

SENATE BILL NO. 28—SENATOR AMODEI

PREFILED JANUARY 19, 2001

Referred to Committee on Commerce and Labor

SUMMARY—Authorizes formation of associations of self-insured private employers to provide health coverage. (BDR 57-590)

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

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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 health insurance; providing in skeleton form for the formation of associations of self-insured private employers to provide health coverage; imposing certain requirements upon such an association and its board of trustees; prohibiting certain acts without a solicitor's permit issued by the commissioner of insurance; authorizing the commissioner of insurance to impose an administrative fine for certain violations; imposing certain requirements upon a third-party administrator for such an association; providing a penalty; 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. Chapter 689C of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 42, inclusive, of this act.

Sec. 2. *As used in sections 2 to 42, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Association of self-insured private employers” means a nonprofit, unincorporated association composed of five or more private employers that has been issued a certificate by the commissioner and is subject to the provisions of sections 2 to 42, inclusive, of this act.*

Sec. 4. *“Association’s administrator” means a person who is employed by or has contracted with the board of trustees of an association of self-insured private employers to carry out the policies of the board of trustees and to be responsible for the daily operation of the association.*

1 **Sec. 5.** *“Tangible net worth” means all the assets of an association*
2 *of self-insured private employers or of a member of such an association*
3 *except:*

- 4 1. *Accounts receivable, if they are factored or collateralized.*
- 5 2. *An inventory, except one held for resale and not collateralized.*
- 6 3. *A prepaid expense.*
- 7 4. *An unqualified investment.*
- 8 5. *An allocated bond fund.*
- 9 6. *An investment in an affiliate.*
- 10 7. *A restricted fund.*
- 11 8. *A reserve.*
- 12 9. *A security cost, such as a capitalized bond cost.*
- 13 10. *A cash equivalent, unless it is described in the footnotes for the*
14 *balance sheet by item, and for investments, by duration and nature. A*
15 *cash flow statement is not a sufficient description.*
- 16 11. *A contingency or commitment, including any estimated cost.*
- 17 12. *Any book adjustment caused by a change in an accounting policy*
18 *or a restatement.*
- 19 13. *Goodwill or excess cost over the fair market value of assets.*
- 20 14. *Any other items listed in the assets that are deemed unacceptable*
21 *by the commissioner because they cannot be justified or because they do*
22 *not directly support the ability of the association or the member to pay a*
23 *claim.*

24 **Sec. 6.** *“Third-party administrator” means a person who is hired by*
25 *an association of self-insured private employers to provide administrative*
26 *services for the association of self-insured private employers and to*
27 *manage claims. The term does not include an insurance company.*

28 **Sec. 7.** 1. *An association of self-insured private employers may*
29 *provide health coverage through a trust fund and, where necessary,*
30 *deduct contributions to the maintenance of the fund from the*
31 *compensation of officers and employees and pay the deductions into the*
32 *fund.*

33 2. *The money must be deposited in a state or national bank or credit*
34 *union authorized to transact business in this state.*

35 3. *Any independent administrator of a fund created pursuant to this*
36 *section is subject to the licensing requirements of chapter 683A of NRS.*

37 4. *Any contract with an independent administrator must be approved*
38 *by the commissioner as to the reasonableness of administrative charges*
39 *in relation to contributions collected and benefits provided.*

40 5. *The provisions of NRS 689B.030 to 689B.050, inclusive, apply to*
41 *coverage provided pursuant to this section.*

42 **Sec. 8.** 1. *A group of five or more employers may not act as an*
43 *association of self-insured private employers unless:*

44 (a) *Each member of the group is a member or associate member of a*
45 *bona fide trade association, as determined by the commissioner, which:*

46 (1) *Is incorporated in this state; and*

47 (2) *Has been in existence for at least 5 years; and*

48 (b) *The association of self-insured private employers has been issued*
49 *a certificate to act as such an association by the commissioner.*

1 2. An association of private employers that wishes to be issued a
2 certificate must file with the commissioner an application for
3 certification.

4 3. The application must include:

5 (a) The name of the association.

6 (b) The address of:

7 (1) The principal office of the association; and

8 (2) The location where the books and records of the association will
9 be maintained.

10 (c) The date on which the association was organized.

11 (d) The name and address of each member of the association.

12 (e) The names of the initial members of the board of trustees and the
13 name of the initial association's administrator.

14 (f) Such other information as the commissioner may require.

15 4. The application must be accompanied by:

16 (a) A nonrefundable filing fee of \$1,000.

17 (b) Proof of compliance with section 9 of this act.

18 (c) Proof that the association or its third-party administrator is
19 licensed or otherwise authorized to conduct business in this state
20 pursuant to Title 57 of NRS.

21 (d) A copy of the agreements entered into with the association's
22 administrator and a third-party administrator.

23 (e) A copy of the bylaws of the association.

24 (f) A copy of an agreement jointly and severally binding the
25 association and each member of the association to secure the provision
26 of health coverage pursuant to the provisions of sections 2 to 42,
27 inclusive, of this act.

28 (g) A pro forma financial statement prepared by an independent
29 certified public accountant in accordance with generally accepted
30 accounting principles that shows the financial ability of the association
31 to provide health coverage pursuant to the provisions of sections 2 to 42,
32 inclusive, of this act.

33 (h) A financial statement reviewed and prepared by an independent
34 certified public accountant for each proposed member of the association
35 or evidence of the ability of the association or its proposed members to
36 provide a solvency bond pursuant to subsection 3 of section 9 of this act.

37 (i) Proof that each member of the association will make the initial
38 payment to the association required pursuant to section 29 of this act on
39 a date specified by the commissioner. The payment shall be deemed to be
40 a part of the assessment required to be paid by each member for the first
41 year of self-insurance if certification is issued to the association.

42 5. Any financial information relating to a member of an association
43 received by the commissioner pursuant to the provisions of this section is
44 confidential and must not be disclosed.

45 6. For the purposes of this section, "associate member of a bona fide
46 trade association" means a supplier whose business, as determined by the
47 commissioner:

48 (a) Is limited to a specific industry; and

(b) Primarily involves providing a product or service that is directly used or consumed by substantially all the members of the trade association or bears a direct relationship to the business of the members of the trade association.

Sec. 9. 1. An association of self-insured private employers shall:

(a) Execute an indemnity agreement jointly and severally binding the association and each member of the association to secure the provision of health coverage pursuant to sections 2 to 42, inclusive, of this act. The indemnity agreement must be in a form prescribed by the commissioner. An association may add provisions to the indemnity agreement if the provisions are first approved by the commissioner.

(b) Except as otherwise provided in this subsection, maintain a policy of specific and aggregate excess insurance in a form and amount required by the commissioner. The excess insurance must be written by an insurer approved by the commissioner. To determine the amount of excess insurance required, the commissioner shall consider:

(1) The number of members in the association;

(2) The types of services provided by the members of the association;

(3) The number of years the association has been in existence; and

(4) Such other information as the commissioner deems necessary.

This paragraph does not prohibit an association from purchasing secondary excess insurance in addition to the excess insurance required by this paragraph.

(c) Collect an annual assessment from each member of the association in an aggregate amount of at least \$100,000 or in an aggregate amount which the commissioner determines is satisfactory based on an annual review conducted by the commissioner of the actuarial solvency of the association.

(d) Except as otherwise provided in paragraph (e), deposit as security with the commissioner a bond executed by the association as principal, and by a licensed surety, payable to the State of Nevada, and conditioned upon the provision of health coverage to their employees. The bond must be in an amount determined by the commissioner to be reasonably sufficient to ensure payment of obligations related to the provision of health coverage, but in no event may it be less than \$100,000.

(e) In lieu of a bond, deposit with the commissioner a like amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is unavailable for withdrawal except upon order of the commissioner.

2. Except as otherwise provided in subsection 3, in addition to complying with the requirements of subsection 1, an association of self-insured private employers shall maintain a combined tangible net worth of all members in the association of at least \$1,000,000.

3. In lieu of complying with the requirements of subsection 2, the association's administrator shall ensure that a solvency bond, in a form

1 *prescribed by the commissioner and in an aggregate amount of at least*
2 *\$1,000,000, is deposited with the commissioner by the association or*
3 *members of the association on behalf of the association.*

4 *4. The association's administrator shall deposit with the*
5 *commissioner a bond executed by the association's administrator as*
6 *principal, and by a licensed surety, payable to the State of Nevada, and*
7 *conditioned upon the faithful performance of his duties. The bond must*
8 *be in an amount determined by the commissioner.*

9 *5. Any third-party administrator providing claims services for the*
10 *association shall deposit with the commissioner a bond executed by the*
11 *third-party administrator as principal, and by a licensed surety, payable*
12 *to the State of Nevada, and conditioned upon the faithful performance of*
13 *its duties. The bond must be in an amount determined by the*
14 *commissioner.*

15 *6. The commissioner may increase or decrease the amount of any*
16 *bond or money required to be deposited by this section in accordance*
17 *with chapter 681B of NRS and his regulations for loss reserves in health*
18 *insurance. If the commissioner requires an association, association's*
19 *administrator or third-party administrator to increase its deposit, the*
20 *commissioner may specify the form of the additional security. The*
21 *association, association's administrator or third-party administrator shall*
22 *comply with such a requirement within 60 days after receiving notice*
23 *from the commissioner.*

24 *7. The account for health coverage for associations of self-insured*
25 *private employers is hereby created in the state agency fund for bonds.*
26 *All money received by the commissioner pursuant to this section must be*
27 *deposited with the state treasurer to the credit of the account. All claims*
28 *against this account must be paid as other claims against the state are*
29 *paid.*

30 **Sec. 10.** *A surety or bonding company shall not furnish a bond or*
31 *any other form of security required by the provisions of sections 2 to 42,*
32 *inclusive, of this act for an association of self-insured private employers*
33 *or a member of such an association unless the surety or bonding*
34 *company holds a certificate of authority issued by the commissioner.*

35 **Sec. 11.** *1. The commissioner shall grant or deny an application*
36 *for certification as an association of self-insured private employers*
37 *within 60 days after receiving the application. If the application is*
38 *materially incomplete or does not comply with the applicable provisions*
39 *of the law, the commissioner shall notify the applicant of the additional*
40 *information or changes required. Under such circumstances, if the*
41 *commissioner is unable to act upon the application within this 60-day*
42 *period, he may extend the period for granting or denying the application,*
43 *but for not longer than an additional 90 days.*

44 *2. Upon determining that an association is qualified as an*
45 *association of self-insured private employers, the commissioner shall*
46 *issue a certificate to that effect to the association and the association's*
47 *administrator. No certificate may be issued to an association that, within*
48 *the 2 years immediately preceding its application, has had its certification*

1 as an association of self-insured private employers involuntarily
2 withdrawn by the commissioner.

3 3. A certificate issued pursuant to this section must include, without
4 limitation:

5 (a) The name of the association;

6 (b) The name of each employer that the commissioner determines is a
7 member of the association at the time of the issuance of the certificate;

8 (c) An identification number assigned to the association by the
9 commissioner; and

10 (d) The date on which the certificate was issued.

11 4. A certificate issued pursuant to this section remains in effect until
12 withdrawn by the commissioner or canceled at the request of the
13 association. Coverage for an association granted a certificate becomes
14 effective on the date of certification or the date specified in the
15 certificate, as appropriate.

16 5. The commissioner shall not grant a request to cancel a certificate
17 unless the association has insured or reinsured all incurred obligations
18 with an insurer authorized to do business in this state pursuant to an
19 agreement filed with and approved by the commissioner. The agreement
20 must include coverage for actual claims and claims filed with the
21 association but not reported, and the expenses associated with those
22 claims.

23 **Sec. 12.** 1. An association certified as an association of self-
24 insured private employers directly assumes the responsibility for
25 providing health coverage to the employees of the members of the
26 association and their beneficiaries pursuant to sections 2 to 42, inclusive,
27 of this act.

28 2. The claims of employees and their beneficiaries while in the
29 employment of a member of an association must be handled in the
30 manner provided by sections 2 to 42, inclusive, of this act, and the
31 association is subject to the regulations of the commissioner with respect
32 to payment of those claims.

33 3. The security deposited pursuant to section 9 of this act does not
34 relieve an association from responsibility for the administration of claims
35 and the provision of health coverage pursuant to sections 2 to 42,
36 inclusive, of this act.

37 **Sec. 13.** 1. An association of self-insured private employers must
38 be operated by a board of trustees consisting of at least five members
39 whom the members of the association elect for terms set forth in the
40 bylaws of the association. At least two-thirds of the members of the board
41 of trustees must be employees, officers or directors of the members of the
42 association. No association's administrator or third-party administrator
43 employed by the association, or any owner, officer, employee or other
44 person affiliated with the association's administrator or third-party
45 administrator, may serve as a member of the board of trustees. Each
46 member of the board of trustees must be a resident of this state or an
47 officer of a corporation authorized to do business in this state.

48 2. The board of trustees of an association shall:

1 (a) Ensure the prompt payment of claims relating to the health
2 coverage provided pursuant to sections 2 to 42, inclusive, of this act.

3 (b) Take such actions as are necessary to protect the assets of the
4 association.

5 (c) Employ full time an association's administrator to carry out the
6 policies of the board of trustees and perform such duties as the board
7 delegates to him. An association's administrator shall not perform any of
8 the duties assigned to a third-party administrator.

9 (d) Employ a third-party administrator to carry out the duties set forth
10 in section 41 of this act.

11 (e) Employ an independent certified public accountant to prepare the
12 statement of financial condition required by section 25 of this act.

13 (f) Maintain minutes of its meetings and make the minutes available
14 for inspection by the commissioner.

15 3. The board of trustees of an association shall not:

16 (a) Extend credit to any member of the association for the payment of
17 the annual assessment for that member, except pursuant to a payment
18 plan approved by the commissioner; or

19 (b) Borrow any money from the association or in the name of the
20 association, except in the ordinary course of its business, without the
21 prior approval of the commissioner.

22 **Sec. 14. 1. The board of trustees of an association of self-insured**
23 **private employers is responsible for the money collected and disbursed by**
24 **the association.**

25 2. The board of trustees shall:

26 (a) Establish a claims account in a federally insured financial
27 institution in this state approved by the commissioner. Except as
28 otherwise provided in subsection 3, at least 75 percent of the annual
29 assessment collected by the association from its members must be
30 deposited in this account to pay:

31 (1) Claims;

32 (2) Expenses related to those claims; and

33 (3) The costs associated with the association's policy of excess
34 insurance.

35 (b) Establish an administrative account in a federally insured
36 financial institution in this state approved by the commissioner. The
37 amount of the annual assessment collected by the association that is not
38 deposited in its claims account must be deposited in the administrative
39 account to pay the administrative expenses of the association.

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

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

45 (b) The association's policy of excess insurance attaches at less than
46 75 percent.

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

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

4 **Sec. 15.** *1. An association's administrator employed by an*
5 *association of self-insured private employers, or an employee, officer or*
6 *director of an association's administrator, may not be an employee,*
7 *officer or director of a third-party administrator employed by the*
8 *association or have a direct or indirect financial interest in the third-*
9 *party administrator of the association.*

10 *2. The third-party administrator of an association of self-insured*
11 *private employers, or an employee, officer or director of the third-party*
12 *administrator, may not be an employee, officer or director of an*
13 *association's administrator employed by the association or have a direct*
14 *or indirect financial interest in that association's administrator.*

15 *3. Any contract entered into by an association of self-insured private*
16 *employers and a third-party administrator must include a provision*
17 *which states that, unless the commissioner otherwise provides, the third-*
18 *party administrator shall administer any claim or other obligation of the*
19 *association to its conclusion during the period of the contract.*

20 **Sec. 16.** *1. Except as otherwise provided in this section, a person*
21 *shall not advertise or offer for sale in this state any policies or*
22 *memberships, or solicit or receive any money, subscriptions, applications,*
23 *premiums, assessments, memberships or any other fee or charge in*
24 *connection with a proposed association of self-insured private employers*
25 *unless he has obtained a solicitor's permit from the commissioner.*

26 *2. To obtain a solicitor's permit, a person must file a written*
27 *application with the commissioner. The application must include:*

28 *(a) The name, type and purposes of the association formed or*
29 *proposed to be formed or financed;*

30 *(b) The name, residential address, business, professional or*
31 *employment experience for the preceding 10 years and qualifications of*
32 *each person associated or to be associated as director, promoter,*
33 *manager, member of the board or in any other similar capacity in the*
34 *association, or in the formation of the proposed association or in the*
35 *proposed financing, together with the fingerprints of each person so*
36 *associated or to be associated, on forms furnished by the commissioner;*

37 *(c) A full disclosure of the terms of all pertinent understandings and*
38 *agreements existing or proposed among any persons or entities so*
39 *associated or to be associated, and a copy of each such agreement;*

40 *(d) A copy of the articles of incorporation and bylaws of a solicitor, if*
41 *incorporated;*

42 *(e) The plan according to which solicitations are to be made and a*
43 *reasonably detailed estimate of all administrative and sales expenses to*
44 *be incurred;*

45 *(f) A copy of any certificate proposed to be offered, and a copy of any*
46 *proposed application of any certificate proposed to be offered;*

47 *(g) A copy of any prospectus, offering circular, advertising or sales*
48 *literature or materials proposed to be used;*

1 (h) *Proof of an escrow account and agreement for the deposit of all*
2 *money collected during the formation of the association; and*

3 (i) *Such additional pertinent information as the commissioner may*
4 *reasonably require.*

5 3. *The application must be accompanied by a fee of \$500 for the*
6 *filing of the application and for the issuance of the permit, if granted. A*
7 *solicitor must submit this fee each year thereafter if he continues to*
8 *recruit new members for an association.*

9 4. *A person who violates subsection 1 is guilty of a category D felony*
10 *and shall be punished as provided in NRS 193.130.*

11 5. *The provisions of this section do not apply to:*

12 (a) *A bona fide trade association that has been in existence for at least*
13 *5 years and solicits members of its trade association; or*

14 (b) *A person who is employed by:*

15 (1) *Current members of an association; or*

16 (2) *Employers that are considering membership in an*
17 *association,*
18 *whose primary duties do not include solicitation of potential members of*
19 *the association.*

20 **Sec. 17. 1.** *After the filing of an application for a solicitor's permit,*
21 *the commissioner shall promptly cause an investigation to be made of:*

22 (a) *The identity, character, reputation, experience, financial standing*
23 *and motives of the persons proposing to organize, promote or finance the*
24 *association of self-insured private employers;*

25 (b) *The character, financial responsibility, management experience*
26 *and business qualifications of the officers, directors and managers of the*
27 *existing or proposed association; and*

28 (c) *Any other aspects of the solicitor, association or proposed*
29 *financing as the commissioner deems advisable.*

30 2. *The commissioner shall expeditiously examine an application for*
31 *a solicitor's permit and complete the investigation required pursuant to*
32 *subsection 1. Except as otherwise provided in subsection 3, if the*
33 *commissioner finds, after performing an examination and investigation,*
34 *that:*

35 (a) *The application is complete and the applicable fee has been paid;*

36 (b) *The documents filed with the application are proper in form; and*

37 (c) *The proposed financing is reasonable and adequate in amount for*
38 *the purposes intended and the applicant is otherwise entitled to the*
39 *permit,*

40 *the commissioner shall issue a permit and assign a permit number to the*
41 *applicant.*

42 3. *If the commissioner does not so find, or finds that:*

43 (a) *The applicant is not competent, trustworthy, financially*
44 *responsible or of good personal and business reputation;*

45 (b) *Any of the persons associated or to be associated with the*
46 *association are not of good reputation as to business affairs or financial*
47 *responsibility; or*

48 (c) *There is material variance, adverse to the applicant, as between*
49 *the information furnished by the applicant in connection with the*

1 application and that determined by the commissioner on
2 investigation,

3 the commissioner shall give notice to the applicant that a permit will not
4 be granted, stating the particulars of the grounds for the denial. The
5 commissioner shall not refund the fee for the filing of the application.

6 **Sec. 18. 1.** The commissioner may suspend or revoke a solicitor's
7 permit if he reasonably believes that:

8 (a) A violation of Title 57 of NRS or the terms of the permit or any
9 proper order of the commissioner has occurred; or

10 (b) A material misrepresentation in the offering or sale of securities,
11 policies or memberships pursuant to the permit has occurred.

12 2. If the commissioner suspends or revokes a permit pursuant to
13 subsection 1, he shall expeditiously conduct a hearing, giving the holder
14 of the permit a reasonable opportunity to appear and be heard.

15 **Sec. 19. 1.** Any advertising or written material that solicits
16 employers to join an association of self-insured private employers must
17 contain the permit number of the solicitor.

18 2. A solicitor shall provide to the commissioner upon request a copy
19 of any document relating to a solicitation which was prepared after the
20 solicitor filed his application for a permit.

21 **Sec. 20. 1.** If an employer wishes to become a member of an
22 association of self-insured private employers, the employer must:

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

25 (b) Enter into an indemnity agreement as required by section 9 of this
26 act.

27 2. The membership of the applicant becomes effective when all
28 members of the association have indicated their approval of the
29 application or on a later date specified by the association. The
30 application for membership and the action taken on the application must
31 be maintained as permanent records of the board of trustees.

32 3. Each member who is a member of an association during the 12
33 months immediately following the formation of the association must have
34 a tangible net worth of at least \$200,000. Any employer who seeks to
35 become a member of the association subsequently must meet the
36 requirement for tangible net worth of at least \$200,000 unless the
37 commissioner adjusts the requirement for membership in the association
38 after conducting an annual review of the actuarial solvency of the
39 association in accordance with subsection 1 of section 9 of this act.

40 4. A member of an association may terminate his membership at any
41 time. To terminate his membership, a member must submit to the
42 association's administrator a notice of intent to withdraw from the
43 association at least 120 days before the effective date of withdrawal. The
44 association's administrator shall, within 10 days after receipt of the
45 notice, notify the commissioner of the employer's intent to withdraw from
46 the association.

47 5. The members of an association may cancel the membership of any
48 member of the association in accordance with the bylaws of the
49 association.

6. *The association shall:*

(a) *Notify the commissioner of the termination or cancellation of the membership of any member of the association within 10 days after the termination or cancellation; and*

(b) *At the expense of the member whose membership is terminated or canceled, maintain coverage for that member for 30 days after notice is given pursuant to paragraph (a), unless the association first receives notice from the commissioner that the member has:*

(1) *Become a member of another association of self-insured private employers; or*

(2) *Become insured by an insurer.*

7. *If a member of an association changes his name or form of organization, the member remains liable for any obligations incurred or any responsibilities imposed pursuant to sections 2 to 42, inclusive, of this act under his former name or form of organization.*

8. *An association is liable for the payment of any obligations required to be paid by a member of the association pursuant to sections 2 to 42, inclusive, of this act during his period of membership. The insolvency or bankruptcy of a member does not relieve the association of liability for the provision of health coverage.*

Sec. 21. *An association of self-insured private employers shall notify the commissioner of any change in the information submitted in its application for certification or in the manner of its compliance with section 9 of this act not later than 30 days after the change.*

Sec. 22. 1. *The commissioner may examine the books, records, accounts and assets of an association of self-insured private employers as he deems necessary to carry out the provisions of sections 2 to 42, inclusive, of this act.*

2. *The expense of any examination conducted pursuant to this section must be paid by the association.*

Sec. 23. *An association of self-insured private employers shall be deemed to have appointed the commissioner as its resident agent to receive any initial legal process authorized by law to be served upon the association for as long as the association is obligated to provide health coverage pursuant to sections 2 to 42, inclusive, of this act.*

Sec. 24. 1. *An association of self-insured private employers may merge with another association of self-insured private employers if:*

(a) *The members of the merging associations are engaged in the same or similar trade;*

(b) *The resulting association assumes in full all obligations of the merging associations; and*

(c) *The merger is approved by the commissioner.*

2. *The commissioner shall conduct a hearing on the proposed merger if any member of the merging associations so requests. The commissioner may on his own motion conduct such a hearing.*

Sec. 25. 1. *An association of self-insured private employers shall file with the commissioner an audited statement of financial condition prepared by an independent certified public accountant. The statement must be filed on or before April 1 of each year or, if the fiscal year of the*

1 association does not coincide with the calendar year, within 90 days after
2 the conclusion of the association's fiscal year, and contain information
3 for the previous fiscal year.

4 2. The statement required by subsection 1 must be in a form
5 prescribed by the commissioner and include, without limitation:

6 (a) A statement of the reserves for:

7 (1) Actual claims and expenses;

8 (2) Claims filed with the association but not reported, and the
9 expenses associated with those claims;

10 (3) Assessments that are due, but not paid; and

11 (4) Unpaid debts, which must be shown as liabilities.

12 (b) An actuarial opinion regarding reserves that is prepared by a
13 member of the American Academy of Actuaries or another specialist in
14 loss reserves identified in the annual statement adopted by the National
15 Association of Insurance Commissioners. The actuarial opinion must
16 include a statement of:

17 (1) Actual claims and the expenses associated with those claims;
18 and

19 (2) Claims filed with the association but not reported, and the
20 expenses associated with those claims.

21 3. The commissioner may adopt a uniform financial reporting system
22 for associations of self-insured private employers to ensure the accurate
23 and complete reporting of financial information.

24 4. The commissioner may require the filing of such other reports as
25 he deems necessary to carry out the provisions of this section.

26 **Sec. 26.** The annual assessment required to be paid by each member
27 of an association of self-insured private employers must be calculated
28 pursuant to regulations adopted by the commissioner.

29 **Sec. 27.** 1. The commissioner shall cause to be conducted at least
30 annually an audit of each association of self-insured private employers to
31 verify:

32 (a) The number of employees of each member of the association;

33 (b) The assessment required to be paid by each member of the
34 association; and

35 (c) Any other information the commissioner determines is necessary.

36 2. The audit required by this section must be conducted by an auditor
37 approved by the commissioner.

38 3. A report of the audit must be filed with the commissioner in a
39 form required by the commissioner.

40 4. The expenses of any audit conducted pursuant to this section must
41 be paid by the association.

42 **Sec. 28.** 1. If the assets of an association of self-insured private
43 employers exceed the amount necessary for the association to:

44 (a) Pay its obligations and administrative expenses;

45 (b) Carry reasonable reserves; and

46 (c) Provide for contingencies,
47 the board of trustees of the association may, after obtaining the approval
48 of the commissioner, declare and distribute dividends to the members of
49 the association.

1 2. Any dividend declared pursuant to subsection 1 must be
2 distributed not less than 12 months after the end of the fiscal year.

3 3. A dividend may be paid only to those members who are members
4 of the association for the entire fiscal year. The payment of a dividend
5 must not be conditioned upon the member continuing his membership in
6 the association after the fiscal year.

7 4. An association shall give to each prospective member of the
8 association a written description of its plan for distributing dividends
9 when the prospective member applies for membership in the association.

10 **Sec. 29.** 1. Each association of self-insured private employers shall
11 adopt a plan for the payment of annual assessments by the members of
12 the association which must be approved by the commissioner.

13 2. The plan must include a requirement for:

14 (a) An initial payment, in advance, of a portion of the annual
15 assessment due from each member of the association. The initial
16 payment must be in an amount equal to at least 25 percent of the
17 member's annual assessment.

18 (b) Payment of the balance of the annual assessment due in quarterly
19 or monthly installments.

20 **Sec. 30.** Each association of self-insured private employers shall
21 maintain:

22 1. Actuarially appropriate loss reserves. Such reserves must include
23 reserves for:

24 (a) Actual claims and the expenses associated with those claims; and

25 (b) Claims filed with the association but not reported, and the
26 expenses associated with those claims.

27 2. Reserves for uncollected debts.

28 **Sec. 31.** 1. If the assets of an association of self-insured private
29 employers are insufficient to make certain the prompt payment of claims
30 relating to the health coverage provided pursuant to sections 2 to 42,
31 inclusive, of this act and to maintain the reserves required by section 30
32 of this act, the association shall immediately notify the commissioner of
33 the deficiency and:

34 (a) Transfer any surplus acquired from a previous fiscal year to the
35 current fiscal year to make up the deficiency;

36 (b) Transfer money from its administrative account to its claims
37 account;

38 (c) Collect an additional assessment from its members in an amount
39 required to make up the deficiency; or

40 (d) Take any other action to make up the deficiency which is approved
41 by the commissioner.

42 2. If the association wishes to transfer any surplus from one fiscal
43 year to another, the association must first notify the commissioner of the
44 transfer.

45 3. The commissioner shall order the association to make up any
46 deficiency pursuant to subsection 1 if the association fails to do so within
47 30 days after notifying the commissioner of the deficiency. The
48 association shall be deemed insolvent if it fails to:

1 (a) *Collect an additional assessment from its members within 30 days*
2 *after being ordered to do so by the commissioner; or*

3 (b) *Make up the deficiency in any other manner within 60 days after*
4 *being ordered to do so by the commissioner.*

5 **Sec. 32.** 1. *The commissioner may issue an order requiring an*
6 *association of self-insured private employers or a member of the*
7 *association to cease and desist from engaging in any act or practice*
8 *found to be in violation of any provision of sections 2 to 42, inclusive, of*
9 *this act or any regulation adopted pursuant to those sections.*

10 2. *If the commissioner determines that an association or a member*
11 *of the association has violated an order to cease and desist, the*
12 *commissioner may impose an administrative fine of not more than*
13 *\$10,000 for each violation of the order, not to exceed an aggregate*
14 *amount of \$100,000, or withdraw the certificate of the association, or*
15 *both.*

16 **Sec. 33.** 1. *The commissioner may impose an administrative fine*
17 *for each violation of any provision of sections 2 to 42, inclusive, of this*
18 *act or any regulation adopted pursuant to those sections. Except as*
19 *otherwise provided in those sections, the amount of the fine may not*
20 *exceed \$1,000 for each violation or an aggregate amount of \$10,000.*

21 2. *The commissioner may withdraw the certificate of an association*
22 *of self-insured private employers if:*

23 (a) *The certificate was obtained by fraud;*

24 (b) *The application for certification contained a material*
25 *misrepresentation;*

26 (c) *The association is found to be insolvent;*

27 (d) *The association fails to have five or more members;*

28 (e) *The association fails to pay the costs of any examination or any*
29 *penalty, fee or assessment required by the provisions of sections 2 to 42,*
30 *inclusive, of this act;*

31 (f) *The association fails to comply with any of the provisions of*
32 *sections 2 to 42, inclusive, of this act or any regulation adopted pursuant*
33 *to those sections;*

34 (g) *The association fails to comply with any order of the commissioner*
35 *within the time prescribed by the provisions of sections 2 to 42, inclusive,*
36 *of this act or in the order of the commissioner; or*

37 (h) *The association or its third-party administrator misappropriates,*
38 *converts, illegally withholds or refuses to pay any money to which a*
39 *person is entitled and that was entrusted to the association in its fiduciary*
40 *capacity.*

41 3. *If the commissioner withdraws the certification of an association*
42 *of self-insured private employers, each employer who is a member of the*
43 *association remains liable for his obligations incurred before and after*
44 *the order of withdrawal.*

45 **Sec. 34.** 1. *Before any action may be taken pursuant to subsection*
46 *2, the commissioner shall arrange an informal meeting with an*
47 *association of self-insured private employers to discuss and seek*
48 *correction of any conduct which would be grounds for withdrawal of the*
49 *certificate of the association.*

2. Except as otherwise provided in subsection 3, before the commissioner may withdraw the certificate of any association of self-insured private employers, the commissioner must give written notice to the association by certified mail that its certificate will be withdrawn 10 days after receipt of the notice unless, within that time, the association corrects the conduct set forth in the notice as the reason for the withdrawal or submits a written request for a hearing to the commissioner.

3. The commissioner may grant additional time, not to exceed an additional 120 days, before the withdrawal of the certificate of an association if:

(a) The grounds for withdrawal of the certificate of the association are based on paragraph (d) of subsection 2 of section 33 of this act; and

(b) The association is financially sound and capable of fulfilling its commitments.

4. If the association requests a hearing:

(a) The commissioner shall set a date for a hearing within 20 days after receiving the request and give the association at least 10 business days' notice of the time and place of the hearing.

(b) A record of the hearing must be kept, but it need not be transcribed unless requested by the association with the cost of transcription to be charged to the association.

(c) Within 5 business days after the hearing, the commissioner shall either affirm or disaffirm the withdrawal of the certificate of the association and give the association written notice thereof by certified mail. If withdrawal of certification is affirmed, the withdrawal becomes effective 10 business days after the association receives notice of the affirmance unless within that period the association corrects the conduct which was grounds for the withdrawal or petitions for judicial review of the affirmance.

5. If the withdrawal of certification is affirmed following judicial review, the withdrawal becomes effective 5 days after entry of the final decree of affirmance.

Sec. 35. 1. If for any reason the status of an association of self-insured private employers as an association of self-insured employers is terminated, the security deposited pursuant to section 9 of this act must remain on deposit for at least 36 months in such an amount as is necessary to secure the outstanding and contingent liability arising from the provision of health coverage secured by the security.

2. At the expiration of the 36-month period, or such other period as the commissioner deems proper, the commissioner may accept in lieu of any security so deposited a policy of paid-up insurance in a form approved by the commissioner.

Sec. 36. Any association of self-insured private employers that is aggrieved by a decision of the commissioner may petition for judicial review in the manner provided by chapter 233B of NRS.

Sec. 37. 1. For the purposes of sections 2 to 42, inclusive, of this act, an association of self-insured private employers is insolvent if it is

1 *unable to pay its outstanding obligations as they mature in the regular*
2 *course of its business.*

3 *2. If an association of self-insured private employers becomes*
4 *insolvent, institutes any voluntary proceeding pursuant to the Federal*
5 *Bankruptcy Act, 11 U.S.C. §§ 101 et seq., or is named in any voluntary*
6 *proceeding thereunder, makes a general or special assignment for the*
7 *benefit of creditors or fails to pay obligations pursuant to sections 2 to*
8 *42, inclusive, of this act after an order for the payment of any claim*
9 *becomes final, the commissioner may, after giving at least 10 days' notice*
10 *to the association and any insurer or guarantor, use money or interest on*
11 *securities, sell securities or institute legal proceedings on surety bonds*
12 *deposited with the commissioner to the extent necessary to make those*
13 *payments.*

14 *3. A licensed surety providing a surety bond pursuant to section 9 of*
15 *this act may terminate liability on its surety bond by giving the*
16 *commissioner and the association, association's administrator or third-*
17 *party administrator 90 days' written notice. The termination does not*
18 *limit liability that was incurred under the surety bond before the*
19 *termination. If the association fails to requalify as an association of self-*
20 *insured private employers on or before the termination date, the*
21 *association's certificate is withdrawn when the termination becomes*
22 *effective.*

23 **Sec. 38.** *1. The commissioner may assess all associations of self-*
24 *insured private employers to provide for claims against any insolvent*
25 *association.*

26 *2. All money received from such assessments must be deposited with*
27 *the state treasurer to the credit of the account for insolvent associations*
28 *of self-insured private employers, which is hereby created in the fund for*
29 *self-insured providers of health coverage, which is hereby created in the*
30 *state treasury as a special revenue fund. Money in the account must be*
31 *used solely to carry out the provisions of this section. All claims against*
32 *the account must be paid as other claims against the state are paid. The*
33 *state treasurer shall invest money in the account in the same manner and*
34 *in the same securities in which he may invest money in the state general*
35 *fund. Income realized from the investment of the money in the account*
36 *must be credited to the account.*

37 **Sec. 39.** *The commissioner may adopt such regulations as are*
38 *necessary to carry out the provisions of sections 2 to 42, inclusive, of this*
39 *act.*

40 **Sec. 40.** *1. An association of self-insured private employers may*
41 *enter into a contract to have its plan of health coverage administered by a*
42 *third-party administrator.*

43 *2. An association shall not enter into a contract with any person for*
44 *the administration of any part of the plan of health coverage unless that*
45 *person maintains an office in this state and has a valid certificate issued*
46 *by the commissioner pursuant to NRS 683A.085.*

47 **Sec. 41.** *1. A person shall not act as a third-party administrator for*
48 *an association of self-insured private employers pursuant to sections 2 to*

1 *42, inclusive, of this act without first obtaining a certificate issued by the*
2 *commissioner pursuant to NRS 683A.085.*

3 *2. A person who acts as a third-party administrator pursuant to*
4 *sections 2 to 42, inclusive, of this act shall:*

5 *(a) Administer from one or more offices located in this state all the*
6 *claims arising under each plan of health coverage that he administers*
7 *and maintain in those offices all the records concerning those claims;*

8 *(b) Administer each plan of health coverage directly, without*
9 *subcontracting with another third-party administrator; and*

10 *(c) Upon the termination of his contract with an association, transfer*
11 *forthwith to a certified third-party administrator chosen by the*
12 *association all the records in his possession concerning claims arising*
13 *under the plan of health coverage.*

14 *3. The commissioner may, under exceptional circumstances, waive*
15 *the requirements of subsection 2.*

16 **Sec. 42.** *The commissioner shall impose an administrative fine of*
17 *not more than \$1,000 against a third-party administrator for each*
18 *violation and may withdraw the certification of a third-party*
19 *administrator who:*

20 *1. Fails to comply with any regulation adopted by the commissioner*
21 *regarding reports or other requirements necessary to carry out the*
22 *purposes of sections 2 to 42, inclusive, of this act; or*

23 *2. Violates any provision of section 41 of this act or any regulation*
24 *adopted by the commissioner concerning the administration of the plan*
25 *of health coverage.*

26 **Sec. 43.** NRS 689C.015 is hereby amended to read as follows:
27 689C.015 Except as otherwise provided in ~~{this chapter,}~~ *NRS*
28 *689C.015 to 689C.980, inclusive,* as used in ~~{this chapter,}~~ *NRS 689C.015*
29 *to 689C.980, inclusive,* unless the context otherwise requires, the words
30 and terms defined in NRS 689C.017 to 689C.106, inclusive, have the
31 meanings ascribed to them in those sections.

32 **Sec. 44.** The amendatory provisions of this act do not apply to
33 offenses committed before July 1, 2001.

34 **Sec. 45.** This act becomes effective on July 1, 2001.

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