

SENATE BILL NO. 288—SENATOR CARLTON

MARCH 16, 2009

JOINT SPONSOR: ASSEMBLYMAN CONKLIN

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to occupational safety and health. (BDR 53-163)

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

~

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

AN ACT relating to occupational safety; revising provisions relating to occupational safety and health; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

**Sections 6, 13-41, 44-78 and 81-103** of this bill remove the Occupational Safety and Health Review Board from the Division of Industrial Relations of the Department of Business and Industry and make the Board responsible for the enforcement of occupational safety and health laws and regulations.

**Sections 7-12** of this bill require employees and contractors to complete occupational safety and health training. **Section 105** of this bill requires a contractor to submit proof of completion of occupational safety and health training before the State Contractors' Board renews his contractors' license.

**Sections 42 and 43** of this bill expand the class of persons who may request an investigation by the Occupational Safety and Health Review Board or may notify the Board of a suspected violation of provisions relating to occupational safety and health.

**Section 56** of this bill revises provisions relating to review hearings to require every such hearing to be open to the public.

**Sections 79 and 80** of this bill require general contractors and specialty contractors to have a safety plan approved by the Occupational Safety and Health Review Board and submit information relating to loss experience to be granted preference in bidding on public works.

**Section 104** of this bill requires an owner to implement an approved safety plan and assign a person to be in charge of worksite safety for construction projects for which the owner intends to establish and implement an owner-controlled insurance program.



\* S B 2 8 8 \*

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

**Section 1.** Chapter 618 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

**Sec. 2.** *“Advisory Council” means the Advisory Council of the Division of Industrial Relations, created pursuant to the provisions of NRS 232.570.*

**Sec. 3.** *“Construction site” means any location at which construction work is being commenced or is in progress.*

**Sec. 4.** *“OSHA-10” means a 10-hour course in construction industry safety and health hazard recognition and prevention developed by the Occupational Safety and Health Administration of the United States Department of Labor.*

**Sec. 5.** *“OSHA-30” means a 30-hour course in construction industry safety and health hazard recognition and prevention developed by the Occupational Safety and Health Administration of the United States Department of Labor.*

**Sec. 6. 1.** *The Board may:*

*(a) Appoint one or more legal counsel to provide services for the Board. If appointed, they are in the unclassified service of the State.*

*(b) Provide for contract services to be rendered by such other legal counsel as are needed for assistance in administering the laws relating to occupational safety and health.*

**2.** *Each of the legal counsel must be an attorney admitted to practice law in Nevada.*

**3.** *In the prosecution of all claims and actions referred to him, a legal counsel has the same power as that vested in the district attorneys of the several counties to:*

*(a) Enforce the laws relating to occupational safety and health; and*

*(b) Prosecute for criminal violations of such laws.*

**Sec. 7.** *The Division may adopt such regulations as are necessary to carry out the provisions of sections 6 to 12, inclusive, of this act.*

**Sec. 8. 1.** *Any OSHA-10 or OSHA-30 course offered by the Division is an approved course for the purposes of certification pursuant to section 9 of this act.*

**2.** *The Division may, by regulation, approve additional OSHA-10 or OSHA-30 courses for the purposes of certification pursuant to section 9 of this act.*



**Sec. 9. 1. The Division shall:**

(a) *Issue an OSHA-10 certification to any person who submits to the Division proof that he has completed an OSHA-10 course approved by the Division; and*

(b) *Issue an OSHA-30 certification to any person who submits to the Division proof that he has completed an OSHA-30 course approved by the Division.*

2. *A certification issued pursuant to this section expires 10 years after the date it is issued.*

**Sec. 10.** *Not later than 60 days after the date an employee begins work on a construction site, the employee must obtain from the Division an OSHA-10 certification issued pursuant to section 9 of this act.*

**Sec. 11.** *If an employee on a construction site fails to present his employer with a current and valid OSHA-10 certification not later than 60 days after beginning work on a construction site, his employer shall terminate the employment of the employee.*

**Sec. 12.** *If the Division finds that an employer has failed to terminate the employment of an employee as required by section 11 of this act, it shall:*

1. *Upon the first violation, in lieu of any other penalty under this chapter, impose upon the employer an administrative fine of not more than \$500.*

2. *Upon the second violation, in lieu of any other penalty under this chapter, impose upon the employer an administrative fine of not more than \$1,000.*

3. *Upon the third and each subsequent violation, impose upon the employer the penalty authorized by NRS 618.635 in the same manner and amount as if the violation was a willful violation.*

**Sec. 13.** NRS 618.015 is hereby amended to read as follows:

618.015 1. It is the purpose of this chapter to provide safe and healthful working conditions for every employee by:

(a) Establishing regulations;

(b) Effectively enforcing such regulations;

(c) Educating and training employees; and

(d) Establishing reporting procedures for job-related accidents and illnesses.

2. The Legislature ~~finds~~ :

(a) *Finds* that such safety and health in employment is a matter greatly affecting the public interest of this State.

(b) *Finds and declares that enforcement is the priority of the Board.*



1     **Sec. 14.** NRS 618.025 is hereby amended to read as follows:  
2     618.025 As used in this chapter, unless the context otherwise  
3 requires, the words and terms defined in NRS 618.029 to 618.165,  
4 inclusive, *and sections 2 to 5, inclusive, of this act* have the  
5 meanings ascribed to them in such sections.

6     **Sec. 15.** NRS 618.075 is hereby amended to read as follows:  
7     618.075 “Emergency order” means a restraining order issued  
8 by the ~~{Division}~~ *Board* for full or partial cessation of operations  
9 where conditions may cause death or serious physical harm.

10    **Sec. 16.** NRS 618.135 is hereby amended to read as follows:  
11    618.135 “Order” means any decision, rule, regulation,  
12 direction, requirement or standard of the Division *or Board* or any  
13 other determination arrived at or decision made by the Division *or*  
14 *Board* under the safety and health provisions of this chapter.

15    **Sec. 17.** NRS 618.175 is hereby amended to read as follows:  
16    618.175 The ~~{Division}~~ *Board* shall supervise and regulate all  
17 matters relating to the protection of the safety and health of  
18 employees in conformity with the provisions of this chapter.

19    **Sec. 18.** NRS 618.185 is hereby amended to read as follows:  
20    618.185 1. The ~~{Division}~~ *Board* is primarily responsible for  
21 occupational safety and health in this State.

22    2. The ~~{Division}~~ *Board* may enter agreements with state  
23 agencies by which these agencies complement each other’s services  
24 and work jointly in matters affecting occupational safety and health  
25 of employees.

26    **Sec. 19.** NRS 618.205 is hereby amended to read as follows:  
27    618.205 For the purpose of carrying out the provisions of this  
28 chapter, the ~~{Division}~~ *Board* shall coordinate to the greatest extent  
29 practicable the occupational safety and health activities of all state  
30 and local agencies and shall advise, consult and cooperate with other  
31 agencies of this State, the Federal Government, agencies of other  
32 states, interstate agencies and with affected public and private  
33 organizations.

34    **Sec. 20.** NRS 618.235 is hereby amended to read as follows:  
35    618.235 1. The Division must be administered by the  
36 Department of Business and Industry.

37    2. A decision on any question *relating to subjects under the*  
38 *jurisdiction of the Division and* arising under the *applicable*  
39 provisions of this chapter must be the decision of the Administrator,  
40 subject to review by the Department.

41    **Sec. 21.** NRS 618.255 is hereby amended to read as follows:  
42    618.255 1. The Division *and Board each* may employ such  
43 qualified employees as in the ~~{opinion}~~ *opinions* of the  
44 Administrator *and Board, respectively*, are necessary to enforce the  
45 provisions of this chapter.



2. Any safety and health representative employed by the Division *or Board* must have practical experience in the field of construction, trade, craft, technical skill, profession or industry in which his services are required.

3. The Administrator, *the Board* and other employees of the Division *and Board* must not be financially interested in any business interfering with, or inconsistent with, their duties. Except as otherwise provided in NRS 284.143, the Administrator, *the Board* and other employees of the Division *and Board* shall give their entire time to the business of the Division *or Board, as applicable*, and shall not pursue any other business or vocation or hold any office of profit.

4. An employee of the Division *or Board* shall not serve on any committee of any political party.

**Sec. 22.** NRS 618.257 is hereby amended to read as follows:

618.257 1. The Administrator shall establish:

(a) Within the Division a Section for ~~Enforcement~~

~~(1) Enforcement; and~~

~~(2)~~ Safety and Health Consultation, Education, Information and Training.

(b) Such duties, in addition to the duties described in ~~subsections 2 and~~ *subsection 3*, as he deems necessary for the ~~Sections~~ *Section* established pursuant to paragraph (a).

2. If authorized by the Secretary of Labor, the ~~Section for Enforcement~~ *Board* shall develop a program for small employers to eliminate or abate hazards to the safety and health of employees. Except as otherwise provided by federal law, if a small employer complies with the program for small employers, the ~~Section for Enforcement~~ *Board* may reduce any penalty, fine or interest imposed pursuant to this chapter.

3. The Section for Safety and Health Consultation, Education, Information and Training shall establish:

(a) A toll-free telephone number within this State to provide advice to a small employer who seeks assistance in complying with the requirements of this chapter; and

(b) A program designed to assist a small employer in complying with the requirements of this chapter, including, as appropriate, the preparation and dissemination of pamphlets describing the requirements of this chapter.

**Sec. 23.** NRS 618.265 is hereby amended to read as follows:

618.265 1. The Division *and Board* shall maintain ~~its~~ *their* principal ~~office~~ *offices* in Carson City, Nevada.

2. The Division *and Board* shall maintain suboffices at such places as industrial activity warrants. Suboffices may have complete



1 facilities to supervise, regulate and enforce the *applicable* provisions  
2 of this chapter.

3 **Sec. 24.** NRS 618.285 is hereby amended to read as follows:

4 618.285 The Division shall:

5 1. ~~1. Prevent or abate hazards to the safety and health of~~  
6 ~~employees;~~

7 ~~2. Develop a program of eliminating or abating hazards;~~

8 ~~3.] Advise and recommend a program of safety and health~~  
9 ~~applicable to public and state agencies;~~

10 ~~4. Institute legal proceedings to compel compliance with this~~  
11 ~~chapter or any rules, regulations, standards or orders adopted or~~  
12 ~~issued under this chapter;]~~ and

13 ~~5.] 2.~~ Accept, receive and administer grants and other funds  
14 from any private or public source, including the Federal  
15 Government.

16 **Sec. 25.** NRS 618.295 is hereby amended to read as follows:

17 618.295 1. The ~~[Division]~~ *Board* shall adopt such regulations  
18 as are necessary to provide safe and healthful employment in those  
19 employments within its jurisdiction.

20 2. The ~~[Division]~~ *Board* shall not propose standards or  
21 regulations for products distributed or used in interstate commerce  
22 which are different from federal standards for such products unless  
23 such standards are required by compelling local conditions and do  
24 not unduly burden interstate commerce.

25 3. The ~~[Division]~~ *Board* may adopt by emergency regulation  
26 temporary emergency standards for the protection of employees  
27 who are exposed to grave danger from exposure to substances or  
28 agents determined to be toxic or physically harmful or from new  
29 hazards.

30 4. Standards established under this chapter must apply equally  
31 to all places of employment.

32 5. Standards or regulations must provide for furnishing prompt  
33 information to employees by means of labels or warning signs  
34 regarding hazards in the workplace. The information must include  
35 the suitable precautions, the symptoms and emergency treatment in  
36 case of exposure to hazards.

37 6. If an employee has been exposed to a hazard and the  
38 ~~[Division]~~ *Board* considers a medical examination necessary, the  
39 cost of the examination must be paid by the employer. The results of  
40 the examination must be furnished only to the ~~[Division]~~ *Board* and,  
41 at the request of the employee, to the employee's physician.

42 7. Standards or regulations must prescribe the use of suitable  
43 protective equipment and control methods or procedures to include  
44 monitoring or measuring any exposures. The employees are entitled  
45 to be apprised of such monitoring and to obtain the results.



8. All federal occupational safety and health standards which the Secretary of Labor promulgates, modifies or revokes, and any amendments thereto, shall be deemed Nevada occupational safety and health standards unless the ~~[Division]~~ Board, in accordance with federal law, adopts regulations establishing alternative standards that provide protection equal to the protection provided by those federal occupational safety and health standards.

**Sec. 26.** NRS 618.305 is hereby amended to read as follows:

618.305 The ~~[Division]~~ Board may consider the following sources in adopting standards under this chapter:

1. American National Standards Institute (ANSI).
2. American Society of Mechanical Engineers (ASME).
3. American Society for Testing and Materials (ASTM).
4. Code of Federal Regulations (CFR).
5. National Electrical Code (NEC).
6. National Fire Protection Association (NFPA).
7. Any national consensus standard.
8. Any safety order legally adopted by the ~~[Division]~~ Board.

**Sec. 27.** NRS 618.315 is hereby amended to read as follows:

618.315 1. The ~~[Division]~~ Board has authority over working conditions in all places of employment except as limited by subsection 2.

2. The authority of the ~~[Division]~~ Board does not extend to working conditions which:

- (a) Exist in household domestic service;
- (b) Exist in motor vehicles operating on public highways of this State; or
- (c) Are regulated pursuant to the Federal Mine Safety and Health Act of 1977 (30 U.S.C. §§ 801 et seq.), the Federal Safety Appliances Act (45 U.S.C. §§ 1 et seq.) or the Federal Railroad Safety Act of 1970 (45 U.S.C. §§ 421 et seq.).

3. The ~~[Division]~~ Board may:

(a) Declare and prescribe which safety devices, safeguards or other means of protection are well adapted to render employees safe as required by lawful order, state standards or regulations or federal standards, as adopted by the ~~[Division]~~ Board.

(b) Fix and adopt such reasonable standards and prescribe, modify and enforce such reasonable orders for the adoption, installation, use, maintenance and operation of safety devices, safeguards and other means or methods of protection, which must be as nearly uniform as practicable, as may be necessary to carry out all laws and lawful orders relative to the protection of the lives, safety and health of employees.





(c) Adopt such reasonable standards for the construction, repair and maintenance of places of employment as render those places safe and healthful.

(d) Require the performance of any other act which the protection of the lives, safety and health in places of employment reasonably demands.

(e) Provide the method and frequency of making investigations, examinations and inspections.

(f) Prepare, provide and regulate forms of notices, publications and blank forms deemed proper and advisable to carry out the provisions of this chapter, and to charge to employers the printing costs for those publications.

(g) Furnish blank forms upon request.

(h) Provide for adequate notice to each employer or employee of his right to administrative review of any action or decision of the ~~[Division]~~ Board as set forth in NRS 618.475 and 618.605 and to judicial review.

(i) Consult with the Health Division of the Department of Health and Human Services with respect to occupational health matters in chapter 617 of NRS.

(j) Appoint and fix the compensation of advisers who shall assist the ~~[Division]~~ Board in establishing standards of safety and health. The ~~[Division]~~ Board may adopt and incorporate in its general orders such safety and health recommendations as it may receive from advisers.

**Sec. 28.** NRS 618.325 is hereby amended to read as follows:  
618.325 1. The ~~[Administrator and his representatives appointed under this chapter]~~ Board shall act with full power and authority to carry out and enforce the orders, standards and policies fixed by the ~~[Division,]~~ Board, and for the purposes set forth in this chapter may:

- (a) Certify to official acts;
- (b) Take depositions;
- (c) Issue subpoenas;
- (d) Compel the attendance of witnesses; and
- (e) Compel the production of books, papers, records, documents and testimony.

2. Upon presenting appropriate credentials to any employer, the ~~[Administrator]~~ Board or ~~[his]~~ its representative may:

- (a) Enter without delay and at reasonable times any place of employment; and
- (b) Inspect and investigate during regular working hours or at other reasonable times and within reasonable limits, that place of employment and all pertinent conditions, structures, machines,





apparatus, devices, equipment and materials therein, and question privately any employer or an employee.

3. The ~~{Division}~~ Board shall not notify the employer of any randomly scheduled or customary regulatory inspection to be performed by the ~~{Division}~~ Board.

**Sec. 29.** NRS 618.336 is hereby amended to read as follows:

618.336 1. The ~~{Division}~~ Board shall maintain a record of all oral complaints it receives under this chapter from employees or representatives of employees. The record must include a summary of the substance of each such complaint, a listing of any evidence offered to support the complaint, the date the employer was notified of the complaint and a notation of the action taken by the ~~{Division}~~ Board as a result of the complaint. The ~~{Division}~~ Board shall submit the record quarterly to the ~~{advisory council of the Division}~~ **Advisory Council** for review and comment.

2. In addition to the records maintained pursuant to subsection 1, the ~~{Division}~~ Board shall maintain a separate logbook which contains a notation of:

(a) Each oral or written complaint filed by an employee or a representative of employees alleging the existence of an imminent danger or a violation of a safety or health standard that threatens physical harm;

(b) The action taken by the ~~{Division}~~ Board in response to each such complaint, including, as the case may be, a notation of the fact that:

(1) A special investigation was not made because the complaint was found to be groundless after a preliminary investigation;

(2) A special investigation was made which resulted in a finding that the complaint was based on reasonable grounds and the ~~{Division}~~ Board took such action as was deemed appropriate; or

(3) A special investigation was made which resulted in a finding that the complaint was not based on reasonable grounds;

(c) Each citation issued by the ~~{Division}~~ Board to an employer and the reason for its issuance;

(d) Each inspection performed regarding the employer; and

(e) Each penalty imposed by the ~~{Division}~~ Board on an employer and the reason therefor.

3. The ~~{Division}~~ Board shall respond to oral or written requests about the information contained in or compiled from the logbook and otherwise act as necessary to disseminate the information which is required to be compiled pursuant to this section. The logbook maintained pursuant to subsection 2 must be open to public inspection during the ~~{Division's}~~ Board's regular hours of operation.



4. The ~~{Division}~~ Board shall retain the records pertaining to its investigations and the records entered in the logbook maintained pursuant to this section for at least 5 years.

**Sec. 30.** NRS 618.341 is hereby amended to read as follows:

618.341 1. Except as otherwise provided in this section, the public may inspect all records of the ~~{Division}~~ Board which contain information regarding:

(a) An oral or written complaint filed by an employee or a representative of employees alleging the existence of an imminent danger or a violation of a safety or health standard that threatens physical harm;

(b) The manner in which the ~~{Division}~~ Board acted on any such complaint;

(c) Any citation issued by the ~~{Division}~~ Board to an employer and the reason for its issuance; and

(d) Any penalty imposed by the ~~{Division}~~ Board on an employer and the reason therefor.

2. The ~~{Division}~~ Board shall, upon oral or written request and payment of any applicable charges, provide to any person a copy of any record of the ~~{Division}~~ Board which is open to public inspection pursuant to subsection 1. The first six pages reproduced pursuant to each such request must be provided without charge. The charge for each additional page copied must not exceed the cost of reproduction.

3. Except as otherwise provided in subsection 4 and NRS 239.0115, the ~~{Division}~~ Board shall keep confidential:

(a) The name of any employee who filed any complaint against an employer or who made any statement to the ~~{Division}~~ Board concerning an employer; and

(b) Any information which is part of a current investigation by the ~~{Division}~~ Board, but the fact that an investigation is being conducted is public information.

➤ As used in this subsection, "current investigation" means any investigation conducted before the issuance of a citation or notice of violation or, if no citation or notice of violation is issued, an investigation which is not closed.

4. The ~~{Division}~~ Board shall, upon the receipt of a written request from a law enforcement agency, disclose otherwise confidential information to that law enforcement agency for the limited purpose of pursuing a criminal investigation.

**Sec. 31.** NRS 618.347 is hereby amended to read as follows:

618.347 The ~~{Division}~~ Board shall submit a written report quarterly to the ~~{advisory council of the Division}~~ Advisory Council which lists each citation issued by the ~~{Division}~~ Board for a violation of NRS 618.375 during that quarter and the circumstances



1 for which the citation was issued. Within 5 working days after  
2 submission of such a report to the ~~[advisory council,]~~ **Advisory**  
3 **Council**, the ~~[Division]~~ **Board** shall transmit the report to the  
4 Legislative Counsel for inclusion in the register of administrative  
5 regulations published pursuant to NRS 233B.0653.

6 **Sec. 32.** NRS 618.350 is hereby amended to read as follows:

7 618.350 The Division shall:

8 1. ~~[Develop a program of eliminating or abating hazards;~~  
9 ~~—2.]~~ Advise and recommend a program of occupational safety  
10 and health applicable to public and state agencies; and

11 ~~[3.]~~ 2. ~~[Provide for safety inspections and furnish]~~ **Furnish**  
12 advisory services to employers on measures to promote industrial  
13 safety and health.

14 **Sec. 33.** NRS 618.365 is hereby amended to read as follows:

15 618.365 1. This chapter does not supersede or in any manner  
16 affect the Nevada Industrial Insurance Act or the Nevada  
17 Occupational Diseases Act or enlarge, diminish or affect in any  
18 other manner the common-law or statutory rights, duties or  
19 liabilities of employers and employees under the laws of this State  
20 with respect to injuries, occupational or other, diseases or death of  
21 employees arising out of or in the course of employment.

22 2. Statements, reports and information obtained or received by  
23 the ~~[Division]~~ **Board** in connection with an investigation under, or  
24 the administration or enforcement of, the provisions of this chapter  
25 must not be admitted as evidence in any civil action other than an  
26 action for enforcement, variance hearing or review under this  
27 chapter.

28 3. Any report of investigation or inspection or any information  
29 concerning trade secrets or secret industrial processes obtained  
30 under this chapter must not be disclosed or open to public  
31 inspection, except:

32 (a) As such information may be disclosed to other officers or  
33 employees concerned with carrying out this chapter;

34 (b) When relevant in any court proceeding under this chapter; or

35 (c) As otherwise provided in NRS 618.341.

36 4. The ~~[Division,]~~ **Board**, the courts, and where applicable, the  
37 review board may issue such orders as may be appropriate to protect  
38 the confidentiality of trade secrets.

39 **Sec. 34.** NRS 618.375 is hereby amended to read as follows:

40 618.375 Every employer shall:

41 1. Furnish employment and a place of employment which are  
42 free from recognized hazards that are causing or are likely to cause  
43 death or serious physical harm to his employees.

44 2. Furnish and use such safety devices and safeguards, and  
45 adopt and use such practices, means, methods, operations and



1 processes as are reasonably adequate to render such employment  
2 and places of employment safe and comply with all orders issued by  
3 the ~~[Division]~~ **Board**.

4 3. Post prominently in the working place all posters and  
5 information provided by the Division informing employees of their  
6 rights and obligations pursuant this chapter.

7 4. Assign at least one person to be in charge of occupational  
8 safety and health.

9 5. Do every other thing reasonably necessary to protect the  
10 lives, safety and health of employees.

11 **Sec. 35.** NRS 618.376 is hereby amended to read as follows:

12 618.376 1. Every employer shall, upon hiring an employee,  
13 provide the employee with a document or videotape setting forth the  
14 rights and responsibilities of employers and employees to promote  
15 safety in the workplace. The document, or evidence of receipt of the  
16 videotape, must be signed by the employer and employee and placed  
17 in the employee's personnel file. The document or videotape shall  
18 not be deemed to be a part of any employment contract.

19 2. The ~~[Division]~~ **Board** shall adopt regulations specifying the  
20 contents of such a document or videotape and establishing  
21 requirements for making the document or videotape available in  
22 different languages.

23 **Sec. 36.** NRS 618.378 is hereby amended to read as follows:

24 618.378 1. Any accident occurring in the course of  
25 employment which is fatal to one or more employees or which  
26 results in the hospitalization of three or more employees must be  
27 reported by the employer orally to the ~~[nearest office of the~~  
28 ~~Division]~~ **Board** within 8 hours after the time that the accident is  
29 reported to any agent or employee of the employer. A report  
30 submitted to the ~~[Division]~~ **Board** pursuant to the provisions of this  
31 subsection must include:

32 (a) The name of the employer;

33 (b) The location and time of the accident;

34 (c) The number of employees killed or hospitalized as a result of  
35 the accident;

36 (d) A brief description of the accident; and

37 (e) The name of a person who may be contacted by the  
38 ~~[Division]~~ **Board** for further information.

39 ➔ Upon receipt of such a report, the ~~[Division]~~ **Board** shall notify  
40 the employer of the estimated time that the ~~[Division's]~~ **Board's**  
41 investigator will arrive at the site of the accident. The ~~[Division]~~  
42 **Board** shall initiate an investigation at the site of the accident within  
43 8 hours after receiving the report.

44 2. An industrial insurer shall provide to the Division a monthly  
45 report setting forth the number, type and severity of industrial



1 injuries and occupational diseases reported or claimed by employees  
2 in the preceding month. The report must identify the employer and  
3 be sorted according to the employer's Standard Industrial  
4 Classification or his classification for the purposes of industrial  
5 insurance. The Division shall by regulation prescribe the form for  
6 the report made pursuant to this subsection. As used in this  
7 subsection, "industrial insurer" has the meaning ascribed to the term  
8 "insurer" in NRS 616A.270.

9 3. All employers shall maintain accurate records and make  
10 reports to the United States Assistant Secretary of Labor in the same  
11 manner and to the same extent as if this chapter were not in effect.

12 4. The Division shall make such reasonable reports to the  
13 Assistant Secretary of Labor in such form and containing such  
14 information as he may from time to time require.

15 5. Requests for variances to federal recordkeeping and  
16 reporting regulations must be submitted to and obtained from the  
17 Bureau of Labor Statistics, United States Department of Labor. All  
18 variances granted by the Bureau of Labor Statistics must be  
19 respected by the Division.

20 **Sec. 37.** NRS 618.379 is hereby amended to read as follows:

21 618.379 1. Except as otherwise provided in subsection 2, if  
22 any accident occurring in the course of employment is fatal to one  
23 or more employees or results in the hospitalization of three or more  
24 employees, and is caused, in whole or in part, by any equipment  
25 located at the site of the accident, no person may dismantle or  
26 otherwise move that equipment until the division has investigated  
27 the accident and has authorized the dismantling or removal of the  
28 equipment.

29 2. The provisions of subsection 1 do not apply if the  
30 dismantling or removal of the equipment is necessary to free any  
31 person trapped by the equipment or to ensure the safety of or to  
32 prevent further injury to any person. If any equipment is dismantled  
33 or moved to free a trapped person, the equipment may be dismantled  
34 or moved only to the extent necessary to free the person.

35 3. Upon the occurrence of an accident described in subsection  
36 1, the employer of an injured employee shall, upon the arrival of an  
37 investigator of the ~~Division~~ **Board** at the site of the accident, make  
38 available for questioning in a reasonable amount of time any person  
39 employed by the employer who is determined by the investigator to  
40 be necessary for the completion of the investigation, including the  
41 immediate supervisor of any injured employee and any employee  
42 who witnessed the accident.

43 4. As used in this section, "accident occurring in the course of  
44 employment" does not include:



\* S B 2 8 8 \*

(a) An accident involving a motor vehicle that is being operated on a public highway in this State.

(b) A homicide committed at an employer's place of business.

**Sec. 38.** NRS 618.383 is hereby amended to read as follows:

618.383 1. Except as otherwise provided in subsections 8 and 9, an employer shall establish a written safety program and carry out the requirements of the program within 90 days after it is established.

2. The written safety program must include:

(a) The establishment of a training program for employees concerning safety in the workplace, particularly in those areas where there have been recurring injuries or where explosives are manufactured.

(b) If an employer has more than 25 employees, or if an employer's employees are engaged in the manufacture of explosives, the establishment of a safety committee. The safety committee must include representatives of employees. If the employees are represented by a labor organization, the representatives of employees must be selected by the employees and not appointed by the employer.

3. A representative of employees while engaging in the business of a safety committee, including attendance at meetings, authorized inspections or any other activity of the committee, must be paid by his employer as if that employee were engaged in his usual work activities.

4. The written safety program and all training programs required pursuant to this section must be conducted and made available in a language and format that is understandable to each employee.

5. The ~~[Administrator of the Division]~~ **Board** shall adopt regulations establishing the minimum requirements for a written safety program.

6. The ~~[Administrator of the Division]~~ **Board** shall develop and provide each employer with a written guide for establishing a written safety program.

7. An employer who contracts with a temporary employment service shall provide specialized training concerning safety for the employees of the service before they begin work at each site or as soon as possible thereafter.

8. An employer who has 10 or fewer employees is exempted from the provisions of this section unless the employer has employees engaged in the manufacture of explosives.

9. For the purposes of this section, an employer in the mining industry shall not be deemed to be a manufacturer of explosives.



\* S B 2 8 8 \*

10. Except as otherwise provided in subsection 11, as used in this section, "explosives" means gunpowders, powders used for blasting, all forms of high explosives, blasting materials, fuses other than electric circuit breakers, detonators and other detonating agents, smokeless powders, other explosive or incendiary devices and any chemical compound, mechanical mixture or device that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities or packing that ignition by fire, friction, concussion, percussion or detonation of the compound, mixture or device or any part thereof may cause an explosion.

11. For the purposes of this section, an explosive does not include:

(a) Ammunition for small arms, or any component thereof;

(b) Black powder commercially manufactured in quantities that do not exceed 50 pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers that are intended to be used solely for sporting, recreation or cultural purposes:

(1) In an antique firearm, as that term is defined in 18 U.S.C. § 921(a)(16), as that section existed on January 1, 1999; or

(2) In an antique device which is exempted from the definition of "destructive device" pursuant to 18 U.S.C. § 921(a)(4), as that section existed on January 1, 1999; or

(c) Any explosive that is manufactured under the regulation of a military department of the United States, or that is distributed to, or possessed or stored by, the military or naval service or any other agency of the United States, or an arsenal, a navy yard, a depot or any other establishment owned by or operated on behalf of the United States.

**Sec. 39.** NRS 618.417 is hereby amended to read as follows:

618.417 The ~~Administrator~~ Board may grant a variance from any standard or portion thereof whenever ~~he~~ it determines that a variance is necessary to permit an employer to participate in an experiment designed to demonstrate or validate new and improved techniques to safeguard the health or safety of workers.

**Sec. 40.** NRS 618.419 is hereby amended to read as follows:

618.419 1. Any employer may apply to the ~~Administrator~~ Board for a temporary order granting a variance from a standard which has been adopted pursuant to this chapter but has not become effective. The temporary order may be granted only if the employer files an application which meets the requirements of subsection 2 and, after notice to the affected employees and an opportunity for a hearing, establishes that:

(a) He will not be able to comply with the standard by its effective date because of the unavailability of necessary professional





1 or technical personnel or materials and equipment or because  
2 necessary construction or alteration of facilities cannot be completed  
3 by that date;

4 (b) He is taking all available steps to safeguard his employees  
5 against the hazards covered by the standard; and

6 (c) He has a program which will bring the working conditions  
7 into compliance with the standard as quickly as practicable.

8 2. The application for such a temporary order must contain:

9 (a) A specification of the standard or portion thereof from which  
10 the employer seeks a variance;

11 (b) A representation by the employer, supported by  
12 representations from qualified persons having firsthand knowledge  
13 of the facts represented, that he is unable to comply with the  
14 standard or portion thereof and a detailed statement of the reasons  
15 therefor;

16 (c) A statement of the steps he has taken and will take, with  
17 specific dates, to protect employees against the hazard covered by  
18 the standard;

19 (d) A statement of when he expects to be able to comply with  
20 the standard and what steps he has taken and what steps he will take,  
21 with dates specified, to come into compliance with the standard; and

22 (e) A certification that he has informed his employees of the  
23 application by giving a copy thereof to their authorized  
24 representative, posting a statement giving a summary of the  
25 application and specifying where a copy may be examined at the  
26 place or places where notices to employees are normally posted, and  
27 by other appropriate means. A description of how employees have  
28 been informed must be contained in the certification. The  
29 information to employees must also inform them of their right to  
30 petition to the ~~Administrator~~ Board for a hearing.

31 **Sec. 41.** NRS 618.421 is hereby amended to read as follows:

32 618.421 1. Every temporary order granting a variance from a  
33 standard which has not become effective must prescribe:

34 (a) The practices, means, methods, operations and processes  
35 which the employer must adopt and use while the order is in effect;  
36 and

37 (b) The program to be carried out by the employer to achieve  
38 compliance with the standard.

39 2. Such a temporary order is effective for the period needed by  
40 the employer to achieve compliance with the standard or 1 year,  
41 whichever period is shorter. The temporary order may be renewed,  
42 but not more than twice, if:

43 (a) The requirements of subsection 1 of NRS 618.419 are met;  
44 and



(b) An application for renewal is filed at least 90 days before the expiration date of the order.

➔ Each renewal may remain in effect no longer than 180 days.

3. The ~~[Administrator]~~ **Board** may issue one interim order to be effective until a decision is made on the basis of the hearing.

**Sec. 42.** NRS 618.425 is hereby amended to read as follows:

618.425 1. Any ~~[employee, representative of employees, provider of health care or governmental officer or employee whose primary duty is to ensure public safety, including a building inspector, building official or other similar authority.]~~ **person** believing that a violation of a safety or health standard exists that threatens physical harm, or that an imminent danger exists, may request an investigation by giving notice, orally or in writing, to the ~~[Administrator]~~ **Board** or ~~[his]~~ **its** representative of the violation or danger.

2. The person giving the notice must state with reasonable particularity the grounds for the notice. Except as otherwise provided in NRS 239.0115, the name of any employee giving a complaint notice or names of employees mentioned in the complaint must be held confidential. If the complaint is given orally, the ~~[Division]~~ **Board** shall send to the complainant a form upon which he may supplement his oral complaint. His failure to return the form does not affect the ~~[Division's]~~ **Board's** duty to act pursuant to this section.

3. If upon receipt of the notification the ~~[Division]~~ **Board** determines that there are reasonable grounds to believe that a violation or imminent danger exists, it shall make a special investigation within 14 days unless there is a substantial probability that death or serious physical harm could result from the violation or danger, then the investigation must be made immediately after the ~~[Administrator]~~ **Board** receives the notice to determine whether a violation or imminent danger exists. The ~~[Division]~~ **Board** need not investigate a complaint within the times required by this subsection if, from the facts stated in the complaint, the ~~[Administrator]~~ **Board** determines that the complaint is intended solely to harass the employer. If the ~~[Division]~~ **Board** determines that there are no reasonable grounds to believe that a violation or imminent danger exists, it shall notify the employees or other person who gave the notice of such determination within 14 days after the ~~[Administrator]~~ **Board** receives the notice.

**Sec. 43.** NRS 618.435 is hereby amended to read as follows:

618.435 1. Before or during any inspection of a workplace, any ~~[employee, representative of employees, provider of health care or governmental officer or employee whose primary duty is to ensure public safety, including a building inspector, building official~~



1 ~~or other similar authority,~~ **person** may notify the ~~[Administrator]~~  
2 **Board** or any representative of the ~~[Administrator]~~ **Board**  
3 responsible for conducting the inspection, orally or in writing, of  
4 any violation of this chapter which they have reason to believe  
5 exists in the workplace. The ~~[Division]~~ **Board** shall by regulation  
6 establish procedures for informal review of any refusal by a  
7 representative of the ~~[Administrator]~~ **Board** to issue a citation with  
8 respect to any such alleged violation and shall furnish the employees  
9 or other persons requesting the review a written statement of  
10 the reasons for the ~~[Administrator's]~~ **Board's** final disposition of the  
11 case within 14 days after the ~~[Administrator]~~ **Board** receives the  
12 notice.

13 2. An opportunity must be afforded to a representative of the  
14 employer and an authorized representative of the employees to  
15 accompany the representative of the ~~[Division]~~ **Board** during the  
16 physical inspection of the place of employment or, where there is no  
17 authorized representative of the employees, consultation must be  
18 had with a reasonable number of employees, but no more than one  
19 employee may accompany the ~~[Division's]~~ **Board's** representative  
20 during the inspection.

21 3. Any employee of the employer who accompanies the  
22 representative of the ~~[Division]~~ **Board** during the inspection  
23 pursuant to subsection 2 is entitled to be paid by the employer at his  
24 regular rate of pay for the time spent with the representative of the  
25 ~~[Division]~~ **Board** inspecting the place of employment if he would  
26 have otherwise been compensated for working during that time.

27 4. For the purposes of this section, "representative of an  
28 employee" means a person previously identified to the ~~[Division]~~  
29 **Board** as an authorized representative of the employee bargaining  
30 unit of a labor organization which has a collective bargaining  
31 relationship with the employer and represents the affected  
32 employees.

33 **Sec. 44.** NRS 618.445 is hereby amended to read as follows:

34 618.445 1. A person shall not discharge or in any manner  
35 discriminate against any employee because the employee has filed  
36 any complaint or instituted or caused to be instituted any proceeding  
37 under or related to this chapter or has testified or is about to testify  
38 in any such proceeding or because of the exercise by the employee  
39 on behalf of himself or others of any right afforded by this chapter.

40 2. Any employee aggrieved by a violation of subsection 1 may  
41 file a complaint for the relief afforded under subsection 3, after first  
42 notifying his employer and the ~~[Division]~~ **Board** of his intention to  
43 file the complaint. Any complaint must be filed with the ~~[Division]~~  
44 **Board** within 30 days after the violation has occurred and must set  
45 forth in writing the facts constituting the violation.



3. Upon receipt of the complaint , ~~[by the Division,]~~ the ~~[Administrator]~~ **Board** shall cause such investigation to be made as he deems appropriate. If upon investigation, the ~~[Administrator]~~ **Board** determines that the provisions of subsection 1 have been violated, ~~[he]~~ **it** shall bring an action in the name of the ~~[Administrator]~~ **Board** in any appropriate district court against the person who has committed the violation.

4. If the court finds that the employee was discharged or discriminated against in violation of subsection 1, the employee is entitled to reinstatement and reimbursement for lost wages and work benefits.

5. Any decision reached by the ~~[Administrator]~~ **Board** relating to the filing of an action pursuant to this section must be made available to the complaining employee within 90 days after the ~~[Division's]~~ **Board's** receipt of the complaint.

**Sec. 45.** NRS 618.455 is hereby amended to read as follows:

618.455 It is unlawful for anyone to give advance notice of an inspection except as authorized by the ~~[Administrator.]~~ **Board.**

**Sec. 46.** NRS 618.465 is hereby amended to read as follows:

618.465 1. If, upon inspection or investigation, the ~~[Administrator]~~ **Board** or ~~[his]~~ **its** authorized representative believes that an employer has violated a requirement of this chapter, or any standard, rule or order adopted or issued pursuant to this chapter, the ~~[Division]~~ **Board** shall with reasonable promptness issue a citation to the employer. Each citation must be in writing and describe with particularity the nature of the violation, including a reference to the section of this chapter or the provision of the standard, rule, regulation or order alleged to have been violated. In addition the citation must fix a reasonable time for the abatement of the violation. The ~~[Administrator]~~ **Board** may prescribe procedures for the issuance of a notice in lieu of a citation with respect to:

(a) Minor violations which have no direct or immediate relationship to safety or health; and

(b) Violations which are not serious and which the employer agrees to correct within a reasonable time.

2. Each citation issued under this section, or a copy or copies thereof, must be prominently posted as prescribed in regulations adopted by the ~~[Administrator]~~ **Board** at or near each place a violation referred to in the citation occurred.

3. No citation may be issued under this section after 6 months following the occurrence of any violation.

**Sec. 47.** NRS 618.475 is hereby amended to read as follows:

618.475 1. If, after an inspection or investigation, the ~~[Division]~~ **Board** issues a citation under the provisions of this chapter, it shall, within a reasonable time after the termination of the



1 inspection or investigation, notify the employer by certified mail of  
2 the penalty, if any, proposed to be assessed under this chapter and  
3 that the employer has 15 working days within which to notify the  
4 ~~[Division]~~ Board that he wishes to contest the citation or proposed  
5 assessment of penalty. If, within 15 working days from the receipt  
6 of the notice issued by the ~~[Division,]~~ Board, the employer fails to  
7 notify the ~~[Division]~~ Board that he intends to contest the citation or  
8 proposed assessment of penalty, and no notice is filed by any  
9 employee or representative of employees under this chapter within  
10 such time, the citation and assessment as proposed shall be deemed  
11 a final order of the review board and not subject to review by any  
12 court or agency. Upon a showing by an employer of a good faith  
13 effort to comply with the abatement requirements of a citation, and  
14 that the abatement has not been completed because of factors  
15 beyond his reasonable control, the ~~[Division]~~ Board shall issue an  
16 order affirming or modifying the abatement requirements in the  
17 citation.

18 2. Any employee or his representative alleging that the time  
19 fixed in the citation for the abatement of a violation by his employer  
20 is unreasonable may, within 15 working days after the date of  
21 posting of the notice of abatement pursuant to this chapter, file an  
22 appeal with the ~~[Division]~~ Board to contest the reasonableness of  
23 the period of time for abatement of the violation and must be  
24 notified in writing as to the time and place of hearing before the  
25 review board.

26 3. If no appeal is filed by an employee or his representative  
27 under subsection 2 of this section within the time limit of 15  
28 working days, the period of time fixed for the abatement of the  
29 violation is final and not subject to review by any court or the  
30 review board.

31 **Sec. 48.** NRS 618.495 is hereby amended to read as follows:

32 618.495 In an investigation the ~~[Division]~~ Board may cause  
33 depositions of witnesses residing within or without the State to be  
34 taken in the manner prescribed by law and Nevada Rules of Civil  
35 Procedure for taking depositions in civil actions in courts of record.

36 **Sec. 49.** NRS 618.505 is hereby amended to read as follows:

37 618.505 1. Each witness who appears in obedience to a  
38 subpoena before the ~~[Division]~~ Board or its representative is entitled  
39 to receive for his attendance the fees and mileage provided for  
40 witnesses in civil cases in courts of record.

41 2. Claims for witnesses' fees must be audited and paid by the  
42 ~~[Division,]~~ Board.

43 3. No witness subpoenaed at the instance of a party other than  
44 the ~~[Division]~~ Board is entitled to compensation from the ~~[Division]~~



1 **Board** unless the ~~[Division]~~ **Board** certifies that his testimony was  
2 material to the matter investigated.

3 **Sec. 50.** NRS 618.515 is hereby amended to read as follows:

4 618.515 If any person disobeys an order of the ~~[Division,]~~  
5 **Board**, a subpoena issued by it or one of its representatives, refuses  
6 to permit an inspection or refuses to testify as a witness to any  
7 matter regarding which he may be lawfully interrogated, then the  
8 district judge of the county in which the person resides, on  
9 application of the ~~[Administrator]~~ **Board** or ~~[his]~~ **its** representative,  
10 shall compel obedience by attachment proceedings as for contempt,  
11 as in the case of disobedience of the requirements of subpoenas  
12 issued from the court on a refusal to testify therein.

13 **Sec. 51.** NRS 618.525 is hereby amended to read as follows:

14 618.525 1. The ~~[Division]~~ **Board** may prosecute, defend and  
15 maintain actions in the name of the ~~[Division]~~ **Board** for the  
16 enforcement of the provisions of this chapter and is entitled to all  
17 extraordinary writs provided by the Constitution of the State of  
18 Nevada, the statutes of this State and the Nevada Rules of Civil  
19 Procedure in connection therewith for the enforcement thereof.

20 2. Verification of any pleading, affidavit or other paper  
21 required may be made by the ~~[Division.]~~ **Board.**

22 3. In any action or proceeding or in the prosecution of any  
23 appeal by the ~~[Division.]~~ **Board**, no bond or undertaking may be  
24 required to be furnished by the ~~[Division.]~~ **Board.**

25 **Sec. 52.** NRS 618.535 is hereby amended to read as follows:

26 618.535 Every order of the ~~[Division.]~~ **Board**, general or  
27 special, and its rules, regulations, findings and decisions, made and  
28 entered under the provisions of this chapter, are admissible as  
29 evidence in any prosecution for the violation of any of the  
30 provisions, and must, in every such prosecution, be presumed to be  
31 reasonable and lawful and to fix a reasonable and proper standard  
32 and requirement for safety and health unless, before the institution  
33 of the prosecution, proceedings for a rehearing thereon or a review  
34 thereof have been instituted and not finally determined.

35 **Sec. 53.** NRS 618.545 is hereby amended to read as follows:

36 618.545 1. The ~~[Administrator]~~ **Board** may issue an  
37 emergency order to restrain any conditions or practices in any place  
38 of employment which are such that a danger exists which could  
39 reasonably be expected to cause death or serious physical harm  
40 immediately or before the imminence of the danger can be  
41 eliminated through the other enforcement procedures provided by  
42 this chapter. Any order issued under this section may require such  
43 steps to be taken as may be necessary to avoid, correct or remove  
44 the imminent danger and prohibit the employment or presence of  
45 any person in locations or under conditions where the imminent



1 danger exists, except persons whose presence is necessary to avoid,  
2 correct or remove the imminent danger or to maintain the capacity  
3 of a continuous process operation to resume normal operations  
4 without a complete cessation of operations or, where a cessation of  
5 operations is necessary, to permit it to be accomplished in a safe and  
6 orderly manner.

7 2. An order issued pursuant to subsection 1 becomes effective  
8 upon delivery to the employer or other person in charge of the place  
9 of employment where the danger exists. If, within 15 days after the  
10 effective date of the order, the employer fails to notify the  
11 ~~[Division]~~ **Board** that he wishes to contest the order, the order shall  
12 be deemed a final order and is not subject to review by any court or  
13 agency. If the employer contests the order within 15 days after the  
14 effective date of the order and the ~~[Division]~~ **Board** does not rescind  
15 or modify the order as requested, the employer may petition the  
16 court for relief. Upon the filing of such a petition, the district court  
17 may grant injunctive relief or a temporary restraining order pending  
18 the outcome of an enforcement proceeding pursuant to this chapter.

19 3. Whenever and as soon as a representative of the ~~[Division]~~  
20 **Board** concludes that conditions or practices described in subsection  
21 1 exist in any place of employment, he shall inform the affected  
22 employees and employers of the danger and that he is  
23 recommending to the ~~[Administrator]~~ **Board** that an emergency  
24 order be issued.

25 **Sec. 54.** NRS 618.555 is hereby amended to read as follows:

26 618.555 If the ~~[Administrator]~~ **Board** arbitrarily or capriciously  
27 fails to issue an emergency order pursuant to NRS 618.545, any  
28 employee who may be injured by reason of such failure, or the  
29 representative of such employees may bring an action against the  
30 ~~[Administrator]~~ **Board** in the district court for the district in which  
31 the imminent danger is alleged to exist or the employer has its  
32 principal office, for a writ of mandamus to compel the  
33 ~~[Administrator]~~ **Board** to issue such an order and for such further  
34 relief as may be appropriate.

35 **Sec. 55.** NRS 618.565 is hereby amended to read as follows:

36 618.565 1. The Occupational Safety and Health Review  
37 Board, consisting of five members appointed by the Governor, is  
38 hereby created. ~~[under the Division.]~~

39 2. The Governor shall appoint:

- 40 (a) Two members who are representatives of management.  
41 (b) Two members who are representatives of labor.  
42 (c) One member who is a representative of the general public.  
43 (d) One person to serve as an alternate for the representative of  
44 the general public when that member is unable to attend a meeting  
45 of the Board.





1   ➤ At least one of the members appointed pursuant to paragraph (a)  
2 or (b) must be knowledgeable regarding occupational safety or  
3 health.

4   3. After the initial terms, members shall serve terms of 4 years.  
5 No member may serve more than two terms.

6   4. No person employed by the Division may serve as a member  
7 of the Board.

8   **Sec. 56.** NRS 618.585 is hereby amended to read as follows:  
9 618.585 1. The Board shall:

10   (a) *Provide for safety inspections of places of employment;*  
11   (b) *Prevent or abate hazards to the safety and health of*  
12 *employees;*

13   (c) *Develop a program of eliminating or abating hazards;*

14   (d) Meet as often as necessary to hold review hearings, as  
15 provided in NRS 618.605, at such times and places as the Chairman  
16 may determine;

17   ~~[(b)]~~ (e) Enact rules and regulations governing the conduct of  
18 review hearings; and

19   ~~[(e) Perform such other duties as the Division may prescribe.]~~

20   (f) *Institute legal proceedings to compel compliance with this*  
21 *chapter or any rules, regulations, standards or orders adopted or*  
22 *issued under this chapter.*

23   2. The Board may employ legal counsel to advise it concerning  
24 matters which come before it.

25   3. A quorum of the Board must be present in order for the  
26 conduct of review hearings or other business.

27   4. A quorum consists of at least three members of the Board, at  
28 least one of whom must represent labor and one of whom must  
29 represent management.

30   5. All decisions of the Board must be determined by a majority  
31 decision.

32   6. A complete record of every review hearing must be made.

33   7. If the alternate for the regular member representing the  
34 general public attends a meeting of the Board in the place of the  
35 regular member, the alternate fully assumes the duties, rights and  
36 responsibilities for the duration of that meeting and is entitled to the  
37 compensation, allowances and expenses otherwise payable for  
38 members who attend that meeting.

39   **8. *Every review hearing shall be open to the public.***

40   **Sec. 57.** NRS 618.605 is hereby amended to read as follows:

41   618.605 1. Upon the receipt of any written appeal or notice  
42 of contest under NRS 618.475, the ~~[Division shall within 15~~  
43 ~~working days notify the Board of such an appeal or contest.~~

44   ~~—2.— The]~~ Board shall hold a formal fact-finding hearing and  
45 render its decision based on the evidence presented at the hearing.



\* S B 2 8 8 \*

~~3.~~ 2. Any employee of an employer or representative of the employee may participate in and give evidence at the hearing, subject to rules and regulations of the Board governing the conduct of such hearings.

**Sec. 58.** NRS 618.625 is hereby amended to read as follows:

618.625 1. The ~~Division~~ Board may assess administrative fines provided for in this chapter, giving due consideration to the appropriateness of the penalty with respect to the size of the employer, the gravity of the violation, the good faith of the employer and the history of previous violations.

2. For purposes of this chapter, a serious violation exists in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations or processes which have been adopted or are in use in that place of employment unless the employer did not and could not, with the exercise of reasonable diligence, know of the presence of the violation.

3. Administrative fines owed under this chapter must be paid to the ~~Division~~ Board. The fines may be recovered in a civil action in the name of the ~~Division~~ Board brought in a court of competent jurisdiction in the county where the violation is alleged to have occurred or where the employer has his principal office.

**Sec. 59.** NRS 618.655 is hereby amended to read as follows:

618.655 Any employer who fails to correct a violation for which a citation has been issued under this chapter within the period permitted for its correction may be assessed an administrative fine of not more than \$7,000 for each day during which the failure or violation continues. If a review proceeding is initiated by the employer in good faith and not solely to delay or avoid any penalties, the period permitted to correct a violation does not begin until the date of the final order of the ~~Division~~ Board.

**Sec. 60.** NRS 618.665 is hereby amended to read as follows:

618.665 Any employer who willfully refuses to submit his records for inspection, as provided by NRS 618.325, to the ~~Administrator~~ Board or ~~his~~ its representative must be assessed an administrative fine of \$200 for each offense.

**Sec. 61.** NRS 618.695 is hereby amended to read as follows:

618.695 1. Any person who gives advance notice of any inspection of a workplace to be conducted under this chapter, without authority from the ~~Administrator~~ Board shall be punished by a fine of not more than \$2,000 or by imprisonment in the county jail for not more than 6 months, or by both fine and imprisonment.

2. This section does not prohibit any employer from requesting consultative services at the workplace.



**Sec. 62.** NRS 618.710 is hereby amended to read as follows:

618.710 1. A person shall not hold himself out as:

(a) An associate safety professional or use in connection with his name the words or letters "Associate Safety Professional" or "A.S.P." or any other title, word, letter or other designation intended to imply or designate that he is an associate safety professional, unless he is recognized as such by the Board of Certified Safety Professionals.

(b) A certified industrial hygienist or use in connection with his name the words or letters "Certified Industrial Hygienist" or "C.I.H." or any other title, word, letter or other designation intended to imply or designate that he is a certified industrial hygienist, unless he is certified as such by the American Board of Industrial Hygiene.

(c) A certified safety professional or use in connection with his name the words or letters "Certified Safety Professional" or "C.S.P." or any other title, word, letter or other designation intended to imply or designate that he is a certified safety professional, unless he is certified as such by the Board of Certified Safety Professionals.

(d) An industrial hygienist in training or use in connection with his name the words or letters "Industrial Hygienist in Training" or "I.H.I.T." or any other title, word, letter or other designation intended to imply or designate that he is an industrial hygienist in training, unless he is certified as such by the American Board of Industrial Hygiene.

(e) An occupational health and safety technologist or use in connection with his name the words "Occupational Health and Safety Technologist" or "O.H.S.T." or any other title, word, letter or other designation intended to imply or designate that he is an occupational health and safety technologist, unless he is certified as such by the Joint Committee of the American Board of Industrial Hygiene and the Board of Certified Safety Professionals.

(f) An associate safety and health manager or use in connection with his name the words "Associate Safety and Health Manager" or "A.S.H.M." or any other title, word, letter or other designation intended to imply or designate that he is an associate safety and health manager, unless he is recognized as such by the Institute for Safety and Health Management.

(g) A certified safety and health manager or use in connection with his name the words "Certified Safety and Health Manager" or "C.S.H.M." or any other title, word, letter or other designation intended to imply or designate that he is a certified safety and health manager, unless he is certified as such by the Institute for Safety and Health Management.



\* S B 2 8 8 \*

2. The ~~Division~~ Board shall report any alleged violation of subsection 1 to the district attorney of the county in which the alleged violation occurred.

3. Any governmental entity that has issued a license to conduct business in this State as an associate safety professional, a certified industrial hygienist, a certified safety professional, an industrial hygienist in training, an occupational health and safety technologist, an associate safety and health manager or a certified safety and health manager to a person who is convicted of violating any provision of subsection 1 shall revoke that license and send notice of the revocation to the licensee by certified mail.

4. Any person who violates a provision of subsection 1 is guilty of a misdemeanor.

**Sec. 63.** NRS 618.765 is hereby amended to read as follows:

618.765 1. Not later than 60 days after June 28, 1989, the Division shall adopt regulations establishing standards and procedures for the licensure of each occupation which are at least as stringent as those contained in the Model Contractor Accreditation Plan for States set out in Appendix C of Subpart E of Part 763 of Title 40 of the Code of Federal Regulations, as it existed on January 1, 1989. The regulations must include standards for:

- (a) Courses which provide initial training;
- (b) Courses which provide a review of the initial training;
- (c) Examinations;
- (d) Qualifications;
- (e) Renewal of licensure; and
- (f) Revocation of licensure.

2. After consultation with the Health Division of the Department of Health and Human Services, the Division of Environmental Protection of the State Department of Conservation and Natural Resources and the county air pollution control agencies designated pursuant to NRS 445B.500, the Division shall adopt standards for:

- (a) Projects for the control of asbestos;
- (b) Specifying the amount of asbestos within a material which must be present to qualify the material as a "material containing asbestos" for the purposes of NRS 618.750 to 618.850, inclusive;
- (c) Laboratories which analyze building materials for the presence of asbestos;
- (d) Laboratories which collect or analyze air samples for those projects; and
- (e) The assessment of the exposure of occupants of a building at the completion of a project for the control of asbestos.



3. The Division shall by regulation adopt a standard for the assessment of the exposure of the occupants of a building to airborne asbestos. The standard:

(a) Must be set according to a time-weighted average concentration of asbestos fibers in the air, measured under normal occupancy conditions; and

(b) Must be at least as stringent as the corresponding federal standard, if one has been adopted.

4. The standard adopted pursuant to subsection 3 may be used:

(a) To assess the need to respond to the presence of asbestos in a building; or

(b) To determine which buildings or structures are most in need of such response.

➔ The standard does not require the monitoring of the air of any building or structure, or create a duty for the Division *or the Board* to inspect any building or structure, except in connection with the enforcement of this chapter.

**Sec. 64.** NRS 618.770 is hereby amended to read as follows:

618.770 1. The costs of carrying out the provisions of NRS 618.750 to 618.850, inclusive, must be paid from assessments payable by each insurer based upon expected annual expenditures for claims. The Division shall adopt regulations which establish formulas of assessment which result in an equitable distribution of costs among the insurers.

2. In addition, the Division shall by regulation establish a schedule of fees designed to recover revenue to defray the costs of carrying out the provisions of NRS 618.750 to 618.850, inclusive. The Division may collect fees for applications, the issuance and renewal of licenses, examinations, the review and approval of training courses, job notifications and inspections, recordkeeping, and any other activity of the Division *or the Board* related to the provisions of NRS 618.750 to 618.850, inclusive. The fee for the issuance or renewal of a license must not exceed \$200.

3. Any fees collected pursuant to this section must be used to offset the assessments established pursuant to subsection 1.

4. As used in this section, "insurer" has the meaning ascribed to it in NRS 232.550.

**Sec. 65.** NRS 618.830 is hereby amended to read as follows:

618.830 The ~~Division~~ *Board* or a person authorized by the ~~Division~~ *Board* shall inspect annually at least one project for the control of asbestos conducted by each contractor licensed pursuant to NRS 618.795. The contractor shall, upon request of the ~~Division~~ *Board* or a person authorized by the ~~Division~~ *Board*, allow the inspection of all property, activities and facilities at the project and all related documents and records.



1     **Sec. 66.** NRS 618.835 is hereby amended to read as follows:

2     618.835 1. If the ~~[Division]~~ **Board** finds that a person, other  
3 than a worker, has violated any of the provisions of NRS 618.780,  
4 618.790, 618.820 or 618.825, or the standards or regulations  
5 adopted pursuant to NRS 618.750 to 618.850, inclusive, it may:

6     (a) Upon the first violation, impose upon him an administrative  
7 fine of not more than \$15,000.

8     (b) Upon the second and subsequent violations:

9     (1) Impose upon him an administrative fine of not more than  
10 \$25,000; and

11    (2) If he is licensed pursuant to NRS 618.795, *direct the*  
12 *Division to* revoke his license and require him to fulfill certain  
13 training or educational requirements to have his license reinstated.

14    ➔ Any penalty imposed pursuant to this section does not relieve the  
15 person from criminal prosecution for engaging in the control of  
16 asbestos without a license, nor from the imposition of a penalty  
17 pursuant to NRS 445B.640.

18    2. If the license of a contractor for projects for the control of  
19 asbestos is revoked pursuant to this section and the owner of a  
20 building or structure upon which the contractor is engaged in a  
21 project employs another licensed contractor to complete the project,  
22 the original contractor may not bring an action against the owner of  
23 the building or structure for breach of contract or damages based  
24 on the employment of another contractor.

25     **Sec. 67.** NRS 618.840 is hereby amended to read as follows:

26     618.840 1. Except as otherwise provided in subsection 2, if  
27 the Division intends to revoke a person's license, it shall first notify  
28 him by certified mail. The notice must contain a statement of the  
29 Division's legal authority, jurisdiction and reasons for the proposed  
30 action.

31     2. If the ~~[Division]~~ **Board** finds that protection of the public  
32 health requires immediate action, it may *direct the Division to* order  
33 a summary suspension of a license pending proceedings for  
34 revocation.

35     3. A person is entitled to a hearing to contest the summary  
36 suspension or proposed revocation of his license. A request for such  
37 a hearing must be made pursuant to regulations adopted by the  
38 Division.

39     4. Upon receiving a request for a hearing to contest a summary  
40 suspension, the Division shall hold a hearing within 10 days after  
41 the date of the receipt of the request.

42     **Sec. 68.** NRS 618.845 is hereby amended to read as follows:

43     618.845 The ~~[Division]~~ **Board** may maintain in any court of  
44 competent jurisdiction a suit for an injunction against any person  
45 engaged in the control of asbestos in violation of the provisions of



1 NRS 618.780, 618.790, 618.820 or 618.825, or the standards or  
2 regulations adopted by the division pursuant to NRS 618.750 to  
3 618.850, inclusive. An injunction:

4 1. May be issued without proof of actual damage sustained by  
5 any person, this provision being a preventive as well as a punitive  
6 measure.

7 2. Does not relieve the person from criminal liability for  
8 engaging in the control of asbestos without a license.

9 **Sec. 69.** NRS 618.900 is hereby amended to read as follows:

10 618.900 If any person violates the provisions of NRS 618.898,  
11 the ~~Division~~ Board may:

12 1. Maintain an action in a court of competent jurisdiction for  
13 injunctive or any other appropriate relief to prohibit and prevent the  
14 violation. The court may proceed in the action in a summary  
15 manner.

16 2. Unless a greater penalty is provided in this chapter, require  
17 the violator to pay an administrative fine of not more than \$25,000.

18 **Sec. 70.** NRS 618.930 is hereby amended to read as follows:

19 618.930 1. In addition to any other remedy or penalty, if the  
20 ~~Division~~ Board finds that a person has violated any provision of  
21 NRS 618.910 to 618.936, inclusive, or the standards or regulations  
22 adopted pursuant thereto, the ~~Division~~ Board may:

23 (a) Upon the first violation, impose upon the person an  
24 administrative fine of not more than \$1,500.

25 (b) Upon the second violation or a subsequent violation:

26 (1) Impose upon the person an administrative fine of not  
27 more than \$2,500; and

28 (2) If the person is licensed pursuant to NRS 618.910 to  
29 618.936, inclusive, suspend or revoke his license and require the  
30 person to fulfill certain training or educational requirements to have  
31 his license reinstated.

32 2. Any penalty imposed pursuant to subsection 1 does not  
33 relieve the person from criminal prosecution for acting as a  
34 photovoltaic installer without a license.

35 3. If the license of a photovoltaic installer is suspended or  
36 revoked pursuant to subsection 1 and the owner of a building or  
37 structure who has contracted with the photovoltaic installer for  
38 a photovoltaic system project contracts with another licensed  
39 photovoltaic installer to complete the project, the original  
40 photovoltaic installer may not bring an action against the owner of  
41 the building or structure for breach of contract or damages based on  
42 the contract with the other licensed photovoltaic installer.

43 **Sec. 71.** NRS 618.934 is hereby amended to read as follows:

44 618.934 The ~~Division~~ Board may maintain in a court of  
45 competent jurisdiction a suit for an injunction against any person





1 who acts as a photovoltaic installer in violation of any provision of  
2 NRS 618.910 to 618.936, inclusive, or the standards or regulations  
3 adopted pursuant thereto. An injunction:

4 1. May be issued without proof of actual damage sustained by  
5 any person.

6 2. Does not relieve the person from criminal liability for acting  
7 as a photovoltaic installer without a license.

8 **Sec. 72.** NRS 232.550 is hereby amended to read as follows:

9 232.550 As used in NRS 232.550 to 232.700, inclusive, unless  
10 the context otherwise requires:

11 1. "Administrator" means the Administrator of the Division.

12 2. *"Board" means the Occupational Safety and Health*  
13 *Review Board.*

14 3. "Director" means the Director of the Department of  
15 Business and Industry.

16 ~~3.~~ 4. "Division" means the Division of Industrial Relations  
17 of the Department of Business and Industry.

18 ~~4.~~ 5. "Insurer" includes:

19 (a) A self-insured employer;

20 (b) An association of self-insured public employers;

21 (c) An association of self-insured private employers; and

22 (d) A private carrier.

23 **Sec. 73.** NRS 232.600 is hereby amended to read as follows:

24 232.600 1. The Council shall act in an advisory capacity to  
25 the Administrator *and the Board* and may, on its own initiative or at  
26 the request of the Administrator *or the Board*, conduct studies or  
27 investigations concerning the organization and administration of the  
28 Division *or the Board* and make recommendations to the  
29 Administrator *or the board* based on the results of such studies or  
30 investigations.

31 2. The Council shall review on a quarterly basis the records of  
32 oral complaints compiled by the ~~Division~~ *Board* pursuant to NRS  
33 618.336. Upon completing its review, the Council shall submit any  
34 comments or recommendations regarding the complaints or the  
35 records to the ~~Administrator.~~ *Board.*

36 3. The Council, by the affirmative vote of a majority of its  
37 members, may remove from the records of the Division the name of  
38 a debtor and the amount of any debt owed by him, if 3 years have  
39 elapsed since the debt was incurred and the Council determines that  
40 the debt remains impossible or impractical to collect. The Division  
41 shall establish a master file containing the information removed  
42 from its official records pursuant to this subsection.

43 **Sec. 74.** NRS 232.680 is hereby amended to read as follows:

44 232.680 1. The cost of carrying out the provisions of NRS  
45 232.550 to 232.700, inclusive, and of supporting the Division, *the*



1 **Board**, a full-time employee of the Legislative Counsel Bureau and  
2 the Fraud Control Unit for Industrial Insurance established pursuant  
3 to NRS 228.420, and that portion of the cost of the Office for  
4 Consumer Health Assistance established pursuant to NRS 223.550  
5 that is related to providing assistance to consumers and injured  
6 employees concerning workers' compensation, must be paid from  
7 assessments payable by each insurer, including each employer  
8 who provides accident benefits for injured employees pursuant to  
9 NRS 616C.265.

10 2. The Administrator shall assess each insurer, including each  
11 employer who provides accident benefits for injured employees  
12 pursuant to NRS 616C.265. To establish the amount of the  
13 assessment, the Administrator shall determine the amount of money  
14 necessary for each of the expenses set forth in subsections 1 and 4 of  
15 this section and subsection 3 of NRS 616A.425 and determine the  
16 amount that is payable by the private carriers, the self-insured  
17 employers, the associations of self-insured public or private  
18 employers and the employers who provide accident benefits  
19 pursuant to NRS 616C.265 for each of the programs. For the  
20 expenses from which more than one group of insurers receives  
21 benefit, the Administrator shall allocate a portion of the amount  
22 necessary for that expense to be payable by each of the relevant  
23 group of insurers, based upon the expected annual expenditures for  
24 claims of each group of insurers. After allocating the amounts  
25 payable among each group of insurers for all the expenses from  
26 which each group receives benefit, the Administrator shall apply an  
27 assessment rate to the:

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

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

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

39 (d) Employers who provide accident benefits pursuant to NRS  
40 616C.265 that reflect the relative hazard of the employments  
41 covered by those employers, results in an equitable distribution of  
42 costs among the employers and is based upon expected annual  
43 expenditures for claims.

44 ➤ The Administrator shall adopt regulations that establish the  
45 formula for the assessment and for the administration of payment,



\* S B 2 8 8 \*

1 and any penalties that the Administrator determines are necessary to  
2 carry out the provisions of this subsection. The formula may use  
3 actual expenditures for claims. As used in this subsection, the term  
4 "group of insurers" includes the group of employers who provide  
5 accident benefits for injured employees pursuant to NRS 616C.265.

6 3. Federal grants may partially defray the costs of the Division.

7 4. Assessments made against insurers by the Division after the  
8 adoption of regulations must be used to defray all costs and  
9 expenses of administering the program of workers' compensation,  
10 including the payment of:

11 (a) All salaries and other expenses in administering the Division,  
12 including the costs of the office and staff of the Administrator.

13 (b) All salaries and other expenses of administering NRS  
14 616A.435 to 616A.460, inclusive, the offices of the Hearings  
15 Division of the Department of Administration and the programs of  
16 self-insurance and review of premium rates by the Commissioner of  
17 Insurance.

18 (c) The salary and other expenses of a full-time employee of the  
19 Legislative Counsel Bureau whose principal duties are limited to  
20 conducting research and reviewing and evaluating data related to  
21 industrial insurance.

22 (d) All salaries and other expenses of the Fraud Control Unit for  
23 Industrial Insurance established pursuant to NRS 228.420.

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

26 (f) That portion of the salaries and other expenses of the Office  
27 for Consumer Health Assistance established pursuant to NRS  
28 223.550 that is related to providing assistance to consumers and  
29 injured employees concerning workers' compensation.

30 5. If the Division refunds any part of an assessment, the  
31 Division shall include in that refund any interest earned by the  
32 Division from the refunded part of the assessment.

33 **Sec. 75.** NRS 233B.039 is hereby amended to read as follows:

34 233B.039 1. The following agencies are entirely exempted  
35 from the requirements of this chapter:

36 (a) The Governor.

37 (b) The Department of Corrections.

38 (c) The Nevada System of Higher Education.

39 (d) The Office of the Military.

40 (e) The State Gaming Control Board.

41 (f) Except as otherwise provided in NRS 368A.140, the Nevada  
42 Gaming Commission.

43 (g) The Division of Welfare and Supportive Services of the  
44 Department of Health and Human Services.



\* S B 2 8 8 \*

(h) The Division of Health Care Financing and Policy of the Department of Health and Human Services.

(i) The State Board of Examiners acting pursuant to chapter 217 of NRS.

(j) Except as otherwise provided in NRS 533.365, the Office of the State Engineer.

(k) The ~~{Division of Industrial Relations of the Department of Business and Industry}~~ *Occupational Safety and Health Review Board* acting to enforce the provisions of NRS 618.375.

(l) The Administrator of the Division of Industrial Relations of the Department of Business and Industry in establishing and adjusting the schedule of fees and charges for accident benefits pursuant to subsection 2 of NRS 616C.260.

(m) The Board to Review Claims in adopting resolutions to carry out its duties pursuant to NRS 590.830.

2. Except as otherwise provided in subsection 5 and NRS 391.323, the Department of Education, the Board of the Public Employees' Benefits Program and the Commission on Professional Standards in Education are subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

3. The special provisions of:

(a) Chapter 612 of NRS for the distribution of regulations by and the judicial review of decisions of the Employment Security Division of the Department of Employment, Training and Rehabilitation;

(b) Chapters 616A to 617, inclusive, of NRS for the determination of contested claims;

(c) Chapter 703 of NRS for the judicial review of decisions of the Public Utilities Commission of Nevada;

(d) Chapter 91 of NRS for the judicial review of decisions of the Administrator of the Securities Division of the Office of the Secretary of State; and

(e) NRS 90.800 for the use of summary orders in contested cases,

➤ prevail over the general provisions of this chapter.

4. The provisions of NRS 233B.122, 233B.124, 233B.125 and 233B.126 do not apply to the Department of Health and Human Services in the adjudication of contested cases involving the issuance of letters of approval for health facilities and agencies.

5. The provisions of this chapter do not apply to:

(a) Any order for immediate action, including, but not limited to, quarantine and the treatment or cleansing of infected or infested animals, objects or premises, made under the authority of the State Board of Agriculture, the State Board of Health, or any other agency



1 of this State in the discharge of a responsibility for the preservation  
2 of human or animal health or for insect or pest control;

3 (b) An extraordinary regulation of the State Board of Pharmacy  
4 adopted pursuant to NRS 453.2184; or

5 (c) A regulation adopted by the State Board of Education  
6 pursuant to NRS 392.644 or 394.1694.

7 6. The State Board of Parole Commissioners is subject to the  
8 provisions of this chapter for the purpose of adopting regulations but  
9 not with respect to any contested case.

10 **Sec. 76.** NRS 244.33505 is hereby amended to read as  
11 follows:

12 244.33505 1. In a county in which a license to engage in a  
13 business is required, the board of county commissioners shall not  
14 issue such a license unless the applicant for the license signs an  
15 affidavit affirming that the business:

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

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

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

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

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

29 3. Each board of county commissioners shall submit to the  
30 Administrator of the Division of Industrial Relations of the  
31 Department of Business and Industry monthly a list of the names of  
32 those businesses which have submitted an affidavit required by  
33 subsections 1 and 2.

34 4. Upon receiving an affidavit required by this section, a board  
35 of county commissioners shall provide the owner of the business  
36 with a document setting forth the rights and responsibilities of  
37 employers and employees to promote safety in the workplace, in  
38 accordance with regulations adopted by the ~~[Division of Industrial  
39 Relations of the Department of Business and Industry]~~  
40 *Occupational Safety and Health Review Board* pursuant to  
41 NRS 618.376.

42 **Sec. 77.** NRS 268.0955 is hereby amended to read as follows:

43 268.0955 1. In an incorporated city in which a license to  
44 engage in a business is required, the city council or other governing



1 body of the city shall not issue such a license unless the applicant  
2 for the license signs an affidavit affirming that the business:

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

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

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

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

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

16 3. Each city council or other governing body of an  
17 incorporated city shall submit to the Administrator of the Division  
18 of Industrial Relations of the Department of Business and Industry  
19 monthly a list of the names of those businesses which have  
20 submitted an affidavit required by subsections 1 and 2.

21 4. Upon receiving an affidavit required by this section, the city  
22 council or other governing body of an incorporated city shall  
23 provide the applicant with a document setting forth the rights and  
24 responsibilities of employers and employees to promote safety in the  
25 workplace in accordance with regulations adopted by the ~~Division~~  
26 ~~of Industrial Relations of the Department of Business and Industry]~~  
27 *Occupational Safety and Health Review Board* pursuant to  
28 NRS 618.376.

29 **Sec. 78.** NRS 278.147 is hereby amended to read as follows:

30 278.147 1. No person may commence operation in this State  
31 of a facility where an explosive, a highly hazardous substance  
32 designated pursuant to NRS 459.3816 if present in a quantity equal  
33 to or greater than the amount designated pursuant to NRS 459.3816,  
34 or a hazardous substance listed in the regulations adopted pursuant  
35 to NRS 459.3833 will be used, manufactured, processed, transferred  
36 or stored without first obtaining a conditional use permit therefor  
37 from the governing body of the city or county in which the facility is  
38 to be located. Each governing body shall establish by local  
39 ordinance, in accordance with the provisions of this section, the  
40 procedures for obtaining such a permit.

41 2. An application for a conditional use permit must be filed  
42 with the planning commission of the city, county or region in which  
43 the facility is to be located. The planning commission shall, within  
44 90 days after the filing of an application, hold a public hearing to  
45 consider the application. The planning commission shall, at least 30



1 days before the date of the hearing, cause notice of the time, date,  
2 place and purpose of the hearing to be:

3 (a) Sent by mail or, if requested by a party to whom notice must  
4 be provided pursuant to this paragraph, by electronic means if  
5 receipt of such an electronic notice can be verified, to:

6 (1) The applicant;

7 (2) Each owner or tenant of real property located within  
8 1,000 feet of the property in question;

9 (3) The owner, as listed on the county assessor's records, of  
10 each of the 30 separately owned parcels nearest the property in  
11 question, to the extent this notice does not duplicate the notice given  
12 pursuant to subparagraph (2);

13 (4) If a mobile home park or multiple-unit residence is  
14 located within 1,000 feet of the property in question, each tenant of  
15 that mobile home park or multiple-unit residence;

16 (5) If a military installation is located within 3,000 feet of the  
17 property in question, the commander of that military installation;

18 (6) Any advisory board that has been established for the  
19 affected area by the governing body;

20 (7) The Administrator of the Division of Environmental  
21 Protection of the State Department of Conservation and Natural  
22 Resources;

23 (8) The State Fire Marshal; and

24 (9) The ~~[Administrator of the Division of Industrial Relations~~  
25 ~~of the Department of Business and Industry;]~~ *Occupational Safety*  
26 *and Health Review Board;* and

27 (b) Published in a newspaper of general circulation within the  
28 city or county in which the property in question is located.

29 3. The notice required by subsection 2 must:

30 (a) Be written in language that is easy to understand; and

31 (b) Include a physical description or map of the property in  
32 question and a description of all explosives, and all substances  
33 described in subsection 1, that will be located at the facility.

34 4. In considering the application, the planning commission  
35 shall:

36 (a) Consult with:

37 (1) Local emergency planning committees;

38 (2) The Administrator of the Division of Environmental  
39 Protection of the State Department of Conservation and Natural  
40 Resources;

41 (3) The State Fire Marshal;

42 (4) The ~~[Administrator of the Division of Industrial Relations~~  
43 ~~of the Department of Business and Industry;]~~ *Occupational Safety*  
44 *and Health Review Board;*



\* S B 2 8 8 \*



(5) The commander of any other military installation that may be affected by the operation of the facility; and

(6) The governing body of any other city or county that may be affected by the operation of the facility; and

(b) Consider fully the effect the facility will have on:

(1) The health and safety of the residents of the city, county or region.

(2) The safety and security of any military installation in the city, county or region.

5. The planning commission shall, within a reasonable time after the public hearing, submit to the governing body its recommendations for any actions to be taken on the application. If the planning commission recommends that a conditional use permit be granted to the applicant, the planning commission shall include in its recommendations such terms and conditions for the operation of the facility as it deems necessary for the protection of:

(a) The health and safety of the residents of the city, county or region.

(b) The safety and security of any military installation in the city, county or region.

6. The governing body shall, within 30 days after the receipt of the recommendations of the planning commission, hold a public hearing to consider the application. The governing body shall:

(a) Cause notice of the hearing to be given in the manner prescribed by subsection 2; and

(b) Grant or deny the conditional use permit within 30 days after the public hearing.

7. Notwithstanding any provision of this section to the contrary, the provisions of this section do not apply to the mining industry.

8. As used in this section, "explosive" means a material subject to regulation as an explosive pursuant to NRS 459.3816.

**Sec. 79.** NRS 338.1389 is hereby amended to read as follows:

338.1389 1. Except as otherwise provided in subsection 10 and NRS 338.1385, 338.1386 and 338.13864, a public body or its authorized representative shall award a contract for a public work for which the estimated cost exceeds \$250,000 to the contractor who submits the best bid.

2. Except as otherwise provided in subsection 10 or limited by subsection 11, the lowest bid that is:

(a) Submitted by a responsive and responsible contractor who:

(1) Has been determined by the public body to be a qualified bidder pursuant to NRS 338.1379 or 338.1382; ~~and~~

(2) At the time he submits his bid, has a valid certificate of eligibility to receive a preference in bidding on public works issued



\* S B 2 8 8 \*

1 to the contractor by the State Contractors' Board pursuant to  
2 subsection 3 or 4; ~~and~~

3 *(3) Has a safety plan completed in coordination with and*  
4 *approved by the Occupational Safety and Health Review Board;*  
5 *and*

6 *(4) Submits with his bid information relating to loss*  
7 *experience; and*

8 (b) Not more than 5 percent higher than the bid submitted by the  
9 lowest responsive and responsible bidder who does not have, at the  
10 time he submits his bid, a valid certificate of eligibility to receive a  
11 preference in bidding on public works issued to him by the State  
12 Contractors' Board pursuant to subsection 3 or 4,

13 ➔ shall be deemed to be the best bid for the purposes of this section.

14 3. The State Contractors' Board shall issue a certificate of  
15 eligibility to receive a preference in bidding on public works to a  
16 general contractor who is licensed pursuant to the provisions of  
17 chapter 624 of NRS and submits to the Board an affidavit from a  
18 certified public accountant setting forth that the general contractor  
19 has, while licensed as a general contractor in this State:

20 (a) Paid directly, on his own behalf:

21 (1) The sales and use taxes imposed pursuant to chapters  
22 372, 374 and 377 of NRS on materials used for construction in this  
23 State, including, without limitation, construction that is undertaken  
24 or carried out on land within the boundaries of this State that is  
25 managed by the Federal Government or is on an Indian reservation  
26 or Indian colony, of not less than \$5,000 for each consecutive  
27 12-month period for 60 months immediately preceding the  
28 submission of the affidavit from the certified public accountant;

29 (2) The governmental services tax imposed pursuant to  
30 chapter 371 of NRS on the vehicles used in the operation of his  
31 business in this State of not less than \$5,000 for each consecutive  
32 12-month period for 60 months immediately preceding the  
33 submission of the affidavit from the certified public accountant; or

34 (3) Any combination of such sales and use taxes and  
35 governmental services tax; or

36 (b) Acquired, by purchase, inheritance, gift or transfer through a  
37 stock option plan, all the assets and liabilities of a viable, operating  
38 construction firm that possesses a:

39 (1) License as a general contractor pursuant to the provisions  
40 of chapter 624 of NRS; and

41 (2) Certificate of eligibility to receive a preference in bidding  
42 on public works.

43 4. The State Contractors' Board shall issue a certificate of  
44 eligibility to receive a preference in bidding on public works to a  
45 specialty contractor who is licensed pursuant to the provisions of



\* S B 2 8 8 \*

chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the specialty contractor has, while licensed as a specialty contractor in this State:

(a) Paid directly, on his own behalf:

(1) The sales and use taxes pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his business in this State of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a specialty contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

5. For the purposes of complying with the requirements set forth in paragraph (a) of subsection 3 and paragraph (a) of subsection 4, a contractor shall be deemed to have paid:

(a) Sales and use taxes and governmental services taxes that were paid in this State by an affiliate or parent company of the contractor, if the affiliate or parent company is also a general contractor or specialty contractor, as applicable; and

(b) Sales and use taxes that were paid in this State by a joint venture in which the contractor is a participant, in proportion to the amount of interest the contractor has in the joint venture.

6. A contractor who has received a certificate of eligibility to receive a preference in bidding on public works from the State Contractors' Board pursuant to subsection 3 or 4 shall, at the time for the renewal of his contractor's license pursuant to NRS 624.283, submit to the Board an affidavit from a certified public accountant setting forth that the contractor has, during the immediately preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 3 or paragraph (a) of subsection 4, as applicable, to maintain his eligibility to hold such a certificate.



\* S B 2 8 8 \*

7. A contractor who fails to submit an affidavit to the Board pursuant to subsection 6 ceases to be eligible to receive a preference in bidding on public works unless he reapplies for and receives a certificate of eligibility pursuant to subsection 3 or 4, as applicable.

8. If a contractor holds more than one contractor's license, he must submit a separate application for each license pursuant to which he wishes to qualify for a preference in bidding. Upon issuance, the certificate of eligibility to receive a preference in bidding on public works becomes part of the contractor's license for which the contractor submitted the application.

9. If a contractor who applies to the State Contractors' Board for a certificate of eligibility to receive a preference in bidding on public works submits false information to the Board regarding the required payment of taxes, the contractor is not eligible to receive a preference in bidding on public works for a period of 5 years after the date on which the Board becomes aware of the submission of the false information.

10. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of subsection 2, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that work.

11. If a bid is submitted by two or more contractors as a joint venture or by one of them as a joint venturer, the bid may be deemed the best bid only if both or all of the joint venturers separately meet the requirements of subsection 2.

12. The State Contractors' Board shall adopt regulations and may assess reasonable fees relating to the certification of contractors for a preference in bidding on public works.

13. A person or entity who believes that a contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works may challenge the validity of the certificate by filing a written objection with the public body to which the contractor has submitted a bid on a contract for the construction of a public work. A written objection authorized pursuant to this subsection must:

(a) Set forth proof or substantiating evidence to support the belief of the person or entity that the contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works; and

(b) Be filed with the public body not later than 3 business days after the opening of the bids by the public body or its authorized representative.

14. If a public body receives a written objection pursuant to subsection 13, the public body shall determine whether the objection



\* S B 2 8 8 \*

1 is accompanied by the proof or substantiating evidence required  
2 pursuant to paragraph (a) of that subsection. If the public body  
3 determines that the objection is not accompanied by the required  
4 proof or substantiating evidence, the public body shall dismiss the  
5 objection and the public body or its authorized representative may  
6 proceed immediately to award the contract. If the public body  
7 determines that the objection is accompanied by the required proof  
8 or substantiating evidence, the public body shall determine whether  
9 the contractor qualifies for the certificate pursuant to the provisions  
10 of this section and the public body or its authorized representative  
11 may proceed to award the contract accordingly.

12 **Sec. 80.** NRS 338.147 is hereby amended to read as follows:

13 338.147 1. Except as otherwise provided in subsection 10  
14 and NRS 338.143, 338.1442 and 338.1446, a local government or  
15 its authorized representative shall award a contract for a public work  
16 for which the estimated cost exceeds \$250,000 to the contractor who  
17 submits the best bid.

18 2. Except as otherwise provided in subsection 10 or limited by  
19 subsection 11, the lowest bid that is:

20 (a) Submitted by a contractor who:

21 (1) Has been found to be a responsible and responsive  
22 contractor by the local government or its authorized representative;  
23 ~~[and]~~

24 (2) At the time he submits his bid, has a valid certificate of  
25 eligibility to receive a preference in bidding on public works issued  
26 to the contractor by the State Contractors' Board pursuant to  
27 subsection 3 or 4; ~~[and]~~

28 *(3) Has a safety plan completed in coordination with and*  
29 *approved by the Occupational Safety and Health Review Board;*  
30 *and*

31 *(4) Submits with his bid information relating to loss*  
32 *experience; and*

33 (b) Not more than 5 percent higher than the bid submitted by the  
34 lowest responsive and responsible bidder who does not have, at the  
35 time he submits the bid, a valid certificate of eligibility to receive a  
36 preference in bidding on public works issued to him by the State  
37 Contractors' Board pursuant to subsection 3 or 4,

38 ➤ shall be deemed to be the best bid for the purposes of this section.

39 3. The State Contractors' Board shall issue a certificate of  
40 eligibility to receive a preference in bidding on public works to a  
41 general contractor who is licensed pursuant to the provisions of  
42 chapter 624 of NRS and submits to the Board an affidavit from a  
43 certified public accountant setting forth that the general contractor  
44 has, while licensed as a general contractor in this State:

45 (a) Paid directly, on his own behalf:



\* S B 2 8 8 \*

(1) The sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his business in this State of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a general contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

4. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a specialty contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the specialty contractor has, while licensed as a specialty contractor in this State:

(a) Paid directly, on his own behalf:

(1) The sales and use taxes pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his business in this State of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or



\* S B 2 8 8 \*

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a specialty contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

5. For the purposes of complying with the requirements set forth in paragraph (a) of subsection 3 and paragraph (a) of subsection 4, a contractor shall be deemed to have paid:

(a) Sales and use taxes and governmental services taxes paid in this State by an affiliate or parent company of the contractor, if the affiliate or parent company is also a general contractor or specialty contractor, as applicable; and

(b) Sales and use taxes paid in this State by a joint venture in which the contractor is a participant, in proportion to the amount of interest the contractor has in the joint venture.

6. A contractor who has received a certificate of eligibility to receive a preference in bidding on public works from the State Contractors' Board pursuant to subsection 3 or 4 shall, at the time for the renewal of his contractor's license pursuant to NRS 624.283, submit to the Board an affidavit from a certified public accountant setting forth that the contractor has, during the immediately preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 3 or paragraph (a) of subsection 4, as applicable, to maintain his eligibility to hold such a certificate.

7. A contractor who fails to submit an affidavit to the Board pursuant to subsection 6 ceases to be eligible to receive a preference in bidding on public works unless he reapplies for and receives a certificate of eligibility pursuant to subsection 3 or 4, as applicable.

8. If a contractor holds more than one contractor's license, he must submit a separate application for each license pursuant to which he wishes to qualify for a preference in bidding. Upon issuance, the certificate of eligibility to receive a preference in bidding on public works becomes part of the contractor's license for which the contractor submitted the application.

9. If a contractor who applies to the State Contractors' Board for a certificate of eligibility to receive a preference in bidding on public works submits false information to the Board regarding the required payment of taxes, the contractor is not eligible to receive a preference in bidding on public works for a period of 5 years after the date on which the Board becomes aware of the submission of the false information.

10. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a



\* S B 2 8 8 \*



1 particular public work because of the provisions of subsection 2,  
2 those provisions do not apply insofar as their application would  
3 preclude or reduce federal assistance for that work.

4 11. If a bid is submitted by two or more contractors as a joint  
5 venture or by one of them as a joint venturer, the bid may be  
6 deemed a best bid only if both or all of the joint venturers separately  
7 meet the requirements of subsection 2.

8 12. The State Contractors' Board shall adopt regulations and  
9 may assess reasonable fees relating to the certification of contractors  
10 for a preference in bidding on public works.

11 13. A person or entity who believes that a contractor  
12 wrongfully holds a certificate of eligibility to receive a preference in  
13 bidding on public works may challenge the validity of the certificate  
14 by filing a written objection with the local government to which the  
15 contractor has submitted a bid on a contract for the construction of a  
16 public work. A written objection authorized pursuant to this  
17 subsection must:

18 (a) Set forth proof or substantiating evidence to support the  
19 belief of the person or entity that the contractor wrongfully holds a  
20 certificate of eligibility to receive a preference in bidding on public  
21 works; and

22 (b) Be filed with the local government not later than 3 business  
23 days after the opening of the bids by the local government or its  
24 authorized representative.

25 14. If a local government receives a written objection pursuant  
26 to subsection 13, the local government shall determine whether the  
27 objection is accompanied by the proof or substantiating evidence  
28 required pursuant to paragraph (a) of that subsection. If the local  
29 government determines that the objection is not accompanied by the  
30 required proof or substantiating evidence, the local government shall  
31 dismiss the objection and the local government or its authorized  
32 representative may proceed immediately to award the contract. If  
33 the local government determines that the objection is accompanied  
34 by the required proof or substantiating evidence, the local  
35 government shall determine whether the contractor qualifies for the  
36 certificate pursuant to the provisions of this section and the local  
37 government or its authorized representative may proceed to award  
38 the contract accordingly.

39 **Sec. 81.** NRS 459.382 is hereby amended to read as follows:

40 459.382 1. The Health Division of the Department of Health  
41 and Human Services, the Division of Industrial Relations of the  
42 Department of Business and Industry, *the Occupational Safety and*  
43 *Health Review Board* and any other governmental entity or agency  
44 of the State responsible for minimizing risks to persons and property  
45 posed by facilities and hazardous substances shall submit to the



\* S B 2 8 8 \*

1 Division of Environmental Protection such reports as the Division  
2 deems necessary to carry out the provisions of NRS 459.380 to  
3 459.3874, inclusive, and any regulations adopted pursuant thereto.  
4 The reports must be submitted at such times and contain such  
5 information as required by the Division.

6 2. The State Environmental Commission shall adopt by  
7 regulation common reporting forms to be used by such  
8 governmental entities and agencies when reporting information  
9 related to hazardous substances and facilities.

10 3. The Division shall review the rules, regulations, standards,  
11 codes and safety orders of other governmental entities and agencies  
12 of the State responsible for minimizing risks to persons and property  
13 posed by facilities and hazardous substances to ensure that they are  
14 sufficient to carry out the provisions of NRS 459.380 to 459.3874,  
15 inclusive, and any regulations adopted pursuant thereto.

16 4. If the Division and any other governmental entity or agency  
17 of the State have coexisting jurisdiction over the regulation of  
18 facilities or hazardous substances located at such facilities, the  
19 Division has the final authority to take such actions as are necessary  
20 to carry out the provisions of NRS 459.380 to 459.3874, inclusive,  
21 and any regulations adopted pursuant thereto.

22 **Sec. 82.** NRS 459.3829 is hereby amended to read as follows:

23 459.3829 1. No owner or operator of a facility may  
24 commence construction or operation of any new process that will be  
25 subject to regulation pursuant to NRS 459.380 to 459.3874,  
26 inclusive, or any regulation adopted pursuant thereto, unless he first  
27 obtains all appropriate permits from the Division to construct the  
28 new process and commence operation of the new process. Before  
29 issuing any such permits, the Division of Environmental Protection  
30 shall consult with the ~~[Division of Industrial Relations of the~~  
31 ~~Department of Business and Industry.]~~ *Occupational Safety and*  
32 *Health Review Board.*

33 2. An application for such a permit must be submitted on a  
34 form prescribed by the Division of Environmental Protection.

35 3. The State Environmental Commission shall adopt  
36 regulations establishing the requirements for the issuance of a  
37 permit pursuant to this section. An applicant shall comply with  
38 requirements that the State Environmental Commission establishes  
39 by regulation for the issuance of a permit before the applicant may  
40 receive a permit from the Division for the construction and  
41 operation of the process.

42 4. The Division may charge and collect a fee for the issuance  
43 of such a permit.



**Sec. 83.** NRS 459.3868 is hereby amended to read as follows:

459.3868 1. A committee shall conduct a comprehensive review and evaluation of the following with respect to each facility within its jurisdiction:

(a) The degree of compliance with NRS 459.380 to 459.3874, inclusive, the applicable fire codes, the regulations, standards and safety orders of the ~~[Division of Industrial Relations of the Department of Business and Industry,]~~ *Occupational Safety and Health Review Board*, the rules, regulations and standards of the State Environmental Commission and any other standards adopted by the Federal Government, State of Nevada or local governments and their respective agencies for the health and safety of persons and property which may be at risk if those rules, regulations, standards, codes and safety orders are not complied with;

(b) The effectiveness of the respective governmental entities and their agencies' enforcement of their respective rules, regulations, standards, codes and safety orders; and

(c) The adequacy and effectiveness of the plans for response to emergencies adopted for the area in which the facility is located in responding to risks posed to the persons and property located within the zone of risk.

2. A committee shall exercise its best efforts to facilitate cooperation among the various governmental entities and agencies responsible for minimizing risks to persons and property posed by the facility within its jurisdiction and the effective enforcement of the various governmental entities' and agencies' rules, regulations, standards, codes and safety orders. A committee shall cooperate to the extent necessary with other committees and governmental agencies to minimize the duplication of records, reports or other information.

3. A committee shall issue a final report of its comprehensive review and evaluation together with any recommendations. A committee shall make such interim reports as it or the Governor may deem in the public interest. The Division shall distribute the reports to the Governor, members of the committee, local governments within the zone of risk, the various governmental agencies whose rules, regulations, standards, codes or safety orders were the subject of the committee's review and evaluation, and the local media. Copies of the final written report must be made available to the public for purchase at cost of reproduction. All interim reports must be distributed forthwith in the same manner as annual written reports.

**Sec. 84.** NRS 459.796 is hereby amended to read as follows:

459.796 A person is entitled to immunity under subsection 2 of NRS 459.792 only if:



\* S B 2 8 8 \*

1 1. In the case of one furnishing advice or assistance, he is  
2 qualified by training, education or experience in the handling of  
3 hazardous materials and provides advice or assistance within the  
4 area of his qualifications; and

5 2. He was requested to provide the equipment, advice or other  
6 assistance by:

7 (a) The person responsible for the discharge;

8 (b) The Division of Emergency Management of the Department  
9 of Public Safety;

10 (c) The ~~[Division of Industrial Relations of the Department of~~  
11 ~~Business and Industry;]~~ *Occupational Safety and Health Review*  
12 *Board;*

13 (d) The Division of Environmental Protection of the State  
14 Department of Conservation and Natural Resources;

15 (e) The Nevada Highway Patrol Division of the Department of  
16 Public Safety;

17 (f) The State Fire Marshal Division of the Department of Public  
18 Safety;

19 (g) The State Emergency Response Commission or a local  
20 emergency planning committee appointed by the Commission;

21 (h) A local fire department; or

22 (i) A local agency for law enforcement.

23 **Sec. 85.** Chapter 512 of NRS is hereby amended by adding  
24 thereto a new section to read as follows:

25 *“Board” means the Occupational Safety and Health Review*  
26 *Board.*

27 **Sec. 86.** NRS 512.002 is hereby amended to read as follows:

28 512.002 As used in this chapter, unless the context otherwise  
29 requires, the words and terms defined in NRS 512.003 to 512.009,  
30 inclusive, *and section 85 of this act* have the meanings ascribed to  
31 them in such sections.

32 **Sec. 87.** NRS 512.020 is hereby amended to read as follows:

33 512.020 1. Any person employed by the ~~[Administrator]~~  
34 *Board* pursuant to the provisions of this chapter must not:

35 (a) Be an officer, director or employee, or have any personal or  
36 private interest in any operating mine, mill, smelter or ore reduction  
37 plant or the products thereof;

38 (b) Hold, directly or indirectly, any financial interest in any  
39 company, partnership, organization or corporation or subsidiary of a  
40 corporation, which owns, operates or has a financial interest in any  
41 mines which are subject to the provisions of this chapter; or

42 (c) Be an officer or employee of any labor organization.

43 2. A person appointed *by the Board* as the ~~[Assistant~~  
44 ~~Administrator]~~ *person* responsible for the inspection of mines must



1 have at least 7 years of technical, operational or management  
2 experience in at least two of the following areas:

- 3 (a) Mines;
- 4 (b) Mills;
- 5 (c) Beneficiation plants; or
- 6 (d) Smelters,

7 ↪ at least 3 years of which must be in underground mining.

8 **Sec. 88.** NRS 512.090 is hereby amended to read as follows:

9 512.090 The ~~[Administrator]~~ *person appointed by the Board*  
10 *pursuant to the provisions of subsection 2 of NRS 512.020* is  
11 entitled to be provided with a properly furnished office in Carson  
12 City, Nevada.

13 **Sec. 89.** NRS 512.120 is hereby amended to read as follows:

14 512.120 The ~~[Administrator]~~ *Board* may:

15 1. Employ necessary clerks, technicians, specialists, engineers  
16 or consultants.

17 2. Authorize representatives to perform all duties required of  
18 ~~[him.]~~ *the Board.*

19 **Sec. 90.** NRS 512.131 is hereby amended to read as follows:

20 512.131 1. The ~~[Administrator]~~ *Board* shall adopt regulations  
21 for mine health and safety as necessary to provide safe and healthful  
22 working conditions at mines. The regulations must provide  
23 protection that is at least equal to the protection provided by the  
24 Federal Mine Safety and Health Act, 30 U.S.C. §§ 801 et seq., as  
25 amended. The ~~[Administrator]~~ *Board* may consider the following  
26 sources in adopting the regulations:

- 27 (a) Common practices of the mining industry;
- 28 (b) The American National Standards Institute;
- 29 (c) The American Society of Mechanical Engineers;
- 30 (d) The American Society for Testing and Materials
- 31 International;
- 32 (e) Applicable provisions contained in the Code of Federal
- 33 Regulations;
- 34 (f) The National Fire Protection Association, including, without
- 35 limitation, the National Electrical Code;
- 36 (g) Any national consensus standard; and
- 37 Any safety order legally adopted by the ~~[Administrator.]~~
- 38 *Board.*

39 2. The ~~[Administrator]~~ *Board* shall forward a copy of each  
40 regulation adopted under this section to the operator of each mine  
41 and to the representative of the workers, if any, at the mine. Failure  
42 to receive a copy of the regulation does not relieve anyone of the  
43 obligation to comply with it.



**Sec. 91.** NRS 512.140 is hereby amended to read as follows:

512.140 The ~~{Administrator}~~ *Board* shall submit annually to the Governor, as soon as practicable after the beginning of each calendar year, a full report of the administration of ~~{his}~~ *its* functions under this chapter during the preceding calendar year. The report must include, either in summary or detailed form, the information obtained by ~~{him}~~ *the Board* under this chapter together with such findings and comments thereon and such recommendations as ~~{he}~~ *the Board* may deem proper.

**Sec. 92.** NRS 512.151 is hereby amended to read as follows:

512.151 1. The ~~{Administrator}~~ *Board* shall:

(a) Develop and conduct programs for the education and training of operators and workers in the recognition, avoidance and prevention of accidents or unsafe or unhealthful working conditions in mines which are subject to the provisions of this chapter; *and*

(b) To the greatest extent possible, provide technical assistance to operators in meeting the requirements of this chapter and in further improving the health and safety conditions and practices in mines which are subject to the provisions of this chapter. ~~{; and~~

~~—(c) Collect information and statistics relative to mines, mining and the minerals industry of the State.}~~

2. The Administrator ~~{may}~~ :

*(a) Shall collect information and statistics relative to mines, mining and the minerals industry of the State.*

*(b) May* accept and administer grants and other money received from any private or public source, including the Federal Government, for the purposes of administering the provisions of this chapter.

**Sec. 93.** NRS 512.160 is hereby amended to read as follows:

512.160 1. Operators shall maintain records and reports and shall submit, at least annually and at such other times as the Administrator deems necessary, and in the form he prescribes, reports of production, employment, mine activity and status, accidents, bodily injuries, loss of life, occupational illnesses and related data.

2. The Administrator shall compile, keep and analyze and may publish, either in summary or detailed form, the information obtained pursuant to the provisions of subsection 1. *The Administrator shall provide to the Board in detailed form the information obtained pursuant to the provisions of subsection 1.*

3. Operators shall notify the Administrator before opening and upon closing mine operations. The notice must include the name and location of the mine, the name and address of the operator, the name of the person in charge of the operation, a statement of whether the



operation will be continuous or intermittent, and upon closing, a statement of whether the closing is temporary or permanent.

**Sec. 94.** NRS 512.170 is hereby amended to read as follows:

512.170 At least once a year and at such other times as required the ~~[Administrator,]~~ *Board* or ~~[his]~~ *its* designee, shall visit each mining county in this state and thoroughly inspect and investigate all such mines therein as, in ~~[his]~~ *the* judgment ~~[of the Board,]~~ may require inspection and investigation for the purposes of:

1. Determining whether there has been compliance with health and safety regulations or standards adopted or notices or orders issued pursuant to the provisions of this chapter;

2. Determining whether an imminent danger exists;

3. Determining the cause or causes of accidents, bodily injuries, loss of lives or occupational illnesses which have occurred in such mines;

4. Determining if there are dangerous conditions or practices with respect to the condition or manner of use of equipment, machinery or apparatus; and

5. Obtaining such other information for any other purpose as ~~[he]~~ *the Board* may deem advisable.

**Sec. 95.** NRS 512.180 is hereby amended to read as follows:

512.180 1. The ~~[Administrator]~~ *Board and its designee* may enter all mines in this state subject to the provisions of this chapter, for the purposes of inspections, investigations or access to records and reports required to be maintained or for any other purpose necessary in the proper discharge of ~~[his]~~ *the* official duties ~~[of the Board.]~~ Operators shall render the ~~[Administrator]~~ *the Board and its designee* such assistance as may be required to enable ~~[him]~~ *the Board and its designee* to make a full, thorough and complete inspection or investigation of each and every part of such mine or mines. No advance notice of an inspection must be provided to any operator, worker, or representative of the workers, if any, at such mine.

2. At the commencement of any inspection of a mine by the ~~[Administrator,]~~ *the Board or its designee* the authorized representative of the workers at the mine must be given an opportunity to accompany the ~~[Administrator]~~ *the Board or its designee* on the inspection and to participate in any conference held at the conclusion of the inspection. If there is no representative of the workers, the ~~[Administrator]~~ *Board or its designee* shall consult with a reasonable number of workers concerning matters of health and safety at the mine.

**Sec. 96.** NRS 512.190 is hereby amended to read as follows:

512.190 1. Whenever, as the result of the inspection of any mine, the ~~[Administrator]~~ *Board or its designee* finds that an





1 imminent danger exists in the mine or with respect to the condition  
2 or manner of use of equipment, machinery or apparatus, ~~he~~ *the*  
3 *Board or its designee* shall thereupon issue an order:

4 (a) Requiring the operator to cause all persons except those  
5 referred to in subsection 5, to be withdrawn immediately from and  
6 prohibited from entering the area where such danger exists until he  
7 determines that such imminent danger no longer exists.

8 (b) Prohibiting such equipment, machinery or apparatus to be  
9 used or operated until he determines that such imminent danger no  
10 longer exists.

11 2. If, upon any inspection of a mine, the ~~Administrator~~ *Board*  
12 *or its designee* finds that there has been a violation of any health or  
13 safety regulation or standard adopted pursuant to the provisions of  
14 this chapter, but the violation has not created an imminent danger,  
15 ~~he~~ *the Board or its designee* shall issue a notice to the operator  
16 fixing a reasonable time for the abatement of the violation. If the  
17 ~~Administrator~~ *Board or its designee* subsequently finds:

18 (a) Upon the expiration of the period of time as originally fixed  
19 or extended for the abatement of the violation, that the violation has  
20 not been totally abated and that the period of time should not be  
21 further extended; or

22 (b) Another violation of any health or safety regulation or  
23 standard caused by failure of an operator to prevent the occurrence  
24 of such violation due to indifference, lack of diligence or lack of  
25 reasonable care, during the same inspection or any subsequent  
26 inspection within 90 days after the issuance of the notice,

27 ➤ ~~he~~ *the Board or its designee* shall forthwith issue an order  
28 requiring the operator to cause all persons in the area affected by  
29 such violation, except those persons referred to in subsection 5, to  
30 be withdrawn from and prohibited from entering the area until he  
31 determines that such violation has been abated.

32 3. If the ~~Administrator~~ *Board or its designee* finds a violation  
33 of a health and safety regulation or standard within 30 days  
34 following the abatement of a violation which resulted in the  
35 issuance of a withdrawal order under paragraph (b) of subsection 2,  
36 ~~he~~ *the Board or its designee* shall forthwith issue an order  
37 requiring the operator to cause all persons in the area affected by  
38 such violation, except those persons referred to in subsection 5, to  
39 be withdrawn from and prohibited from entering the area until he  
40 determines that such violation has been abated.

41 4. If, as a result of any investigation of any accident occurring  
42 in a mine or as a result of any other investigation or tests performed  
43 by the ~~Administrator, he~~ *Board or its designee, the Board or its*  
44 *designee* has reason to believe that any equipment, machinery or  
45 apparatus will cause an accident, the ~~Administrator~~ *Board or its*



1 *designee* may, by order, prohibit the use or operation in any mine of  
2 such equipment, machinery or apparatus until ~~the~~ *the Board or its*  
3 *designee* determines that such equipment, machinery or apparatus  
4 has been repaired, modified, reconditioned or altered in a manner  
5 that an accident will thereafter be avoided.

6 5. The following persons are not required to be withdrawn  
7 from, or prohibited from entering, any area of the mine subject to a  
8 withdrawal order issued under this section:

9 (a) Any person whose presence in the area is necessary, in the  
10 judgment of the operator or the ~~Administrator~~ *Board or its*  
11 *designee*, to eliminate the condition described in the order;

12 (b) Any public official whose official duties require him to enter  
13 the area; and

14 (c) Any consultant to any of the foregoing.

15 6. A notice or order issued under this section is prima facie  
16 evidence of the culpable negligence of an operator in a criminal or  
17 civil proceeding at law against such operator for loss of life or  
18 bodily injury sustained because of the operator's failure or refusal to  
19 comply with the requirements stated in the notice or order.

20 **Sec. 97.** NRS 512.195 is hereby amended to read as follows:

21 512.195 1. Notices and orders issued pursuant to this chapter:

22 (a) Must contain a detailed description of the conditions or  
23 practices which cause and constitute a situation of imminent danger  
24 or a violation of any health or safety regulation or standard and,  
25 where appropriate, a description of the area of the mine from which  
26 persons, equipment, machinery or apparatus must be withdrawn and  
27 prohibited from entering, and a description of the equipment,  
28 machinery or apparatus prohibited from being used or operated.

29 (b) Must be in writing and signed by *a representative of* the  
30 ~~Administrator~~ *Board* and given promptly to the operator of the  
31 affected mine.

32 (c) May be modified, vacated or terminated by the  
33 ~~Administrator~~ *Board or its designee*.

34 2. The ~~Administrator~~ *Board or its designee* shall furnish  
35 immediately a copy of any notice or order issued pursuant to this  
36 chapter to the operator and to a representative of the workers, if any,  
37 at the affected mine.

38 3. If an order is issued pursuant to subsection 1 of NRS  
39 512.190 and the Mine Safety and Health Administration of the  
40 United States Department of Labor did not participate in the  
41 inspection on which that order is based, the ~~Administrator~~ *Board*  
42 shall notify the Mine Safety and Health Administration of the  
43 United States Department of Labor that the order has been issued.



**Sec. 98.** NRS 512.200 is hereby amended to read as follows:

512.200 1. Whenever any ~~{worker or a representative of the workers, if any,}~~ **person** has reasonable grounds to believe that a violation of a health or safety regulation or standard exists, or an imminent danger exists, the ~~{worker or representative of the workers}~~ **person** may obtain an inspection by giving notice to the ~~{Administrator}~~ **Board** of the violation or danger.

2. The notice must be in writing, signed by the ~~{worker or representative of the workers,}~~ **person**, and a copy must be provided to the operator no later than at the time of inspection, except that, upon the request of the person giving notice, his name ~~{and the names of individual workers referred to therein}~~ must not appear in the copy.

3. Upon receipt of notification by the ~~{Administrator,}~~ **Board**, an inspection in accordance with the provisions of this chapter may be made as soon as practicable to determine if a violation or imminent danger exists.

**Sec. 99.** NRS 512.210 is hereby amended to read as follows:

512.210 Upon the unwarrantable failure of an operator to comply or upon refusal of an operator of any mine to comply with the requirements of any order issued to such operator, the ~~{Administrator}~~ **Board** may immediately notify the Attorney General of the unwarrantable failure to comply or the refusal. The Attorney General, or the district attorney of the county in which the mine is situated at the instigation of the Attorney General, must thereupon immediately commence an action in the name of the State against the operator so notified for the enforcement of the penalty designated in NRS 512.270.

**Sec. 100.** NRS 512.220 is hereby amended to read as follows:

512.220 1. Whenever a serious accident occurs in any mine in this state subject to the provisions of this chapter, the operator shall, immediately and by the quickest means, notify the ~~{Administrator or his deputy, as may be most convenient,}~~ **Board** of the accident, and shall take appropriate measures to preserve everything which might assist the ~~{Administrator}~~ **Board** in determining the cause or causes of the accident. Except as necessary to alleviate or eliminate any situation constituting an imminent danger or an unwarranted danger to property, a person shall not alter any condition which might assist the ~~{Administrator}~~ **Board** in determining the cause or causes of the accident.

2. The ~~{Administrator}~~ **Board** may investigate fully the cause of the accident as soon as practicable after receipt of notification.

**Sec. 101.** NRS 512.231 is hereby amended to read as follows:

512.231 Copies of regulations and standards adopted and notices and orders issued by the ~~{Administrator}~~ **Board** pursuant to



1 the provisions of this chapter must be posted by the operator on a  
2 bulletin board located in a conspicuous place at the mine.

3 **Sec. 102.** NRS 512.270 is hereby amended to read as follows:

4 512.270 1. Any operator who:

5 (a) Violates, fails or refuses to comply with any health or safety  
6 regulation or standard adopted by the ~~[Administrator]~~ *Board*  
7 pursuant to the provisions of this chapter;

8 (b) Interferes with, hinders or delays the ~~[Administrator]~~ *Board*  
9 *or its designee* in carrying out the duties required under this chapter;

10 (c) Refuses admission to the ~~[Administrator]~~ *Board or its*  
11 *designee* upon or through any mine which is subject to the  
12 provisions of this chapter or to render assistance;

13 (d) Refuses to permit the ~~[Administrator]~~ *Board or its designee*  
14 to inspect or investigate any mine which is subject to the provisions  
15 of this chapter, or of any accident, bodily injury, fatality or  
16 occupational illness occurring at or connected with the mine;

17 (e) Refuses to furnish to the ~~[Administrator]~~ *Board* any  
18 information or report requested by the ~~[Administrator]~~ *Board*  
19 pursuant to this chapter;

20 (f) Knowingly makes any false statement or representation, or  
21 fails to make any statement or representation in any record, report or  
22 other document filed or required to be maintained pursuant to this  
23 chapter;

24 (g) Refuses to permit the ~~[Administrator]~~ *Board or its designee*  
25 to inspect or investigate any equipment, machinery, apparatus, tools  
26 or other property with respect to its condition or manner of use at  
27 any mine subject to the provisions of this chapter;

28 (h) Fails to maintain any information or report required to be  
29 maintained pursuant to this chapter; or

30 (i) Violates or fails or refuses to comply with an order of  
31 withdrawal issued pursuant to NRS 512.190,

32 ➤ is guilty of a gross misdemeanor.

33 2. Each separate provision not complied with and each day  
34 after conviction of failure to comply with any standard or provision  
35 or this chapter is a separate offense and punished accordingly.

36 **Sec. 103.** NRS 616A.425 is hereby amended to read as  
37 follows:

38 616A.425 1. There is hereby established in the State Treasury  
39 the Fund for Workers' Compensation and Safety as an enterprise  
40 fund. All money received from assessments levied on insurers and  
41 employers by the Administrator pursuant to NRS 232.680 must be  
42 deposited in this Fund.

43 2. All assessments, penalties, bonds, securities and all other  
44 properties received, collected or acquired by the Division for  
45 functions supported in whole or in part from the Fund must be



1 delivered to the custody of the State Treasurer for deposit to the  
2 credit of the Fund.

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

6 (a) All salaries and other expenses in administering the Division  
7 of Industrial Relations, including the costs of the office and staff of  
8 the Administrator.

9 (b) All salaries and other expenses of administering NRS  
10 616A.435 to 616A.460, inclusive, the offices of the Hearings  
11 Division of the Department of Administration and the programs of  
12 self-insurance and review of premium rates by the Commissioner.

13 (c) The salary and other expenses of a full-time employee of the  
14 Legislative Counsel Bureau whose principal duties are limited to  
15 conducting research and reviewing and evaluating data related to  
16 industrial insurance.

17 (d) All salaries and other expenses of the Fraud Control Unit for  
18 Industrial Insurance established pursuant to NRS 228.420.

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

21 (f) That portion of the salaries and other expenses of the Office  
22 for Consumer Health Assistance established pursuant to NRS  
23 223.550 that is related to providing assistance to consumers and  
24 injured employees concerning workers' compensation.

25 *(g) All salaries and other expenses in administering the*  
26 *Occupational Safety and Health Review Board.*

27 4. The State Treasurer may disburse money from the Fund only  
28 upon written order of the Controller.

29 5. The State Treasurer shall invest money of the Fund in the  
30 same manner and in the same securities in which he is authorized to  
31 invest state general funds which are in his custody. Income realized  
32 from the investment of the assets of the Fund must be credited to the  
33 Fund.

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

39 7. If the Division refunds any part of an assessment, the  
40 Division shall include in that refund any interest earned by the  
41 Division from the refunded part of the assessment.

42 **Sec. 104.** NRS 616B.735 is hereby amended to read as  
43 follows:

44 616B.735 With respect to a construction project for which the  
45 owner intends to establish and administer an owner-controlled



\* S B 2 8 8 \*

1 insurance program or the principal contractor intends to establish  
2 and administer a contractor-controlled insurance program, the owner  
3 or principal contractor, as appropriate, shall:

4 1. In the notice or advertisement for bids for the construction of  
5 the project, state:

6 (a) That the employees of contractors and subcontractors who  
7 are engaged in the construction of the project will be covered under  
8 a consolidated insurance program when such employees work at the  
9 site of the project; and

10 (b) Whether such a program will be an owner-controlled  
11 insurance program or a contractor-controlled insurance program;  
12 and

13 2. Hold a pre-bid conference at which it provides to potential  
14 contractors and subcontractors, without limitation, the following  
15 information:

16 (a) A general explanation of the manner in which a consolidated  
17 insurance program operates;

18 (b) An overview of the provisions of NRS 616B.710 to  
19 616B.737, inclusive;

20 (c) A general description of the safety procedures that will be  
21 required as part of the consolidated insurance program; and

22 (d) The procedures pursuant to which claims for industrial  
23 insurance will be administered.

24 *3. Implement a safety plan completed in coordination with*  
25 *and approved by the Occupational Safety and Health Review*  
26 *Board, including, without limitation, the assignment of at least*  
27 *one person to be in charge of occupational safety and health, as*  
28 *required by subsection 4 of NRS 618.375, on the site of the project*  
29 *when employees are working on that site.*

30 **Sec. 105.** Chapter 624 of NRS is hereby amended by adding  
31 thereto a new section to read as follows:

32 *Before granting a renewal of a contractor's license to any*  
33 *applicant, the Board shall require that the applicant submit to the*  
34 *Board a current and valid OSHA-30 certification obtained by the*  
35 *applicant pursuant to section 9 of this act.*

36 **Sec. 106.** This act becomes effective on July 1, 2009.

