

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 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 an agent's license 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:

1     **Section 1.** Title 57 of NRS is hereby amended by adding thereto a  
2 new chapter to consist of the provisions set forth as sections 2 to 44,  
3 inclusive, of this act.

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

7     **Sec. 3.** *“Association of self-insured private employers” means a*  
8 *nonprofit, unincorporated association composed of two or more private*  
9 *employers that has been issued a certificate by the commissioner and is*  
10 *subject to the provisions of this chapter.*

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



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1     **Sec. 4.5.**   1.   *“Employer” means, with respect to a calendar year, an*  
2     *employer who employed on business days during the preceding calendar*  
3     *year an average of at least 2 employees, but not more than 50 employees,*  
4     *who have a normal work week of 30 hours or more, and who employs at*  
5     *least 2 employees on the first day of the year. For the purposes of*  
6     *determining the number of eligible employees, organizations which are*  
7     *affiliated or which are eligible to file a combined tax return for the*  
8     *purposes of taxation constitute one employer.*

9     2.   *For the purposes of this section, organizations are “affiliated” if*  
10    *one directly, or indirectly, through one or more intermediaries, controls*  
11    *or is controlled by, or is under common control with, the other, as*  
12    *determined pursuant to the provisions of NRS 692C.050.*

13    **Sec. 5.**   *“Tangible net worth” means all the assets of an association*  
14    *of self-insured private employers reduced by all the liabilities of the*  
15    *association, but does not include:*

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

36    **Sec. 6.**   *“Third-party administrator” means a person who contracts*  
37    *with an association of self-insured private employers to provide*  
38    *administrative services for the association of self-insured private*  
39    *employers and to manage claims. The term does not include an*  
40    *insurance company.*

41    **Sec. 6.5.**   *An association of self-insured private employers may*  
42    *provide health coverage for the employees of an employer that is a*  
43    *member of the association only if:*

- 44    1.   *A portion of the premium or benefits are paid by or on behalf of*  
45    *the employer;*
- 46    2.   *An eligible employee or his dependent is reimbursed for a portion*  
47    *of the premium, whether by wage adjustments or otherwise, by or on*  
48    *behalf of the employer; or*



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1     3. The health coverage is considered by the employer or any of his  
2 eligible employees or dependents as part of a plan or program for the  
3 purposes of section 106, 125 or 162 of the Internal Revenue Code, 26  
4 U.S.C. § 106, 125 or 162.

5     Sec. 7. 1. An association of self-insured private employers may  
6 provide health coverage through a trust fund and, where necessary,  
7 deduct contributions to the maintenance of the fund from the  
8 compensation of officers and employees and pay the deductions into the  
9 fund.

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

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

14    4. Any contract with an independent administrator must be approved  
15 by the commissioner as to the reasonableness of administrative charges  
16 in relation to contributions collected and benefits provided.

17    5. The provisions of NRS 689B.030 to 689B.050, inclusive, apply to  
18 coverage provided pursuant to this section.

19     Sec. 8. 1. A group of two or more employers may not act as an  
20 association of self-insured private employers unless:

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

23         (1) Is incorporated in this state;

24         (2) Has been in existence for at least 5 years;

25     (b) The association of self-insured private employers has been issued  
26 a certificate to act as such an association by the commissioner; and

27     (c) The association of self-insured private employers insures at least  
28 51 employees of members of the association.

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

32    3. The application must include:

33     (a) The name of the association.

34     (b) The address of:

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

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

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

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

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

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

43    4. The application must be accompanied by:

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

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

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



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

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

4 (f) A copy of an agreement jointly and severally binding the  
5 association and each member of the association to secure the provision  
6 of health coverage pursuant to the provisions of this chapter.

7 (g) A pro forma financial statement prepared by an independent  
8 certified public accountant in accordance with generally accepted  
9 accounting principles that shows the financial ability of the association  
10 to provide health coverage pursuant to the provisions of this chapter.

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

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

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

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

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

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

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

32 (a) Execute an indemnity agreement jointly and severally binding the  
33 association and each member of the association to secure the provision  
34 of health coverage pursuant to this chapter. The indemnity agreement  
35 must be in a form prescribed by the commissioner. An association may  
36 add provisions to the indemnity agreement if the provisions are first  
37 approved by the commissioner.

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

43 (1) The number of members in the association;

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

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

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



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

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

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

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

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

27 *3. In lieu of complying with the requirements of subsection 2, the*  
28 *association's administrator shall ensure that a solvency bond, in a form*  
29 *prescribed by the commissioner and in an aggregate amount of at least*  
30 *\$1,000,000, is deposited with the commissioner by the association or*  
31 *members of the association on behalf of the association.*

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

37 *5. Any third-party administrator providing claims services for the*  
38 *association shall deposit with the commissioner a bond executed by the*  
39 *third-party administrator as principal, and by a licensed surety, payable*  
40 *to the State of Nevada, and conditioned upon the faithful performance of*  
41 *its duties. The bond must be in an amount determined by the*  
42 *commissioner.*

43 *6. The commissioner may increase or decrease the amount of any*  
44 *bond or money required to be deposited by this section in accordance*  
45 *with chapter 681B of NRS and his regulations for loss reserves in health*  
46 *insurance. If the commissioner requires an association, association's*  
47 *administrator or third-party administrator to increase its deposit, the*  
48 *commissioner may specify the form of the additional security. The*  
49 *association, association's administrator or third-party administrator shall*



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1 *comply with such a requirement within 60 days after receiving notice*  
2 *from the commissioner.*

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

9 **Sec. 10.** *A surety or bonding company shall not furnish a bond or*  
10 *any other form of security required by the provisions of this chapter for*  
11 *an association of self-insured private employers or a member of such an*  
12 *association unless the surety or bonding company holds a certificate of*  
13 *authority issued by the commissioner.*

14 **Sec. 11.** *1. The commissioner shall grant or deny an application*  
15 *for certification as an association of self-insured private employers*  
16 *within 60 days after receiving the application. If the application is*  
17 *materially incomplete or does not comply with the applicable provisions*  
18 *of the law, the commissioner shall notify the applicant of the additional*  
19 *information or changes required. Under such circumstances, if the*  
20 *commissioner is unable to act upon the application within this 60-day*  
21 *period, he may extend the period for granting or denying the application,*  
22 *but for not longer than an additional 90 days.*

23 *2. Upon determining that an association is qualified as an*  
24 *association of self-insured private employers, the commissioner shall*  
25 *issue a certificate to that effect to the association and the association's*  
26 *administrator. No certificate may be issued to an association that, within*  
27 *the 2 years immediately preceding its application, has had its certification*  
28 *as an association of self-insured private employers involuntarily*  
29 *withdrawn by the commissioner.*

30 *3. A certificate issued pursuant to this section must include, without*  
31 *limitation:*

32 *(a) The name of the association;*

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

35 *(c) An identification number assigned to the association by the*  
36 *commissioner; and*

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

38 *4. A certificate issued pursuant to this section remains in effect until*  
39 *withdrawn by the commissioner or canceled at the request of the*  
40 *association. Coverage for an association granted a certificate becomes*  
41 *effective on the date of certification or the date specified in the*  
42 *certificate, as appropriate.*

43 *5. The commissioner shall not grant a request to cancel a certificate*  
44 *unless the association has insured or reinsured all incurred obligations*  
45 *with an insurer authorized to do business in this state pursuant to an*  
46 *agreement filed with and approved by the commissioner. The agreement*  
47 *must include coverage for all incurred claims, including claims that have*  
48 *been incurred but not reported to the association, as well as those that*



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1 have been incurred and reported but not yet paid, and the expenses  
2 associated with those claims.

3 **Sec. 12.** 1. An association certified as an association of self-  
4 insured private employers directly assumes the responsibility for  
5 providing health coverage to the employees of the members of the  
6 association and their beneficiaries pursuant to this chapter.

7 2. The claims of employees and their beneficiaries while in the  
8 employment of a member of an association must be handled in the  
9 manner provided by this chapter, and the association is subject to the  
10 regulations of the commissioner with respect to payment of those claims.

11 3. The security deposited pursuant to section 9 of this act does not  
12 relieve an association from responsibility for the administration of claims  
13 and the provision of health coverage pursuant to this chapter.

14 **Sec. 13.** 1. An association of self-insured private employers must  
15 be operated by a board of trustees consisting of at least five members  
16 whom the members of the association elect for terms set forth in the  
17 bylaws of the association. At least two-thirds of the members of the board  
18 of trustees must be employees, officers or directors of the members of the  
19 association. No association's administrator or third-party administrator  
20 employed by the association, or any owner, officer, employee or other  
21 person affiliated with the association's administrator or third-party  
22 administrator, may serve as a member of the board of trustees. Each  
23 member of the board of trustees must be a resident of this state or an  
24 officer of a corporation authorized to do business in this state.

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

26 (a) Ensure the prompt payment of claims relating to the health  
27 coverage provided pursuant to this chapter.

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

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

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

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

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

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

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

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

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



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1       2. *The board of trustees shall:*  
2       (a) *Establish a claims account in a federally insured financial*  
3       *institution in this state approved by the commissioner. Except as*  
4       *otherwise provided in subsection 3, at least 75 percent of the annual*  
5       *assessment collected by the association from its members must be*  
6       *deposited in this account to pay:*  
7       (1) *Claims;*  
8       (2) *Expenses related to those claims; and*  
9       (3) *The costs associated with the association's policy of excess*  
10      *insurance.*  
11      (b) *Establish an administrative account in a federally insured*  
12      *financial institution in this state approved by the commissioner. The*  
13      *amount of the annual assessment collected by the association that is not*  
14      *deposited in its claims account must be deposited in the administrative*  
15      *account to pay the administrative expenses of the association.*  
16      3. *The commissioner may authorize an association to deposit less*  
17      *than 75 percent of its annual assessment in its claims account if the*  
18      *association presents evidence satisfactory to the commissioner that the*  
19      *association's policy of excess insurance is sufficient.*  
20      4. *The board of trustees may invest the money of the association not*  
21      *needed to pay the obligations of the association pursuant to chapter 682A*  
22      *of NRS.*  
23      5. *The commissioner shall review the accounts of an association*  
24      *established pursuant to this section at such times as he deems necessary*  
25      *to ensure compliance with the provisions of this section.*  
26      **Sec. 15.** *1. An association's administrator employed by an*  
27      *association of self-insured private employers, or an employee, officer or*  
28      *director of an association's administrator, may not be an employee,*  
29      *officer or director of a third-party administrator employed by the*  
30      *association or have a direct or indirect financial interest in the third-*  
31      *party administrator of the association.*  
32      2. *The third-party administrator of an association of self-insured*  
33      *private employers, or an employee, officer or director of the third-party*  
34      *administrator, may not be an employee, officer or director of an*  
35      *association's administrator employed by the association or have a direct*  
36      *or indirect financial interest in that association's administrator.*  
37      3. *Any contract entered into by an association of self-insured private*  
38      *employers and a third-party administrator must include a provision*  
39      *which states that, unless the commissioner otherwise provides, the third-*  
40      *party administrator shall administer any claim or other obligation of the*  
41      *association to its conclusion during the period of the contract.*  
42      **Sec. 16.** *A person shall not advertise or offer for sale in this state*  
43      *any policies or memberships, or solicit or receive any money,*  
44      *subscriptions, applications, premiums, assessments, memberships or any*  
45      *other fee or charge in connection with a proposed association of self-*  
46      *insured private employers unless licensed as an agent pursuant to*  
47      *chapter 683A of NRS.*





1    **Secs. 17-19.** (Deleted by amendment.)

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

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

6    *(b) Enter into an indemnity agreement as required by section 9 of this*  
7    *act.*

8    *2. The membership of the applicant becomes effective when all*  
9    *members of the association have indicated their approval of the*  
10    *application or on a later date specified by the association. The*  
11    *application for membership and the action taken on the application must*  
12    *be maintained as permanent records of the board of trustees.*

13    *3. Each member who is a member of an association during the 12*  
14    *months immediately following the formation of the association must have*  
15    *a tangible net worth of at least \$200,000. Any employer who seeks to*  
16    *become a member of the association subsequently must meet the*  
17    *requirement for tangible net worth of at least \$200,000 unless the*  
18    *commissioner adjusts the requirement for membership in the association*  
19    *after conducting an annual review of the actuarial solvency of the*  
20    *association in accordance with subsection 1 of section 9 of this act.*

21    *4. A member of an association may terminate his membership at any*  
22    *time. To terminate his membership, a member must submit to the*  
23    *association's administrator a notice of intent to withdraw from the*  
24    *association at least 120 days before the effective date of withdrawal. The*  
25    *association's administrator shall, within 10 days after receipt of the*  
26    *notice, notify the commissioner of the employer's intent to withdraw from*  
27    *the association.*

28    *5. The members of an association may cancel the membership of any*  
29    *member of the association in accordance with the bylaws of the*  
30    *association.*

31    *6. The association shall:*

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

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

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

41    *(2) Become insured by an insurer.*

42    *7. If a member of an association changes his name or form of*  
43    *organization, the member remains liable for any obligations incurred or*  
44    *any responsibilities imposed pursuant to this chapter under his former*  
45    *name or form of organization.*

46    *8. An association is liable for the payment of any obligations*  
47    *required to be paid by a member of the association pursuant to this*  
48    *chapter during his period of membership. The insolvency or bankruptcy*



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1 of a member does not relieve the association of liability for the provision  
2 of health coverage.

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

7 **Sec. 22.** *1. The commissioner may examine the books, records,*  
8 *accounts and assets of an association of self-insured private employers as*  
9 *he deems necessary to carry out the provisions of this chapter.*

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

12 **Sec. 23.** *An association of self-insured private employers shall be*  
13 *deemed to have appointed the commissioner as its resident agent to*  
14 *receive any initial legal process authorized by law to be served upon the*  
15 *association for as long as the association is obligated to provide health*  
16 *coverage pursuant to this chapter.*

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

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

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

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

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

27 **Sec. 25.** *1. An association of self-insured private employers shall*  
28 *file with the commissioner an audited statement of financial condition*  
29 *prepared by an independent certified public accountant. The statement*  
30 *must be filed on or before April 1 of each year or, if the fiscal year of the*  
31 *association does not coincide with the calendar year, within 90 days after*  
32 *the conclusion of the association's fiscal year, and contain information*  
33 *for the previous fiscal year.*

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

36 *(a) A statement of the reserves for:*

37 *(1) Actual claims and expenses;*

38 *(2) Claims filed with the association but not reported, and the*  
39 *expenses associated with those claims;*

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

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

42 *(b) An actuarial opinion regarding reserves that is prepared by a*  
43 *member of the American Academy of Actuaries or another specialist in*  
44 *loss reserves identified in the annual statement adopted by the National*  
45 *Association of Insurance Commissioners. The actuarial opinion must*  
46 *include a statement of:*

47 *(1) Actual claims and the expenses associated with those claims;*  
48 *and*



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

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

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

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

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

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

15       (b) *The assessment required to be paid by each member of the*  
16 *association; and*

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

18       2. *The audit required by this section must be conducted by an auditor*  
19 *approved by the commissioner.*

20       3. *A report of the audit must be filed with the commissioner in a*  
21 *form required by the commissioner.*

22       4. *The expenses of any audit conducted pursuant to this section must*  
23 *be paid by the association.*

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

26       (a) *Pay its obligations and administrative expenses;*

27       (b) *Carry reasonable reserves; and*

28       (c) *Provide for contingencies,*  
29 *the board of trustees of the association may, after obtaining the approval*  
30 *of the commissioner, declare and distribute dividends to the members of*  
31 *the association.*

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

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

38       4. *An association shall give to each prospective member of the*  
39 *association a written description of its plan for distributing dividends*  
40 *when the prospective member applies for membership in the association.*

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

44       2. *The plan must include a requirement for:*

45       (a) *An initial payment, in advance, of a portion of the annual*  
46 *assessment due from each member of the association. The initial*  
47 *payment must be in an amount equal to at least 25 percent of the*  
48 *member's annual assessment.*



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1 (b) *Payment of the balance of the annual assessment due in quarterly*  
2 *or monthly installments.*

3 **Sec. 30.** *Each association of self-insured private employers shall*  
4 *maintain:*

5 1. *Actuarially appropriate loss reserves. Such reserves must include*  
6 *reserves for:*

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

8 (b) *Claims filed with the association but not reported, and the*  
9 *expenses associated with those claims.*

10 2. *Reserves for uncollected debts.*

11 **Sec. 31.** 1. *If the assets of an association of self-insured private*  
12 *employers are insufficient to make certain the prompt payment of claims*  
13 *relating to the health coverage provided pursuant to this chapter and to*  
14 *maintain the reserves required by section 30 of this act, the association*  
15 *shall immediately notify the commissioner of the deficiency and:*

16 (a) *Transfer any surplus acquired from a previous fiscal year to the*  
17 *current fiscal year to make up the deficiency;*

18 (b) *Transfer money from its administrative account to its claims*  
19 *account;*

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

22 (d) *Take any other action to make up the deficiency which is approved*  
23 *by the commissioner.*

24 2. *If the association wishes to transfer any surplus from one fiscal*  
25 *year to another, the association must first notify the commissioner of the*  
26 *transfer.*

27 3. *The commissioner shall order the association to make up any*  
28 *deficiency pursuant to subsection 1 if the association fails to do so within*  
29 *30 days after notifying the commissioner of the deficiency. The*  
30 *association shall be deemed insolvent if it fails to:*

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

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

35 **Sec. 32.** 1. *The commissioner may issue an order requiring an*  
36 *association of self-insured private employers or a member of the*  
37 *association to cease and desist from engaging in any act or practice*  
38 *found to be in violation of any provision of this chapter or any regulation*  
39 *adopted pursuant to this chapter.*

40 2. *If the commissioner determines that an association or a member*  
41 *of the association has violated an order to cease and desist, the*  
42 *commissioner may impose an administrative fine of not more than*  
43 *\$10,000 for each violation of the order, not to exceed an aggregate*  
44 *amount of \$100,000, or withdraw the certificate of the association, or*  
45 *both.*

46 **Sec. 33.** 1. *The commissioner may impose an administrative fine*  
47 *for each violation of any provision of this chapter or any regulation*  
48 *adopted pursuant to this chapter. Except as otherwise provided in this*



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1 *chapter, the amount of the fine may not exceed \$1,000 for each violation*  
2 *or an aggregate amount of \$10,000.*

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

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

6 *(b) The application for certification contained a material*  
7 *misrepresentation;*

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

9 *(d) The association fails to have two or more members;*

10 *(e) The association fails to pay the costs of any examination or any*  
11 *penalty, fee or assessment required by the provisions of this chapter;*

12 *(f) The association fails to comply with any of the provisions of this*  
13 *chapter or any regulation adopted pursuant to this chapter;*

14 *(g) The association fails to comply with any order of the commissioner*  
15 *within the time prescribed by the provisions of this chapter or in the*  
16 *order of the commissioner;*

17 *(h) The association or its third-party administrator misappropriates,*  
18 *converts, illegally withholds or refuses to pay any money to which a*  
19 *person is entitled and that was entrusted to the association in its fiduciary*  
20 *capacity; or*

21 *(i) The association markets or operates in another state without being*  
22 *licensed or certified in that state to do so.*

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

27 **Sec. 34. 1.** *Before any action may be taken pursuant to subsection*  
28 *2, the commissioner shall arrange an informal meeting with an*  
29 *association of self-insured private employers to discuss and seek*  
30 *correction of any conduct which would be grounds for withdrawal of the*  
31 *certificate of the association.*

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

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

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

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

47 *4. If the association requests a hearing:*



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

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

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

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

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

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

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

31 **Sec. 37. 1.** For the purposes of this chapter, an association of self-  
32 insured private employers is insolvent if it is unable to pay its outstanding  
33 obligations as they mature in the regular course of its business.

34 2. A licensed surety providing a surety bond pursuant to section 9 of  
35 this act may terminate liability on its surety bond by giving the  
36 commissioner and the association, association's administrator or third-  
37 party administrator 90 days' written notice. The termination does not  
38 limit liability that was incurred under the surety bond before the  
39 termination. If the association fails to requalify as an association of self-  
40 insured private employers on or before the termination date, the  
41 association's certificate is withdrawn when the termination becomes  
42 effective.

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

46 2. All money received from such assessments must be deposited with  
47 the state treasurer to the credit of the account for insolvent associations  
48 of self-insured private employers, which is hereby created in the fund for  
49 self-insured providers of health coverage, which is hereby created in the



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1 *state treasury as a special revenue fund. Money in the account must be*  
2 *used solely to carry out the provisions of this section. All claims against*  
3 *the account must be paid as other claims against the state are paid. The*  
4 *state treasurer shall invest money in the account in the same manner and*  
5 *in the same securities in which he may invest money in the state general*  
6 *fund. Income realized from the investment of the money in the account*  
7 *must be credited to the account.*

8 **Sec. 39.** *The commissioner may adopt such regulations as are*  
9 *necessary to carry out the provisions of this chapter.*

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

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

17 **Sec. 41.** *1. A person shall not act as a third-party administrator for*  
18 *an association of self-insured private employers pursuant to this chapter*  
19 *without first obtaining a certificate issued by the commissioner pursuant*  
20 *to NRS 683A.085.*

21 *2. A person who acts as a third-party administrator pursuant to this*  
22 *chapter shall:*

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

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

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

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

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

38 *1. Fails to comply with any regulation adopted by the commissioner*  
39 *regarding reports or other requirements necessary to carry out the*  
40 *purposes of this chapter; or*

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

44 **Sec. 43.** *1. The commissioner may adopt regulations to define*  
45 *when an association of self-insured private employers is considered to be*  
46 *in a hazardous financial condition and to set forth the standards to be*  
47 *considered by the commissioner in determining whether the continued*  
48 *operation of an association of self-insured private employers transacting*



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1 *business in this state may be considered to be hazardous to its members*  
2 *or creditors or to the general public.*

3 2. *If the commissioner determines after a hearing that any*  
4 *association of self-insured private employers is in a hazardous financial*  
5 *condition, he may, instead of suspending or revoking the certificate of*  
6 *the association of self-insured private employers, limit the association's*  
7 *certificate as he deems reasonably necessary to correct, eliminate or*  
8 *remedy any conduct, condition or ground that is deemed to be a cause of*  
9 *the hazardous financial condition.*

10 3. *An order or decision of the commissioner under this section is*  
11 *subject to review in accordance with NRS 679B.310 to 679B.370,*  
12 *inclusive, at the request of any party to the proceedings whose interests*  
13 *are substantially affected.*

14 **Sec. 44.** 1. *An association of self-insured private employers is*  
15 *subject to the provisions of this chapter and, to the extent reasonably*  
16 *applicable:*

17 (a) *Chapter 679B of NRS.*

18 (b) *Chapter 686A of NRS.*

19 (c) *The provisions of NRS 689B.0285, 689B.061 to 689B.069,*  
20 *inclusive, and 689B.245 to 689B.330, inclusive.*

21 (d) *The provisions of NRS 689C.107, 689C.109, 689C.111, 689C.156,*  
22 *689C.1565, 689C.158 to 689C.207, inclusive, 689C.265, 689C.310,*  
23 *689C.320 and 689C.355.*

24 (e) *Chapter 696B of NRS.*

25 2. *For the purposes of this section, unless the context otherwise*  
26 *requires, any reference in a section of NRS included in paragraphs (a) to*  
27 *(e), inclusive, of subsection 1 to:*

28 (a) *"Health benefit plan," "policy of group health insurance" or*  
29 *"policy of group insurance" must be replaced by "health coverage*  
30 *provided by an association of self-insured private employers";*

31 (b) *"Insurer" or "carrier" must be replaced by "association of self-*  
32 *insured private employers";*

33 (c) *"Producer" must be replaced by "agent licensed pursuant to*  
34 *chapter 683A of NRS"; and*

35 (d) *"Small employer" must be replaced by "employer."*

36 **Sec. 45.** NRS 232.550 is hereby amended to read as follows:

37 232.550 As used in NRS 232.550 to 232.700, inclusive, unless the  
38 context otherwise requires:

39 1. "Administrator" means the administrator of the division.

40 2. "Director" means the director of the department of business and  
41 industry.

42 3. "Division" means the division of industrial relations of the  
43 department of business and industry.

44 4. "Insurer" includes:

45 (a) A self-insured employer;

46 (b) An association of self-insured public employers **H** *as defined in*  
47 *NRS 616A.055;*

48 (c) An association of self-insured private employers **H** *as defined in*  
49 *NRS 616A.050;* and



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1 (d) A private carrier.

2 **Sec. 46.** NRS 244.33505 is hereby amended to read as follows:

3 244.33505 1. In a county in which a license to engage in a business  
4 is required, the board of county commissioners shall not issue such a  
5 license unless the applicant for the license signs an affidavit affirming that  
6 the business:

7 (a) Has received coverage by a private carrier as required pursuant to  
8 chapters 616A to 616D, inclusive, and chapter 617 of NRS;

9 (b) Maintains a valid certificate of self-insurance pursuant to chapters  
10 616A to 616D, inclusive, of NRS;

11 (c) Is a member of an association of self-insured public or private  
12 employers; or

13 (d) Is not subject to the provisions of chapters 616A to 616D, inclusive,  
14 or chapter 617 of NRS.

15 2. In a county in which such a license is not required, the board of  
16 county commissioners shall require a business, when applying for a post  
17 office box, to submit to the board the affidavit required by subsection 1.

18 3. Each board of county commissioners shall submit to the  
19 administrator of the division of industrial relations of the department of  
20 business and industry monthly a list of the names of those businesses  
21 which have submitted an affidavit required by subsections 1 and 2.

22 4. Upon receiving an affidavit required by this section, a board of  
23 county commissioners shall provide the owner of the business with a  
24 document setting forth the rights and responsibilities of employers and  
25 employees to promote safety in the workplace, in accordance with  
26 regulations adopted by the division of industrial relations of the department  
27 of business and industry pursuant to NRS 618.376.

28 **5. As used in this section:**

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

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

33 **Sec. 47.** NRS 268.0955 is hereby amended to read as follows:

34 268.0955 1. In an incorporated city in which a license to engage in a  
35 business is required, the city council or other governing body of the city  
36 shall not issue such a license unless the applicant for the license signs an  
37 affidavit affirming that the business:

38 (a) Has received coverage by a private carrier as required pursuant to  
39 chapters 616A to 616D, inclusive, and chapter 617 of NRS;

40 (b) Maintains a valid certificate of self-insurance pursuant to chapters  
41 616A to 616D, inclusive, of NRS;

42 (c) Is a member of an association of self-insured public or private  
43 employers; or

44 (d) Is not subject to the provisions of chapters 616A to 616D, inclusive,  
45 or chapter 617 of NRS.

46 2. In an incorporated city in which such a license is not required, the  
47 city council or other governing body of the city shall require a business,  
48 when applying for a post office box, to submit to the governing body the  
49 affidavit required by subsection 1.



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1 3. Each city council or other governing body of an incorporated city  
2 shall submit to the administrator of the division of industrial relations of  
3 the department of business and industry monthly a list of the names of  
4 those businesses which have submitted an affidavit required by subsections  
5 1 and 2.

6 4. Upon receiving an affidavit required by this section, the city council  
7 or other governing body of an incorporated city shall provide the applicant  
8 with a document setting forth the rights and responsibilities of employers  
9 and employees to promote safety in the workplace in accordance with  
10 regulations adopted by the division of industrial relations of the department  
11 of business and industry pursuant to NRS 618.376.

12 5. *As used in this section:*

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

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

17 **Sec. 48.** NRS 281.153 is hereby amended to read as follows:

18 281.153 1. The employer of a police officer or fireman may establish  
19 a program that allows a police officer or fireman whom it employs who has  
20 suffered a catastrophe resulting in temporary total disability to elect to  
21 continue to receive his normal salary for a period of not more than 1 year  
22 in lieu of receiving the compensation for the industrial injury or  
23 occupational disease for which he is eligible pursuant to chapters 616A to  
24 616D, inclusive, or 617 of NRS, unless the police officer or fireman has  
25 made an election pursuant to NRS 281.390.

26 2. A program established pursuant to subsection 1:

27 (a) Must prescribe the conditions pursuant to which a police officer or  
28 fireman is eligible to receive his normal salary in accordance with an  
29 election pursuant to subsection 1; and

30 (b) May allow a police officer or fireman to return to light-duty  
31 employment or employment modified according to his physical restrictions  
32 or limitations and receive his normal salary during the period of his  
33 election pursuant to subsection 1.

34 3. Unless the employer is self-insured or a member of an association of  
35 self-insured public or private employers, the employer shall notify the  
36 insurer that provides industrial insurance for that employer of the election  
37 by a police officer or fireman pursuant to subsection 1. When the police  
38 officer or fireman is no longer eligible to receive his normal salary  
39 pursuant to such an election, the employer shall notify the insurer so that  
40 the insurer may begin paying to the police officer or fireman the benefits, if  
41 any, for industrial insurance for which the police officer or fireman is  
42 eligible. If the employer is self-insured or a member of *such* an association  
43 of self-insured public or private employers and the police officer or  
44 fireman is no longer eligible to receive his normal salary in accordance  
45 with an election pursuant to subsection 1, the employer shall begin paying  
46 the benefits, if any, for industrial insurance to which the police officer or  
47 fireman is entitled.

48 4. During the period in which the police officer or fireman elects to  
49 receive his normal salary pursuant to subsection 1, he accrues sick leave,



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1 annual leave and retirement benefits at the same rate at which he accrued  
2 such leave and benefits immediately before the election.

3 5. As used in this section:

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

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

8 (c) "Catastrophe" means an illness or accident arising out of or in the  
9 course of employment which is life threatening or which will require a  
10 period of convalescence that an attending physician expects to exceed 30  
11 days and because of which the employee is unable to perform the duties of  
12 his position.

13 ~~(b)~~ (d) "Police officer" has the meaning ascribed to it in NRS  
14 617.135.

15 **Sec. 49.** NRS 624.256 is hereby amended to read as follows:

16 624.256 1. Before granting an original or renewal of a contractor's  
17 license to any applicant, the board shall require that the applicant submit to  
18 the board:

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

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

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

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

29 (1) He has no employees;

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

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

34 2. The board shall notify the fraud control unit for industrial insurance  
35 established pursuant to NRS 228.420 whenever the board learns that an  
36 applicant or holder of a contractor's license has engaged in business as or  
37 acted in the capacity of a contractor within this state without having  
38 obtained industrial insurance or insurance for occupational diseases in  
39 violation of the provisions of chapters 616A to 617, inclusive, of NRS.

40 3. *As used in this section:*

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

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

45 **Sec. 50.** 1. The commissioner of insurance of the department of  
46 business and industry shall award certificates to not more than three  
47 associations of self-insured private employers on or before January 1,  
48 2003. Not more than two such associations may be formed in Clark County  
49 and not more than one in northern Nevada. The commissioner shall award



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1 the certificates in the order in which associations satisfy all the  
2 requirements for certification.

3 2. On or before February 1, 2003, the commissioner shall submit to the  
4 director of the legislative counsel bureau for transmittal to the 72nd session  
5 of the Nevada legislature a report on the effectiveness and safety of  
6 associations of self-insured private employers in providing health coverage  
7 to employees of certain small employers.

8 3. The commissioner shall not suspend or revoke the certificate of an  
9 association of self-insured private employers awarded a certificate pursuant  
10 to sections 2 to 44, inclusive, of this act so long as the association complies  
11 with all the provisions of sections 2 to 44, inclusive, of this act and any  
12 regulations adopted by the commissioner pursuant thereto.

13 **Sec. 51.** The amendatory provisions of this act do not apply to  
14 offenses committed before July 1, 2001.

15 **Sec. 52.** This act becomes effective on July 1, 2001.

