a subsequent injury ~~fund~~ **account** the administrator, has a right of action against the person so liable to pay damages and is subrogated to the rights of the injured employee or of his dependents to recover therefor.

3. When an injured employee incurs an injury for which compensation is payable pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS and which was caused under circumstances entitling him, or in the case of death his dependents, to receive proceeds under his employer's policy of uninsured or underinsured vehicle coverage:

(a) The injured employee, or in the case of death his dependents, may take proceedings to recover those proceeds, but the amount of compensation the injured employee or his dependents are entitled to receive pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS, including any future compensation, must be reduced by the amount of proceeds received.

(b) If an injured employee, or in the case of death his dependents, receive compensation pursuant to the provisions of chapters 616A to 616D,

inclusive, or chapter 617 of NRS, the insurer, or in the case of claims involving the uninsured employers' claim ~~fund~~ **account** or a subsequent injury ~~fund~~ **account** the administrator, is subrogated to the rights of the injured employee or his dependents to recover proceeds under the employer's policy of uninsured or underinsured vehicle coverage. The insurer and the administrator are not subrogated to the rights of an injured employee or his dependents under a policy of uninsured or underinsured vehicle coverage purchased by the employee.

4. In any action or proceedings taken by the insurer or the administrator pursuant to this section, evidence of the amount of compensation, accident benefits and other expenditures which the insurer, the uninsured employers' claim ~~fund~~ **account** or a subsequent injury ~~fund~~ **account** have paid or become obligated to pay by reason of the injury or death of the employee is admissible. If in such action or proceedings the insurer or the administrator recovers more than those amounts, the excess must be paid to the injured employee or his dependents.

5. In any case where the insurer or the administrator is subrogated to the rights of the injured employee or of his dependents as provided in subsection 2 or 3, the insurer or the administrator has a lien upon the total proceeds of any recovery from some person other than the employer, whether the proceeds of such recovery are by way of judgment, settlement or otherwise. The injured employee, or in the case of his death his dependents, are not entitled to double recovery for the same injury, notwithstanding any act or omission of the employer or a person in the same employ which was a direct or proximate cause of the employee's injury.

6. The lien provided for pursuant to subsection 1 or 5 includes the total compensation expenditure incurred by the insurer, the uninsured employers' claim ~~fund~~ **account** or a subsequent injury ~~fund~~ **account** for the injured employee and his dependents.

7. An injured employee, or in the case of death his dependents, or the attorney or representative of the injured employee or his dependents, shall notify the insurer, or in the case of claims involving the uninsured employers' claim ~~fund~~ **account** or a subsequent injury ~~fund~~ **account** the administrator, in writing before initiating a proceeding or action pursuant to this section.

8. Within 15 days after the date of recovery by way of actual receipt of the proceeds of the judgment, settlement or otherwise:

(a) The injured employee or his dependents, or the attorney or representative of the injured employee or his dependents; and

(b) The third-party insurer, shall notify the insurer, or in the case of claims involving the uninsured employers' claim ~~fund~~ **account** or a subsequent injury ~~fund~~ **account** the administrator, of the recovery and pay to the insurer or the administrator, respectively, the amount due pursuant to this section together with an itemized statement showing the distribution of the total recovery. The attorney or representative of the injured employee or his dependents and the third-party insurer are jointly and severally liable for any amount to which an insurer is entitled pursuant to this section if the attorney,

representative or third-party insurer has knowledge of the lien provided for in this section.

9. An insurer shall not sell its lien to a third-party insurer unless the injured employee or his dependents, or the attorney or representative of the injured employee or his dependents, refuses to provide to the insurer information concerning the action against the third party.

10. In any trial of an action by the injured employee, or in the case of his death by his dependents, against a person other than the employer or a person in the same employ, the jury must receive proof of the amount of all payments made or to be made by the insurer or the administrator. The court shall instruct the jury substantially as follows:

Payment of workmen's compensation benefits by the insurer, or in the case of claims involving the uninsured employers' claim ~~fund~~ **account** or a subsequent injury ~~fund~~ **account** the administrator, is based upon the fact that a compensable industrial accident occurred, and does not depend upon blame or fault. If the plaintiff does not obtain a judgment in his favor in this case, he is not required to repay his employer, the insurer or the administrator any amount paid to him or paid on his behalf by his employer, the insurer or the administrator.

If you decide that the plaintiff is entitled to judgment against the defendant, you shall find his damages in accordance with the court's instructions on damages and return your verdict in the plaintiff's favor in the amount so found without deducting the amount of any compensation benefits paid to or for the plaintiff. The law provides a means by which any compensation benefits will be repaid from your award.

11. To calculate an employer's premium, the employer's account with the private carrier must be credited with an amount equal to that recovered by the private carrier from a third party pursuant to this section, less the private carrier's share of the expenses of litigation incurred in obtaining the recovery, except that the total credit must not exceed the amount of compensation actually paid or reserved by the private carrier on the injured employee's claim.

12. As used in this section, "third-party insurer" means an insurer that issued to a third party who is liable for damages pursuant to subsection 2, a policy of liability insurance the proceeds of which are recoverable pursuant to this section. The term includes an insurer that issued to an employer a policy of uninsured or underinsured vehicle coverage.

**Sec. 38.** NRS 616C.220 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

6. The division:

(a) May recover from the employer the payments made by the division that are described in subsection 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 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.

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 third-party administrator or insurer designated pursuant to subsection 1 for administration and payment of compensation.

Upon determining whether the claim is accepted or denied, the designated third-party administrator or insurer shall notify the injured employee, the named employer and the division of its determination.

8. Upon demonstration of the:

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

(b) 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~~ **account**.

9. Any party aggrieved by a determination regarding the administration of an assigned claim or a determination made by the division or by the designated third-party administrator or insurer regarding any claim made pursuant to this section may appeal that determination within 60 days after the 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.

10. 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.

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

12. Attorney's fees recoverable by the division pursuant to this section must be:

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

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

Any money collected must be deposited to the uninsured employers' claim ~~fund~~ **account**.

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

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

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

(a) The premiums that would otherwise have been owed to a private carrier pursuant to the terms of chapters 616A to 616D, inclusive, or chapter 617 of NRS, as determined by the administrator based upon the manual rates adopted by the commissioner, for the period that the employer was doing business in this state without providing, securing or maintaining that compensation, but not to exceed 6 years; and

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

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

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

3. Any employer within the provisions of NRS 616B.633 who fails to provide, secure or maintain compensation as required by the terms of

chapters 616A to 616D, inclusive, or chapter 617 of NRS, shall be punished as follows:

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

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

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

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

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

(b) Reimburse the uninsured employers' claim ~~fund~~ account for all payments made from the ~~fund~~ account on the employer's behalf, including any benefits, administrative costs or attorney's fees paid from the ~~fund~~ account, that have not otherwise been recovered pursuant to NRS 616C.220.

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

**Sec. 40.** NRS 616D.220 is hereby amended to read as follows:

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

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

(b) Misrepresented the classification or duties of an employee, he shall make a determination thereon and charge the employer's account an amount equal to the amount of the premium that would have been due had the proper information been submitted. The administrator shall deliver a copy of his determination to the employer. The money collected pursuant to this subsection must be paid into the uninsured employers' claim ~~fund~~ account.

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

3. A person who knowingly:

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

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

**Sec. 41.** NRS 616D.230 is hereby amended to read as follows:

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

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

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

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

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

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

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

4. Any penalty collected pursuant to paragraph (b) or (c) of subsection 1 must be used to pay the salaries and other expenses of the fraud control unit for industrial insurance established pursuant to the provisions of NRS 228.420. Any money remaining at the end of any fiscal year does not revert to the state general fund.

**Sec. 42.** NRS 617.401 is hereby amended to read as follows:

617.401 1. The division shall designate one:

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

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

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

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

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

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

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

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

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

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

6. The division:

(a) May recover from the employer the payments made by the division that are described in subsection 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.

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 third-party administrator or insurer designated pursuant to subsection 1 for administration and payment of compensation.

Upon determining whether the claim is accepted or denied, the designated third-party administrator or insurer shall notify the injured employee, the named employer and the division of its determination.

8. Upon demonstration of the:

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

(b) 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~~ **account**.

9. Any party aggrieved by a determination regarding the administration of an assigned claim or a determination made by the division or by the designated third-party administrator or insurer regarding any claim made pursuant to this section may appeal that determination within 60 days after the 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.

10. All insurers shall bear a proportionate amount of a claim made pursuant to this chapter, and are entitled to a proportionate amount of any collection made pursuant to this section as an offset against future liabilities.

11. An uninsured employer is liable for the interest on any amount paid on his claims from the uninsured employers' claim ~~fund~~ **account**.

The interest must be calculated at a rate equal to the prime rate at the largest bank in Nevada, as ascertained by the commissioner of financial institutions, on January 1 or July 1, as the case may be, immediately preceding the date of the claim, plus 3 percent, compounded monthly, from the date the claim is paid from the ~~fund~~ *account* until payment is received by the division from the employer.

12. Attorney's fees recoverable by the division pursuant to this section must be:

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

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

Any money collected must be deposited to the uninsured employers' claim ~~fund~~ *account*.

13. In addition to any other liabilities provided for in this section, the administrator may impose an administrative fine of not more than \$10,000 against an employer if the employer fails to provide mandatory coverage required by the provisions of this chapter.

**Sec. 43.** NRS 227.215 and 353.145 are hereby repealed.

**Sec. 44.** 1. The state controller shall, as he determines necessary to carry out the provisions of this act, cause the transfer of any money between funds and accounts whose designations are changed by the provisions of this act.

2. All rights and liabilities of a fund or account whose designation is changed by the provisions of this act are not affected by the change in designation and remain the rights and liabilities of the fund or account as newly designated.

**Sec. 45.** 1. This section and sections 1 to 18, inclusive, 21 to 24, inclusive, 26 to 30, inclusive, 32, 33, 35 to 42, inclusive, and 44 of this act become effective on July 1, 2001.

2. Sections 19, 20, 25, 31, 34 and 43 of this act become effective at 12:01 a.m. on July 1, 2001.

**Sec. 46.** The legislative counsel shall:

1. In preparing the reprint and supplements to the Nevada Revised Statutes, with respect to any section that is not amended by this act or is further amended by another act, appropriately change any reference to any fund or account whose designation is changed by the provisions of this act.

2. In preparing supplements to the Nevada Administrative Code, appropriately change any reference to any fund or account whose designation is changed by the provisions of this act.