

WORKMEN'S COMPENSATION THROUGH PRIVATE INSURERS



Bulletin No. 83-5

LEGISLATIVE COMMISSION
OF THE
LEGISLATIVE COUNSEL BUREAU
STATE OF NEVADA

November 1982

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LEGISLATIVE COUNSEL BUREAU
STATE OF NEVADA

DECEMBER 1982

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FILE NUMBER 173

SENATE CONCURRENT RESOLUTION—Directing the legislative commission to study the feasibility and desirability of allowing insurance coverage for workmen's compensation through private insurance carriers.

WHEREAS, There is a recognized need to provide the employers of this state with alternative methods of obtaining industrial insurance; and

WHEREAS, There are currently only two methods allowed by state law, i.e., coverage through the state insurance fund and self-insurance; and

WHEREAS, Allowing such coverage through private insurance carriers could provide the direct and indirect benefits which ordinarily follow the introduction of competition into any field of activity; now, therefore, be it

Resolved by the Senate of the State of Nevada, the Assembly concurring, That the legislative commission is hereby directed to conduct a study of the feasibility and desirability of allowing insurance coverage for workmen's compensation to be provided through private insurance carriers; and be it further

Resolved, That the commission submit a final report of the findings of the study and any recommended legislation to the 62d session of the Nevada legislature.

REPORT OF THE LEGISLATIVE COMMISSION

TO THE MEMBERS OF THE 62ND SESSION OF THE NEVADA LEGISLATURE:

This report is submitted in compliance with Senate Concurrent Resolution No. 65 of the 61st session of the Nevada legislature. Senate Concurrent Resolution 65 directs the legislative commission to study the feasibility and desirability of allowing insurance coverage for workmen's compensation to be provided through private insurance carriers in the state.

In order to conduct the study, the legislative commission appointed a subcommittee with the following members:

Senator Richard E. Blakemore, Chairman
Assemblyman Robert E. Robinson, Vice Chairman
Senator William H. Hernstadt
Assemblyman James J. Banner
Assemblyman Helen A. Foley
Assemblyman Alan H. Glover
Assemblyman John E. Jeffrey
Assemblyman Edward J. Kovacs
Assemblyman Ira V. Rackley

The subcommittee held four meetings and received extensive testimony from interested parties. This report presents the subcommittee's basic recommendation along with the proposed bill which would put this recommendation into practice. It also contains background information about the history of the Nevada workmen's compensation laws, the activities of the Nevada industrial commission, and workmen's compensation laws in other states. All supporting documents and minutes of meetings are on file with the legislative counsel bureau.

Respectfully submitted,

Legislative Commission
Legislative Counsel Bureau
State of Nevada

Carson City, Nevada
December 1982

LEGISLATIVE COMMISSION

Assemblyman Robert R. Barengo, Chairman
Assemblyman Joseph E. Dini, Jr., Vice Chairman

Senator Keith Ashworth
Senator Richard E. Blakemore
Senator Jean E. Ford
Senator Virgil M. Getto
Senator Lawrence E. Jacobsen
Senator James N. Kosinski

Assemblyman Mike Malone
Assemblyman Paul W. May, Jr.
Assemblyman Kenneth K.
Redelsperger
Assemblyman Robert F. Rusk

SUMMARY OF RECOMMENDATIONS

The subcommittee made one basic recommendation:

To allow private insurance carriers to provide coverage for workmen's compensation insurance in Nevada.

In order to put this recommendation into practice, a proposed bill was drafted. Even though they are not presented in the form of recommendations, many substantive policy decisions are contained in the bill draft.

REPORT TO THE LEGISLATIVE COMMISSION FROM THE SUBCOMMITTEE
TO STUDY THE FEASIBILITY AND DESIRABILITY OF ALLOWING
INSURANCE COVERAGE FOR WORKMEN'S COMPENSATION
THROUGH PRIVATE CARRIERS

I. INTRODUCTION

The 1981 legislature adopted S.C.R. 65 which directed the legislative commission to study the feasibility and desirability of allowing insurance coverage for workmen's compensation through private carriers in the state. Currently, workmen's compensation insurance is only available to employers through the state industrial insurance system, although certain large companies are allowed to provide their own coverage through self-insurance.

The subcommittee which conducted the study held four meetings in Carson City and Las Vegas. Input was received from the insurance industry, the state industrial insurance system, employee organizations, and employers in the state. Several studies of relevance to this basic question had been conducted over the past 10 years. The background information from these studies and several other sources assisted the subcommittee members in making their decisions.

II. BACKGROUND ON NEVADA INDUSTRIAL COMMISSION
AND WORKMEN'S COMPENSATION LAWS

A. LEGISLATIVE HISTORY

Nevada was one of the early states to enact workmen's compensation laws. The original industrial insurance act was adopted in 1913, and a complete revision was drafted in 1947 (chapter 616 of Nevada Revised Statutes). To recognize the controversial nature of these laws, one only has to realize that they have been amended during every regular legislative session since 1913.

The Nevada Occupational Diseases Act (chapter 617 of NRS) was adopted in 1947, and it also has been amended during every regular legislative session since its enactment.

The Nevada Occupational Safety and Health Act (chapter 618 of NRS) was originally passed in 1955. It was completely redrafted in 1973. This 1973 version was amended in 1975, 1977, and 1981.

Recent legislative sessions have brought major changes to the statutes relative to workmen's compensation insurance. During the 1979 session, self-insurance was authorized for qualified employers. The self-insurance option became effective on January 1, 1980. Prior to that time, the Nevada industrial commission (NIC) had been the exclusive provider of workmen's compensation insurance in the state.

In 1981, the legislature completely revised the structure of the Nevada industrial commission. This reorganization became operational on July 1, 1982. Briefly, the reorganization provides for a successor to the NIC's insurance operation which is called the state industrial insurance system (SIIS). It is a public corporation solely providing workmen's compensation insurance and related consulting safety services and rehabilitation services. The system is run by a board of directors and a general manager. The regulatory functions of NIC have been shifted into a new department of industrial relations (DIR). This department consists of a director and the divisions of administrative services, occupational safety and health, mine inspection, and industrial insurance regulation. The division of industrial insurance regulation is the regulatory agency for all insurers, including the state industrial insurance system and self-insured employers. Certification of self-insurers and rate review remain as responsibilities of the commissioner of insurance.

B. STATISTICAL INFORMATION

Several types of semi-related statistical information may be useful in obtaining an understanding of the administration of Nevada's workmen's compensation laws. Tables I, II and III present historical data relative to the rapid growth of the state's workmen's compensation system and the financial activities of the NIC.

As Table II indicates, the net premiums collected during fiscal year 1980 totaled \$123 million. Premiums are based on 546 risk classifications divided into 74 rating groups. All risk classifications in the same rating group pay the same premium rate. When an employer first becomes covered,

he pays the basic premium rate for his risk classifications. After a minimum of 1 year of experience, a modification factor is applied to the rates of larger employers to reflect their above-average or below-average loss experience.

Approximately 20 percent of the claims filed in Nevada involve a period of disability of 5 days or more for which compensation is paid. The NIC prepared and delivered approximately 82,000 compensation payments for temporary total disability during the 1980-1981 fiscal year. These payments went to more than 19,000 injured workers. The disbursements amounted to \$20 million. During the same period, \$29 million was disbursed in response to 235,000 bills submitted by providers of medical care.

In 1981, the advisory board of review for the NIC concluded that Nevada is ranked 11th highest nationally in workmen's compensation benefits. The state is also declared to have the lowest premium rates among the surrounding states that have comparable benefit levels. The advisory board additionally indicated that the NIC is well below the recommended administration expense level of the National Council on Compensation Insurance as well as being below the administrative costs of most other states with state funds. According to the advisory board, Nevada also appears to be in the forefront in its emphasis on rehabilitation to return injured workers to gainful employment.

(Source: Report of the Advisory Board of Review for the Nevada Industrial Commission, January 1981, pages 5, 27, 44 through 45, and 56.)

TABLE I

COMPARISON OF POPULATION, NIC COVERAGE AND CLAIMS				
<u>Fiscal Year</u>	<u>State Population</u>	<u>Employers Insured</u>	<u>Covered Employees (Estimate)</u>	<u>No. of Claims Filed</u>
1960	285,278 48%	8,015 41%	98,000 53%	16,170 54%
1965	422,972 16%	11,316 14%	150,000 29%	24,865 14%
1970	488,738 22%	12,923 14%	193,000 29%	28,444 30%
1975	595,200 34%	14,701 83%	250,000 33%	36,926 101%
1980	799,184	26,835*	332,000	74,229
*Approximately 6,000 accounts are individual real estate salesmen accounts set up as a result of 1977 legislation and regulations of the real estate division.				
Percentage figures represent 5 year increase in each of the columns.				

Source: Nevada Industrial Commission
Date: December 21, 1981

TABLE II

ANNUAL OPERATING STATEMENT SUMMARY - NEVADA INDUSTRIAL COMMISSION
(In Thousands of Dollars)

Fiscal Year	Earned Premium	Retrospective Rating Plan Adjustment	Net Premium	Claim Losses Incurred	Admin. Expenses	Underwriting Gain/(Loss)	Dividend Declared	Revaluation of Reserves	Investment Gain	Net Gain/(Loss) on Operations
1971	17,055 48%	----	17,055 48%	16,904 27%	1,824 10%	(1,672)	----	(4,930)	1,212	(5,356)
1972	25,300 29%	----	25,300 29%	21,441 25%	2,009 36%	1,849	----	(1,947)	1,241	1,182
1973	32,759 33%	----	32,759 33%	26,848 36%	2,737 32%	3,174	----	(1,731)	1,065	2,508
1974	43,630 -1%	----	43,630 -1%	36,505 8%	3,610 23%	3,514	2,000	1,624	1,774	4,914
1975	43,115 24%	----	43,115 24%	39,295 36%	4,425 44%	(605)	----	(135)	3,000	2,260
1976	53,626 35%	----	53,626 35%	53,294 20%	6,385 20%	(6,053)	----	(2,021)	4,915	(3,158)
1977	72,468 28%	----	72,468 28%	63,947 25%	7,634 16%	887	----	(5,401)	5,096	583
1978	92,819 19%	----	92,819 17%	79,618 21%	8,859 26%	4,015	20,000	19,992	7,093	11,030
1979	110,674 15%	2,300	108,374 13%	96,717 14%	11,193 11%	464	15,000	3,118	12,091	673
1980	127,713	4,746	122,967	110,719	12,450	(202)	13,515	8,167	13,409	9,213

Percentage figures represent year-to-year increase in each of the columns.

Source: Nevada Industrial Commission

Date: December 21, 1981

TABLE III

NEVADA INDUSTRIAL COMMISSION 10-YEAR BALANCE SHEET SUMMARY
FINANCIAL STATUS YEAR END
(In Thousands of Dollars)

<u>Year</u>	<u>Total Assets*</u>	<u>Investments</u>	<u>Total Liabilities</u>	<u>Claim Reserves</u>	<u>Provision for Contingencies</u>
1971	36,280	31,616	32,345	30,567	3,896
	28%	22%	28%	28%	30%
1972	46,473	38,488	41,359	39,191	5,079
	32%	39%	30%	31%	50%
1973	61,194	53,664	53,571	51,358	7,623
	38%	39%	35%	30%	64%
1974	84,639	74,428	72,102	66,702	12,536
	23%	21%	23%	26%	20%
1975	103,709	90,169	88,694	83,958	15,015
	23%	22%	30%	33%	-21%
1976	127,514	110,163	115,658	111,769	11,856
	29%	29%	32%	33%	-5%
1977	164,550	142,071	153,146	148,531	11,315
	30%	27%	26%	13%	82%
1978	213,127	180,619	192,568	167,248	20,559
	32%	35%	34%	27%	10%
1979	280,331	243,265	257,544	212,739	22,787
	19%	19%	17%	21%	40%
1980	334,190	290,377	302,190	256,868	32,000

Percentage figures represent year-to-year increase in each of the columns.

*Includes earned but unreported premiums.

Source: Nevada Industrial Commission

Date: December 21, 1981

III. SUMMARY OF STUDIES OF THE NEVADA INDUSTRIAL COMMISSION WHICH HAVE BEEN CONDUCTED SINCE 1970

The following are very brief summaries of the studies of the Nevada industrial commission which have been conducted since 1970. These summaries emphasize sections of the 1970-1981 studies which are relevant to the issue of whether to allow private carriers of workmen's compensation insurance.

1. Nevada Industrial Commission Study, Bulletin No. 104, Legislative Commission, December 1972.

This study emphasized the organizational aspects of the Nevada industrial commission, its methods of operation, its relationship to physicians in the state, and issues associated with physicians' fees.

Relative to the question of whether the NIC should remain a monopoly or be exposed to the competition of private carriers, the subcommittee concluded that "for the present, the industrial commission should not be exposed to competition" (page 9). The members had received advice to this effect from their two consultants, F. Britton McConnell and Peat, Marwick, Mitchell & Company. However, the subcommittee expressed its basic concern about the problem of how "to insure proper efficiency in the commission without the pressures of competition to hone the operation" (page 10). In order to address this issue to some degree, the subcommittee recommended that the NIC chairman be "a qualified, capable man and performs accordingly" and that periodic review of the commission be made as would be the case in the private insurance business (pages 10 through 11).

In drawing his conclusion, the subcommittee's consultant, Mr. McConnell, made the following statement:

I think a period of several years will have to elapse before there can exist the essential conditions that would justify such a basic change in the historically necessary and now existing state monopoly. If private insurance and self-insurance

were to be authorized by legislation, there would have to be a whole new complex of Statutes. Rates would have to be regulated; policyholder dividends would also have to be regulated; the Anti-Rebate Statutes would have to be revised and amended; a system of test audits would have to be instituted through the office of the Insurance Commissioner and the Insurance Commissioner would have to develop a staff of experienced examiners in workmen's compensation and a whole new set of periodical verified reports and Manual governing examinations to assure protection of the public interest (exhibit A, pages 9 and 10).

2. Administrative Procedures Followed by the Nevada Industrial Commission and Alternative Methods of Providing Workmen's Compensation Coverage, Bulletin No. 79-1, Legislative Commission, October 1978.

The purpose of this study was specifically to evaluate alternative methods of providing workmen's compensation coverage.

The basic conclusion of the subcommittee was as follows:

The subcommittee recognizes the need to provide the employers of this state with alternative methods of coverage but it is not of the opinion that the entry of private carriers into the field of workmen's compensation insurance at this time is in the best interest of all concerned (page 5).

The subcommittee "questioned whether the market was sufficiently large to maintain itself in the event of an economic crisis, such as that which caused the exit of many medical malpractice insurers in recent years" (page 5).

The private insurance industry prepared an analysis which was included as an appendix in the report. This analysis concluded that private insurance companies could compete in the state under certain conditions (page 4).

Other than the decision not to allow private carriers in the field, the subcommittee's two most significant

recommendations relative to methods of providing coverage were (1) to restructure the NIC to accommodate the increased volume of claims and provide for the transition from an exclusive state fund to a system which permits private carriers to write workmen's compensation insurance should the need arise, and (2) to permit certain employers to become self-insured under the supervision of the commissioner of insurance (page 6). The self-insurance program was initiated on July 1, 1980, and a major reorganization became effective on July 1, 1982.

3. The Workers' Compensation System in the State of Nevada: An Evaluation of Alternatives, SRI International, March 1979.

SRI International was retained by the NIC to undertake this study in response to a recommendation from the governor's NIC labor-management advisory board. According to the document, SRI had complete independence in performing the study, and the NIC was committed to publication of the results.

The study concluded that "there is no reason to believe that the following functions are not effectively carried out presently (by the NIC): ratemaking, reserving, determining premiums and classifications, investigating and adjudicating claims, determining and delivering benefits, and performing medical and vocational rehabilitation. When the Nevada system is considered objectively, it must be considered to be sound and generally responsive to employers and employees" (pages 48 through 49). Additional discussion of each of these facets of the NIC's performance can be located in the report on pages 11, 15, 18, 20, 22 and 37.

In discussing some of the criticisms which have been directed toward the NIC, the researchers concluded that "there is little convincing evidence that a new system would be a panacea." In states which have two-way or three-way systems, the same points receive criticism as in the Nevada program (page 29).

The two most relevant conclusions and recommendations from the study were as follows:

The interposition of private insurers is neither necessary nor desirable at the present time, although it may be at some time in the future. Improvements in the current system should continue to be made. At the present time, Nevada should not permit the entrance of private insurers for purposes of writing workers' compensation insurance (page 3).

It is now appropriate to expand the existing system to accommodate self-insurers (page 3).

In reviewing the possibility of establishing a three-way system, the researchers concluded that the following additional functions would have to be initiated:

- Qualify private carriers;
- Monitor the financial condition of private carriers;
- Monitor competitive practices;
- Assure availability of coverage; and
- Approve premium rates (page 25).

4. Report of the Advisory Board of Review for the Nevada Industrial Commission, Advisory Board of Review, January 1981.

The advisory board of review for the Nevada industrial commission was created by A.B. 27 of the 1979 legislative session. As prescribed in the bill, the governor appointed the nine-member board made up of three members representing the public, three members representing organized labor and three members representing management.

The advisory board met a total of 25 days and considered in excess of 125 agenda items. They contracted for secretarial services, a consulting actuary, and a management consulting firm to conduct an organizational study of the NIC.

The report indicated that Nevada is ranked 11th highest nationally in workers' compensation benefits, is the lowest in premium rates among the surrounding states that have comparable benefit levels, and is significantly below the recommended administration expense level of the National Council on Compensation Insurance as well as being below the administrative cost levels of most other states which have state funds. The report also indicated that Nevada appears to be in the forefront in its emphasis on rehabilitation to return injured workers to gainful employment. The advisory board's consulting actuary was directed to assess rate-making in the Nevada system and found it complies with the accepted principles of the insurance industry. The consulting actuary also reviewed the NIC's reserving practices and found no need to recommend any change in the NIC's procedures for determining reserves (pages 5, 45, 57 and 58).

However, the advisory board found that modifications to the Nevada system were needed due to the unparalleled growth in covered employment over the past decade, the major program changes adopted by the legislature and the NIC in the 1970's, and the introduction of self-insurance (page 6). Forty-two recommendations were made. The most significant of these was for reorganization of the Nevada system basically to retain the NIC's state fund as a provider of workmen's compensation insurance and to put the regulation function into a different department. This new structure was established through S.B. 548 which was enacted in the 1981 legislative session. The new organization became functional on July 1, 1982.

The report did not include any recommendation concerning whether or not to allow private carriers of workmen's compensation insurance. However, several hours of testimony were heard on the subject. With seven of the nine members present, the advisory board voted to oppose the three-way plan by a 4 to 2 margin, with one member abstaining (April 6, 1981, minutes of hearing on S.B. 203 before the senate committee on commerce and labor; and June 30, 1981, letter from the advisory board to Governor Robert List).

IV. WORKMEN'S COMPENSATION LAWS IN OTHER STATES

A. HISTORY

Workmen's compensation was the first social insurance system in the United States. It developed as a consequence of the high rate of industrial accidents in the 19th and early 20th centuries. The litigation which arose out of this situation proved to be an unsatisfactory means of caring for injured workers.

It was proposed that the right to bring legal action against the employers on the grounds of negligence be exchanged for a system whereby benefits would be paid for all injuries "arising out of or in the course of employment." The costs of the work-related injuries would be allocated to the employer, not because of any presumption that he was to blame for every individual injury, but because the inherent hazards of employment were a cost of production. This "no-fault" approach spread rapidly. Between 1911 and 1920, all but six states passed workmen's compensation statutes.

(Source: The Interdepartmental Workers' Compensation Task Force, "Workers' Compensation: Is There A Better Way?" January 19, 1977, pp. 7-8.)

B. CURRENT STATUS

Because the states traditionally have taken the lead in workmen's compensation law, there is a considerable amount of diversity within the programs around the country. The basic administrative structures differ between states, the benefits vary, the methods for setting rates are different, and many other basic features vary from state to state. It is especially relevant to notice that the method of delivering workmen's compensation insurance varies significantly between states.

Table IV outlines each state's type of workmen's compensation law and the methods used to deliver the insurance. Workmen's compensation insurance is compulsory in every state except New Jersey, South Carolina and Texas.

There are 12 states which have competitive state funds. Six additional states have exclusive state funds through which the required insurance is provided. These six states are Nevada, North Dakota, Ohio, Washington, West Virginia and Wyoming. Private carriers are allowed in the other 44 states. Self-insurance by individual employers is allowed in all states except North Dakota, Texas and Wyoming. Most states do not allow self-insurance by groups of employers.

C. RECENT LEGISLATIVE ACTIVITIES

Recent years have exhibited considerable turmoil in the area of workmen's compensation. Legislatures in most states have been considering modification of some aspect of their systems. Of special relevance to the current study are the states which have been looking at the possibility of changing the basic structure through which workmen's compensation insurance is carried. Although there has been significant activity in several states, no state has altered its basic system since 1980. It is interesting to note that there have been unsuccessful attempts to allow private carriers into states with exclusive state funds, and conversely there have also been unsuccessful attempts to establish state funds in states where they do not currently exist.

Following is a brief summary of the activities since 1980 in states which have exclusive state funds and in states which have considered establishing new state funds.

States with Exclusive State Funds

Nevada	A bill (S.B. 203) which would have allowed private carriers of workmen's compensation insurance in the state was considered in 1981. Extensive testimony was taken. The bill was not passed, but a resolution calling for an interim legislative study of the issue was adopted.
North Dakota	No bills have been introduced in recent years.
Ohio	In 1981, a referendum was placed on the ballot which proposed to change the Ohio constitution in order to allow private

carriers of workmen's compensation insurance. The issues were hotly contested with a combined total of \$5 million being spent by the two sides in efforts to further their points of view. The referendum was defeated by a 79 percent to 21 percent margin, and thus private carriers were not allowed in the state.

Washington In 1981, HB 31 which proposed to allow private carriers of workmen's compensation insurance was introduced. It passed the House by a large margin but was defeated in the Senate by one vote. The issue is considered to be a partisan political question in Washington. As of February 1, no bill had been introduced during the 60-day 1982 session.

West Virginia No bills have been introduced in recent years.

Wyoming No bills have been introduced in recent years.

States Without State Funds

(Only states which have considered establishment of a state fund are reviewed.)

Illinois A coalition of construction contractors, manufacturing associations and labor unions proposed a bill in 1981 which would have created a competitive state fund. The measure did not get out of the initial committee to which it was assigned. Legislative staff indicated that the \$10 million fiscal note attached to the bill was especially significant in a year when the state was not in good shape financially.

Kentucky In 1980, a bill proposing to create a competitive state fund was introduced. It was voted out of the House committee but later reassigned back to the committee, and thus

never reached a vote on the floor. No bill has been introduced in 1982, and the original supporters have redirected their efforts toward changing the rating system in the state.

Maine In 1981, the legislature of Maine considered a bill which proposed creation of a competitive state fund. The measure passed the House by a comfortable margin. It was defeated in the Senate by a three-vote margin (16 to 13).

Michigan Michigan is categorized as having a competitive state fund, although this fund does not really function as a general provider of insurance. A bill which would have created an exclusive state fund patterned after the Ohio system was introduced in 1981. This proposal was not adopted. Instead, the legislature chose to redesign substantially the existing system by modifying the eligibility requirements, methods of calculating benefits, administrative procedures and insurance rates.

Minnesota In 1981, a bill proposing to create a competitive state fund was heard in a House committee. The measure was assigned to a subcommittee and was still in the subcommittee on February 1, 1982. The question is considered to be a partisan political issue in the state, and the Republican governor has indicated that he will veto the bill if it comes before him.

Pennsylvania The state department of labor and industry has been working on a proposal which would result in creation of a competitive state fund. However, staff does not expect that any changes of this magnitude will be enacted.

TABLE IV

TYPE OF LAW AND INSURANCE REQUIREMENTS FOR PRIVATE EMPLOYMENT						
Jurisdiction	Type of Law:		State Fund	Insurance Through:		
	Compulsory or Elective	Waivers Permitted		Private Carrier	Self-insurance By: A. Indiv. Employer	B. Grp. of Employers
Alabama	Compulsory	No	No	Yes	Yes	Yes
Alaska	Compulsory	Yes	No	Yes	Yes	No
Arizona	Compulsory	Yes	Competitive	Yes	Yes	No
Arkansas	Compulsory	Yes	No	Yes	Yes	Yes
California	Compulsory	No	Competitive	Yes	Yes	No
Colorado	Compulsory	Yes	Competitive	Yes	Yes	No
Connecticut	Compulsory	Yes	No	Yes	Yes	Yes
Delaware	Compulsory	No	No	Yes	Yes	Yes
Florida	Compulsory	Yes	No	Yes	Yes	Yes
Georgia	Compulsory	Yes	No	Yes	Yes	Yes
Hawaii	Compulsory	No	No	Yes	Yes	No
Idaho	Compulsory	No	Competitive	Yes	Yes	No
Illinois	Compulsory	No	No	Yes	Yes	Yes
Indiana	Compulsory	No	No	Yes	Yes	Yes
Iowa	Compulsory	Yes	No	Yes	Yes	Yes
Kansas	Compulsory	Yes	No	Yes	Yes	No
Kentucky	Compulsory	Yes	No	Yes	Yes	Yes
Louisiana	Compulsory	Yes	No	Yes	Yes	Yes
Maine	Compulsory	Yes	No	Yes	Yes	Yes
Maryland	Compulsory	Yes	Competitive	Yes	Yes	Yes
Massachusetts	Compulsory	No	No	Yes	Yes	Yes
Michigan	Compulsory	No	Competitive	Yes	Yes	Yes
Minnesota	Compulsory	No	No	Yes	Yes	Yes
Mississippi	Compulsory	No	No	Yes	Yes	No
Missouri	Compulsory	No	No	Yes	Yes	No
Montana	Compulsory	Yes	Competitive	Yes	Yes	No
Nebraska	Compulsory	Yes	No	Yes	Yes	No
NEVADA	Compulsory	No	Exclusive	No	Yes	No
New Hampshire	Compulsory	No	No	Yes	Yes	Yes
New Jersey	Elective	No	No	Yes	Yes	No
New Mexico	Compulsory	Yes	No	Yes	Yes	No
New York	Compulsory	No	Competitive	Yes	Yes	Yes
N. Carolina	Compulsory	Yes	No	Yes	Yes	Yes
N. Dakota	Compulsory	No	Exclusive	No	No	No
Ohio	Compulsory	Yes	Exclusive	No	Yes	No
Oklahoma	Compulsory	No	Competitive	Yes	Yes	No
Oregon	Compulsory	No	Competitive	Yes	Yes	No
Pennsylvania	Compulsory	No	Competitive	Yes	Yes	No
Rhode Island	Compulsory	No	No	Yes	Yes	No
S. Carolina	Elective	Yes	No	Yes	Yes	Yes
S. Dakota	Compulsory	Yes	No	Yes	Yes	No
Tennessee	Compulsory	Yes	No	Yes	Yes	No
Texas	Elective	No	No	Yes	No	No
Utah	Compulsory	No	Competitive	Yes	Yes	No
Vermont	Compulsory	Yes	No	Yes	Yes	No
Virginia	Compulsory	Yes	No	Yes	Yes	Yes
Washington	Compulsory	No	Exclusive	No	Yes	No
W. Virginia	Compulsory	No	Exclusive	No	Yes	No
Wisconsin	Compulsory	No	No	Yes	Yes	No
Wyoming	Compulsory	No	Exclusive	No	No	No
United States:*						
FECA	Compulsory	No	Exclusive	No	Yes	No
LHWCA	Compulsory	No	No	Yes	Yes	No

*FECA means Federal Employees Compensation Act.
LHWCA means Longshoremen's and Harbor Workers' Compensation Act.

U.S. DEPARTMENT OF LABOR
Division of State Workers' Compensation Standards
July 1, 1981

V. CONCLUSIONS AND RECOMMENDATIONS

The subcommittee made one basic recommendation:

To allow private insurance carriers to provide coverage for workmen's compensation insurance in Nevada.

In order to put this recommendation into practice, a proposed bill was drafted (See appendix I - suggested legislation). Even though they are not presented in the form of recommendations, many substantive policy decisions are also contained in the bill draft.

In general, it can be stated that the insurance industry supported the concept of allowing private carriers of workmen's compensation insurance. Labor organizations and the state industrial insurance system provided the primary opposition. Some employers testified in favor of the concept, and other employers voiced their opposition.

The Nevada Independent Insurance Agents presented to the subcommittee a written proposal for allowing private carriers of workmen's compensation. The basic content of the proposal was adopted by the subcommittee, and the task of drafting the complex bill necessary to effectuate the proposal was initiated. The staff of the legislative counsel bureau worked with experts in the insurance field to draft a bill which would be technically sound and alleviate as many of the concerns of the interested parties as possible.

In addition to their basic disagreement about allowing private carriers in the state, the interested parties retained several points of disagreement about how such a system should be administered if it were to be allowed. In adopting its recommended bill, the subcommittee generally endorsed the language upon which the interested parties agreed. Relative to areas of dispute, the subcommittee made choices of one viewpoint or the other in most cases.

Following is a listing of the areas upon which the interested parties who testified before the subcommittee were not able to reach agreement:

1. Whether the system should be treated the same as other insurers, or whether the system, as a state agency, should have certain benefits or restrictions for its activities.
2. Whether the provisions of NRS 616.255 and NRS 616.256 on "grandfathered" employers should be removed.
3. Whether an employer must notify the system and administrator if he wishes to purchase industrial insurance from a private carrier.
4. Whether services for rehabilitation must be offered by insurers.
5. Whether an employer and insurer should have joint liability for the benefits which are owed to the claimant.
6. Whether any insurers providing industrial insurance should pay the premium tax of 2 percent to the commissioner of insurance.
7. Whether the commissioner of insurance or the administrator should select the rating organization, approve the classifications of risk, rate or statistical plans and hear appeals on those plans.
8. Whether private carriers must offer insurance in all classifications.
9. Whether an insurer may refuse to insure an employer.
10. Whether a standard policy of insurance should be approved by the commissioner.
11. Whether penalties should be assessed for the late payment of benefits to a worker.
12. Whether private carriers should contribute to the solvency fund for self-insured employers or the guarantee fund for other insurers under chapter 687A of NRS.

13. Whether rates may be modified for the employer's experience in other states.
14. Whether dividends are payable from surplus resulting from other states.
15. Whether the rating system should prohibit practices which affect small employers or public employers.
16. Whether the current insurer should initially pay benefits to a worker if there is a dispute between insurers concerning their responsibilities.
17. Whether an insurer must maintain an "office" in this state or provide "adequate facilities," and what type of files must be maintained in this state.

At its final meeting, the subcommittee requested the interested parties to draft proposals upon which they could agree in the following two areas:

1. A system of rates and allowable deviations.
2. A statutory definition of "adequate facilities" which applies to private carriers, the state system and self-employers relative to facilities and files which must be maintained in this state.

These two proposals are to be presented to the appropriate standing committees when the bill resulting from this interim study is heard during the 1983 legislative session.

VI. LIST OF SELECTED DOCUMENTS

1. Advisory Board of Review for the Nevada Industrial Commission, Report of the Advisory Board of Review for the Nevada Industrial Commission, January 1981.
2. The Interdepartmental Workers' Compensation Task Force, Research Report - Nine Volumes, June 1979.
3. The Interdepartmental Workers' Compensation Task Force, "Workers Compensation: Is There A Better Way?", January 19, 1977.
4. Larson, Arthur, The Law of Workmen's Compensation, 1981.
5. Legislative Commission, Administrative Procedures Followed by the Nevada Industrial Commission and Alternative Methods of Providing Workmen's Compensation Coverage, Bulletin No. 79-1, October 1978.
6. Legislative Commission, Nevada Industrial Commission Study, Bulletin No. 104, December 1972.
7. Nevada Industrial Commission, "The Nevada Industrial Insurance Act and Occupational Diseases Act with 1981 Legislative Changes."
8. Office of Worker's Compensation Programs, U.S. Department of Labor, "State Workers' Compensation Laws," August 1981.
9. SRI International, The Workers' Compensation System in the State of Nevada: An Evaluation of Alternatives, March 1979.

APPENDIX A - SUGGESTED LEGISLATION

SUMMARY-Provides for industrial insurance coverage by private insurers. (BDR 53-27)

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

AN ACT relating to industrial insurance; providing for industrial insurance by private insurers; providing for state supervision of rates and rating and other organizations; providing penalties; and providing other matters properly relating thereto.

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

Section 1. Chapter 616 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 21, inclusive, of this act.

Sec. 2. "Industrial insurance" means insurance which provides the benefits required by chapters 616 and 617 of NRS and employer's liability insurance incidental to and written in connection therewith.

Sec. 3. "Private carrier" means any insurer or the legal representative of an insurer authorized to provide industrial insurance under this chapter and chapter 617 of NRS. The term does not include a self-insured employer or the system.

Sec. 4. "Rating organization" means the organization designated and licensed by the commissioner to file the rating system for all insurers, except self-insured employers, under this chapter and chapter 686B of NRS.

Sec. 5. 1. An employer may elect to purchase industrial insurance for his employees under this chapter or chapter 617 of NRS from a private carrier.

2. An employer may elect to purchase insurance from an insurer other than his present insurer if the employer has:

(a) Given at least 10 days' notice to the administrator of the change of insurer; and

(b) Furnished evidence satisfactory to the administrator that the payment of compensation has otherwise been secured.

3. Each private carrier and the system shall notify the administrator if an employer has changed his insurer or has allowed his insurance to lapse, within 10 days after the insurer has notice of the change or lapse.

Sec. 6. Every employer shall post a notice upon his premises in a conspicuous place identifying his industrial insurer. The notice must include the insurer's name, business address and, if insurance is provided by a private carrier, the name and business address of the carrier's nearest adjuster in this state. The employer at all times shall maintain the notice provided for the information of his employees.

Sec. 7. Every private carrier providing industrial insurance in this state shall provide adequate:

1. Facilities in this state to administer claims for benefits and provide for the retention of a file on each claim in this state; and

2. Services to its insured employers in:

(a) Engineering for safety; and

(b) Providing information on the prevention of industrial accidents or occupational diseases.

Sec. 8. 1. Within 30 days after the insurer has been notified of an industrial accident, every insurer shall:

(a) Commence payment of a claim for benefits; or

(b) Deny the claim and notify the claimant and administrator that the claim has been denied.

Payments made by an insurer under this section are not an admission of liability for the claim or any portion thereof.

2. If an insurer unreasonably delays or refuses to pay benefits within 30 days after the insurer has been notified of an industrial accident, the insurer shall pay upon order of the administrator an additional amount equal to three times the amount then overdue. This payment accrues for the benefit of the claimant and must be paid to him with the compensation benefits assessed under this chapter and chapter 617 of NRS.

Sec. 9. Before a private carrier may provide industrial insurance under this chapter and chapter 617 of NRS the private carrier must be certified by the:

1. Commissioner under chapter 680A of NRS and shall maintain such security of the kind described in NRS 680A.120 and 680A.140 as may be required; and

2. Administrator under this chapter, chapter 617 of NRS and the regulations of the department.

Sec. 10. Every private carrier shall issue a policy or contract of insurance in writing which contains the insuring agreements and exclusions. The policy or contract is subject to this chapter and chapter 617 of NRS. Any provisions of a policy or contract inconsistent with this chapter and chapter 617 of NRS shall be deemed to be reformed to conform with those chapters.

Sec. 11. 1. Any insurer providing industrial insurance under this chapter and chapter 617 of NRS is the insurer of the employees of the employer within the protection of this chapter. With the consent of the commissioner a separate insurance policy may be issued for a specified plant or location if the liability of the employer under this chapter and chapter 617 of NRS to all other employees is otherwise secured.

2. Every policy or contract of insurance issued under this chapter and chapter 617 of NRS must contain a provision for the requirements of subsection 6 and a provision that insolvency or bankruptcy of the employer or his estate, or discharge therein, or any default of the employer does not relieve the private carrier from liability for compensation resulting from an injury otherwise covered under the policy issued by the private carrier.

3. No statement in an employer's application for a policy of industrial insurance voids the policy as between the private carrier and employer unless the statement is false and would materially have affected the acceptance of the risk if known by the private carrier, but in no case does the invalidation of a policy as between the private carrier and employer affect the private

carrier's obligation to provide compensation to claimants arising before the cancellation of the policy. If the private carrier is required under this subsection to provide compensation under an invalid policy the private carrier is subrogated to the claimant's rights against the employer.

4. Except for fraud or nonpayment of premiums, if the private carrier or employer intends to cancel a contract or policy of insurance issued by the private carrier under this chapter and chapter 617 of NRS within the policy period, he shall give notice to that effect in writing to the administrator and to the other party fixing the date on which it is proposed that the cancellation be effective. Such notices must be served personally on or sent by first class mail to the administrator and the other party. No such cancellation is effective until 30 days after the mailing or personal service of the notice unless the employer has secured insurance with another insurer which would cause double coverage. In that event the cancellation must be made effective as of the effective date of the other insurance.

5. As between any claimant and the insurer, no defense based on any act or omission of the insured employer, if different from the insurer, may be raised by the insurer.

6. For the purposes of this chapter and chapter 617 of NRS, as between the employee and the insurer:

(a) Notice or knowledge of the injury to or by the employer is notice or knowledge to or by the insurer;

(b) Jurisdiction over the employer is jurisdiction over the insurer; and

(c) The insurer is bound by and subject to any findings, judgments of fact, conclusions of law, awards, decrees, orders or decisions rendered against the employer in the same manner and to the same extent as the employer.

Sec. 12. The system and each private carrier shall make available to the rating organization all records of accident experience, loss experience and related records to assist in making rates and for the uniform statistical plan for industrial insurance. The administrator shall make available to the rating organization for the uniform statistical plan similar records reported to him by the self-insured employers.

Sec. 13. 1. The rating organization shall file its rating system, including all rates, classifications of risk, rules, rating plans, policy forms and a uniform statistical plan with the commissioner for his approval according to the requirements of chapter 686B of NRS and this chapter.

2. The filing made by the rating organization must be made on behalf of all insurers, except self-insured employers.

3. If a filing is not accompanied by the information needed to support the filing and the commissioner does not have sufficient information to determine whether the filing meets the requirements of the law, he shall require the organization to furnish the information upon which it supports the filing.

4. A filing by the rating organization must be made at least 15 days before the filing is to become effective. The 15-day

period may be extended for an additional period, not to exceed 15 days, if:

(a) Additional time is needed by the commissioner to consider the application; and

(b) The commissioner gives written notice to the organization of the delay in approving the filing.

Upon written application by the organization, the commissioner may authorize a filing to become effective before the expiration of the waiting period.

5. A filing is effective upon the expiration of the waiting period or any extension thereof, unless the commissioner has disapproved the filing within that period.

6. If the commissioner disapproves the filing, he shall notify the rating organization in writing before the expiration of the waiting period or any extension thereof. The rating organization may request a hearing by the commissioner according to the provisions of NRS 679B.310 to 679B.390, inclusive.

7. No insurer may make or issue a contract or policy except in accordance with the filings made by the rating organization. Any insurer who wishes to appeal from the rates filed by the rating organization shall do so according to NRS 679B.310 to 679B.390, inclusive.

Sec. 14. The commissioner shall consider investment income on unearned premiums and money retained for loss reserves in approving the filing of the rating system by the rating organization.

Sec. 15. To determine the total amount paid to employees by each employer for services performed during a year, \$24,000 shall

be deemed to be the maximum amount paid to any one employee during the year.

Sec. 16. 1. Every insurer, except a self-insured employer, shall adhere to the filings made on its behalf by the rating organization. An insurer may make written application to the commissioner for permission to file a uniform decrease or increase, expressed as a percentage, to be applied to the rates produced by the filings made by the rating organization. A copy of the filing must be sent to the rating organization at the time it is filed. The application must specify the basis for the modification.

2. The rating organization has 10 days after notification that the deviation has been approved or disapproved to request a hearing by the commissioner. Failure to request a hearing within that time waives the right to a hearing.

3. In considering the application for permission to file the deviation, the commissioner shall give consideration to the available statistics and the principles for rates set forth in NRS 686B.060.

4. The commissioner shall issue an order permitting the deviation for the insurer to be filed if he finds it to be justified. The commissioner shall issue an order denying the application if he finds that the resulting premiums would be excessive, inadequate or unfairly discriminatory.

5. A deviation becomes effective 15 days after the commissioner has received the request unless within that period the

commissioner disapproves the deviation. Each deviation is effective for 1 year unless sooner terminated by order of or with the permission of the commissioner.

Sec. 17. If a private carrier withdraws from providing industrial insurance in this state or its certification to do so is withdrawn, the private carrier remains responsible for all compensation for injuries sustained during the period of coverage stated in its policies.

Sec. 18. A private carrier who writes industrial insurance for certain classes of risk outside this state shall write insurance for all of those classes in this state. A private carrier who specializes in insurance for one or more classes of risk may limit its offering of industrial insurance to those classes in this state.

Sec. 19. 1. A private carrier or the system is not required to issue to any particular employer a policy for industrial insurance under this chapter or chapter 617 of NRS.

2. The rating organization shall submit for the commissioner's approval a plan for the equitable apportionment among the system and all private carriers providing industrial insurance in this state for all risks not accepted by the system or any authorized private carrier.

3. The commissioner shall review each insurer's participation in the plan. If any private carrier issuing contracts of industrial insurance refuses to participate in the plan, the commissioner shall revoke the private carrier's authority to provide industrial insurance in this state.

Sec. 20. 1. The administrator shall resolve any disputes between insurers if an injured employee claims benefits against more than one insurer.

2. The administrator shall adopt regulations regarding the resolution of disputes between the insurers regarding benefits to be paid to any injured employee.

3. If the insurer or the employee is dissatisfied with the decision of the administrator, the insurer or employee may request a hearing before the hearing officer.

4. Until the administrator has determined which insurer is responsible for the claim, the current insurer of the employer shall pay the benefits to the claimant under this chapter and chapter 617 of NRS. Payments made by an insurer under this subsection are not an admission of liability for the claim or any portion thereof.

Sec. 21. 1. The administrator may suspend the certification of a private carrier to write industrial insurance for a period not exceeding 90 days, if the administrator finds that the private carrier has intentionally and repeatedly failed to comply with the provisions of this chapter, chapter 617 of NRS and the regulations of the department.

2. Before the administrator suspends the certification of a private carrier he shall arrange an informal meeting with the private carrier to discuss and seek correction of any conduct which would be grounds for suspension.

3. Before the suspension of the certification, the administrator shall give written notice to the private carrier that his certification will be suspended within 10 days after receipt of the notice unless, within that time, the private carrier corrects the conduct set forth in the notice as the reason for the withdrawal or submits a written request for a hearing to the administrator.

4. If the private carrier requests a hearing:

(a) The administrator shall set a date for a hearing within 20 days after receiving the notice of the appeal and shall give the private carrier at least 10 business days notice of the time and place of the hearing.

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

5. Within 5 days after the hearing, the administrator shall affirm or deny his order suspending the certification of the private carrier and notify the private carrier by certified mail of his decision.

6. If the private carrier does not comply with the order of the administrator during the period of suspension of the certification, the administrator shall file an order prohibiting the private carrier from issuing new policies until the order has expired. A copy of the order must be mailed by certified mail to the private carrier.

Sec. 22. NRS 616.015 is hereby amended to read as follows:

616.015 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 616.020 to 616.120, inclusive, and sections 2 to 4, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 23. NRS 616.079 is hereby amended to read as follows:

616.079 1. Members of state, county and local departments, boards, commissions, agencies or bureaus, whether elected or appointed as such members, who serve without compensation or who receive less than \$250 per month compensation, and the members of the state board of education and the members of the board of regents of the University of Nevada, while engaged in their designated duty as such members, shall be deemed, for the purpose of this chapter, employees receiving a wage of \$250 per month, and, in the event of injury while performing their designated duty, shall be entitled to the benefits of this chapter.

2. For the fiscal year commencing July 1, 1961, and for each fiscal year thereafter, each such state, county and local department, board, commission, agency or bureau and the state department of education and the board of regents of the University of Nevada shall budget for such premiums in the same manner as other expenditures are budgeted for, and shall pay such premiums out of [moneys] money appropriated therefor in the manner provided in [NRS 616.405 to the extent that such provisions are applicable.] this chapter.

Sec. 24. NRS 616.1103 is hereby amended to read as follows:

616.1103 "Insurer" includes the state industrial insurance system, self-insured employers , private carriers, and those employers covered under the provisions of NRS 616.255 and 616.256.

Sec. 25. NRS 616.1723 is hereby amended to read as follows:

616.1723 The manager:

1. Subject to the authority of the board, has full power, authority and jurisdiction over the system.

2. May perform all acts necessary or convenient in the exercise of any power, authority or jurisdiction over the system, either in the administration of the system or in connection with the insurance business to be carried on by the system under the provisions of this chapter . [, including the establishment of premium rates.]

3. May appoint in the unclassified service of the state no more than five persons, engaged in management, who report directly to the manager or an assistant manager. The board shall designate these positions, and may not change them without the approval of the advisory personnel commission. These persons are entitled to receive annual salaries fixed by the board.

Sec. 26. NRS 616.182 is hereby amended to read as follows:

616.182 1. Except as otherwise provided in this section, the department of industrial relations shall [regulate] :

(a) Certify whether an insurer meets the requirements of this chapter and chapter 617 of NRS to write industrial insurance;

(b) Regulate insurers under this chapter and chapter 617 of NRS [and investigate] ;

(c) Investigate insurers regarding compliance with those statutes and the department's regulations [.] ; and

(d) If necessary, suspend the certification of an insurer to write industrial insurance.

2. The commissioner [of insurance] is responsible for reviewing rates, investigating the solvency of insurers and certifying [self-insured] ;

(a) Self-insured employers pursuant to NRS 616.291 to 616.298, inclusive, 616.337 and 616.338 [.] ; and

(b) Private carriers pursuant to section 9 of this act.

3. The department of administration is responsible for administrative appeals relating to workers' compensation pursuant to NRS 616.541 to 616.544, inclusive.

4. The state industrial attorney is responsible for legal representation of claimants pursuant to NRS 616.253 to 616.2539, inclusive.

Sec. 27. NRS 616.190 is hereby amended to read as follows:

616.190 1. The administrator shall annually request the Nevada State Medical Association to select and establish two panels, each composed of nine physicians. The members of each panel must include two orthopedic surgeons, two neurosurgeons, two surgeons whose practice is not limited to any specialty, an internist, a family practitioner and another physician who are in good professional standing and who have displayed an active interest

in the advancement of their profession. If the Nevada State Medical Association is dissolved, the administrator and the commissioner shall jointly establish the panels after consulting the state health officer. When an injured employee is referred to the panel, the [administrator or the self-insured employer,] chairman of the panel, after reviewing all pertinent medical records, shall select two members of the panel whose specialties are related most directly to the problem presented, and a third member from the remaining panel members. The three physicians selected are the medical review board for that case. This board may seek further consultation and advice from any physician of its choice. A board must be selected from the panel members for each claimant referred. Members of a panel may be reappointed from year to year, with the approval of the Nevada State Medical Association so long as that organization exists.

2. The state is hereby divided into two medical board districts, as follows:

(a) Carson City and the counties of Churchill, Douglas, Elko, Eureka, Humboldt, Lander, Lyon, Mineral, Pershing, Storey and Washoe constitute the first medical board district.

(b) The counties of Clark, Esmeralda, Lincoln, Nye and White Pine constitute the second medical board district.

3. One of the lists referred to in subsection 1 must be composed of licensed physicians practicing in the first medical board district and the other list must be composed of physicians practicing in the second medical board district.

4. The jurisdiction of the medical boards is concurrent and

limited solely to the consideration and determination of medical questions and the extent of disability of injured employees referred by the insurer. It shall not consider or determine legal questions such as whether the injury arose out of and in the course of employment. The findings of the medical boards or a majority of the members of each board are final and binding on the insurer.

5. Each member of the medical boards is entitled to receive his usual medical fee for each referred case, which represents compensation for the initial review of medical records, the examination and the preparation of the report. Each report must be signed by all members of the medical review board appointed for that case.

6. Each member of the medical boards is entitled to reasonable and necessary traveling expenses incurred while actually engaged in the performance of his duties.

Sec. 28. NRS 616.193 is hereby amended to read as follows:

616.193 1. The insurer must provide access to the files of claims in its [offices.] facilities.

2. A file is available for inspection during regular business hours by the employee or his designated agent and the employer and his designated agent.

3. Upon request, the insurer must make copies of anything in the file and may charge a reasonable fee for this service.

4. [Until a claim is closed the file must be kept in the office nearest to the place where the injury occurred.

5.] The insurer may microphotograph or film any of its

records. The microphotographs or films must be placed in convenient and accessible files . [, and provision must be made for preserving, examining and using the records.]

5. The administrator shall adopt regulations concerning the:

(a) Maintenance of records in a file on current or closed claims;

(b) Preservation, examination and use of records which have been microphotographed or filmed by an insurer; and

(c) Location of a file on a closed claim.

Sec. 29. NRS 616.220 is hereby amended to read as follows:

616.220 The administrator shall:

1. Prescribe by regulation the time within which adjudications and awards must be made.

2. Regulate forms of notices, claims and other blank forms deemed proper and advisable.

3. Prescribe by regulation the methods by which the staff of an insurer may approve or reject claims, and may determine the amount and nature of benefits payable in connection therewith. Every such approval, rejection and determination is subject to review by a hearing officer.

4. Provide by regulation for adequate notice to each claimant of his right:

(a) To review by a hearing officer of any determination or rejection [by the staff.] of a claim by the insurer.

(b) To judicial review of any final decision.

5. Prescribe by regulation the requirements for the rehabilitation of a claimant and evaluate the services provided by the insurer.

6. Determine whether a private carrier has provided adequate facilities in this state to administer claims and for the retention of a file on a claim.

7. Evaluate the insurer's services to employers in:

(a) Engineering for safety; and

(b) Providing information on the prevention of industrial accidents or occupational diseases.

8. Conduct such investigations and examinations of insurers as he deems reasonable to determine whether any person has violated the provisions of this chapter or to obtain information useful to enforce or administer this chapter.

Sec. 30. NRS 616.222 is hereby amended to read as follows:

616.222 1. To aid in [getting] returning injured workmen [back] to work or to assist in lessening or removing any resulting handicap, the insurer [may] shall order counseling, training or rehabilitative services for the injured worker regardless of the date on which [such] the workman first became entitled to compensation.

2. Before ordering rehabilitative services for an injured worker [there must first be a consultation] the insurer shall consult with the injured worker and the treating physician [or physicians with respect to] to determine whether the proposed program is compatible with the injured worker's age, sex and

physical condition. If the services will involve a change in vocation, the consultation must also include the employer and a rehabilitation counselor.

3. Any workman eligible for compensation other than accident benefits may not be paid those benefits if he refuses counseling, training or other rehabilitative services offered by the insurer.

Sec. 31. NRS 616.2233 is hereby amended to read as follows:

616.2233 [The system] Each insurer shall cooperate with the commissioner in the performance of his duties pursuant to this chapter . [, and] The system and private carriers shall provide the commissioner with any information, statistics or data in its records which pertain to any employer who is making an application to become self-insured, or who is self-insured.

Sec. 32. NRS 616.2235 is hereby amended to read as follows:

616.2235 1. Except as provided in subsection 2, each [self-insured employer and other employer covered under the provisions of NRS 616.255 and 616.256] insurer shall compensate the system, the office of state industrial attorney or the hearings division of the department of administration, as appropriate, for all services which the system, the occupational safety and health review board, the state industrial attorney, the hearing officers and the appeals officers provide to those [employers] insurers if the rate is established by a regulation of the [system.] administrator. The cost of any service for which a rate is not established by regulation must be negotiated by the [employer] insurer and the system, the state industrial attorney or the

division, as appropriate, before the [employer] insurer is charged for the service.

2. All compensation must be on the basis of actual cost and not on a basis which includes any subsidy for the system, the office of state industrial attorney, the division or other [employers.] insurers.

Sec. 33. NRS 616.270 is hereby amended to read as follows:

616.270 1. Every employer within the provisions of this chapter, and those employers who [shall] accept the terms of this chapter and [be] are governed by its provisions, [as in this chapter provided,] shall provide and secure compensation according to the terms, conditions and provisions of this chapter for any and all personal injuries by accident sustained by an employee arising out of and in the course of the employment.

2. Travel for which an employee receives wages shall, for the purposes of this chapter, be deemed in the course of employment.

3. In such cases the employer [shall be] or any insurer of the employer is relieved from other liability for recovery of damages or other compensation for such personal [injury,] injuries, unless otherwise provided by the terms of this chapter . [otherwise provided.]

Sec. 34. NRS 616.272 is hereby amended to read as follows:

616.272 1. An employer who is certified as a self-insured employer directly assumes the responsibility for providing compensation due his employees and their beneficiaries under this chapter and chapter 617 of NRS.

2. A self-insured employer is not required to pay the premiums

required of other employers pursuant to this chapter and chapter 617 of NRS but is relieved from other liability for personal injury to the same extent as are other employers.

3. The claims of employees and their beneficiaries resulting from injuries while in the employment of self-insured employers or employers insured by a private carrier must be handled in the manner provided by this chapter, and the [self-insured] employer [is] and private carrier are subject to the regulations of the department with respect thereto.

4. The security deposited pursuant to NRS 616.291 does not relieve that employer from responsibility for the administration of claims and payment of compensation under this chapter.

Sec. 35. NRS 616.275 is hereby amended to read as follows:

616.275 Where the state, county, municipal corporation, school district, a metropolitan police department, a city under special charter and commission form of government, or a contractor under the state, county, municipal corporation, school district, a metropolitan police department or a city under special charter and commission form of government, is the employer, the terms, covenants, conditions and provisions of this chapter for the payment of premiums to [the state insurance fund and the accident benefit fund,] an insurer, for the payment of compensation and the amount thereof, for [such] any injury sustained by an employee [of such employer, shall be] are conclusive, compulsory and obligatory upon both employer and employee without regard to the number of persons in the service of any such employer.

Sec. 36. NRS 616.277 is hereby amended to read as follows:

616.277 1. In case of injury, [coverage by] industrial insurance must be provided for [rehabilitation] trainees while enrolled in a rehabilitation facility operated by the rehabilitation division of the department of human resources, related to evaluation, treatment, training, surgical apparatuses or medications.

2. The administrator of the rehabilitation division of the department of human resources shall make payments to the [system] insurer on all trainees enrolled in a rehabilitation facility operated by the rehabilitation division of the department of human resources in this state at the rate [set by the system] approved by the commissioner and based on a wage of \$200 per month per trainee.

3. Payments must be made from the special maintenance fund for the vocational rehabilitation of disabled persons.

Sec. 37. NRS 616.285 is hereby amended to read as follows:

616.285 Where an employer has in his service any employee under a contract of hire, except as otherwise expressly provided in this chapter, the terms, conditions and provisions of this chapter for the payment of premiums to [the state insurance fund] an insurer for the payment of compensation and the amount thereof for [such] any injury sustained by an employee of [such employer, shall be] the employer are conclusive, compulsory and obligatory upon both employer and employee.

Sec. 38. NRS 616.305 is hereby amended to read as follows:

616.305 1. Where the employer, as provided by this chapter, has given notice of an election to accept the terms of this chapter, and the employee has not given notice of an election to reject the terms of this chapter, the employer shall provide and secure, and the employee shall accept, compensation in the manner provided by this chapter for all personal injuries sustained arising out of and in the course of the employment.

2. Every employer electing to be governed by the provisions of this chapter, before becoming entitled to the benefits of this chapter must comply with all conditions and provisions of this chapter during the period of his election.

3. Failure on the part of any employer [to pay all the premiums or to maintain a certificate of self-insurance in force] to provide industrial insurance as required by the provisions of this chapter operates as a rejection of the terms of this chapter. [In the event of any rejection of] If an employer rejects this chapter, or the terms hereof, [such rejecting employer] the employer shall post a notice of rejection of the terms of the chapter upon his premises in a conspicuous place. The employer at all times shall maintain the notice or notices so provided for the information of his employees.

Sec. 39. NRS 616.325 is hereby amended to read as follows:

— 616.325 1. Except as provided in subsection 2, every employer insured by the system shall furnish the system or the administrator, upon request, all information required to carry

out the purposes of this chapter. The administrator, or any person employed by the administrator for that purpose, may examine, under oath, any employer or officer, agent or employee thereof.

2. Every [self-insured employer] insurer shall furnish [the system or] the administrator, upon request, all information required to carry out the purposes of this chapter. The administrator or any person employed by him for that purpose, may examine, under oath, any employer or officer, agent or employee thereof.

3. Every insured employer shall keep on hand constantly a sufficient supply of blank forms furnished by the insurer.

Sec. 40. NRS 616.330 is hereby amended to read as follows:

616.330 1. Every employer receiving from the [system or] administrator any blank form with directions to fill it out shall:

[1.] (a) Cause it to be filled out properly.

[2.] (b) Answer fully and correctly all questions therein propounded, and if unable to do so, shall give good and sufficient reasons for his failure. Answers to questions must be verified and returned to the [system or] administrator within the period fixed by the [system or] administrator for return.

2. Every employer insured by the system shall similarly complete any blank forms received from the system.

Sec. 41. NRS 616.335 is hereby amended to read as follows:

616.335 [The books, records and payrolls of the employer pertinent to the administration of this chapter must always be open to inspection by the administrator, the system or its auditor,

agent or assistant for the purpose of ascertaining the correctness of the payroll, the men employed, and such other information as may be necessary for the system and its administration.]

1. To carry out the purposes of this chapter, the books, records and payroll of an employer insured by the system must be open to inspection by the administrator, the system or its auditor or agent to determine:

- (a) The accuracy of the payroll;
- (b) The number of persons employed; and
- (c) Any other information necessary for the system or the administration of this chapter.

2. The books, records and payroll of an employer who is self-insured or insured by a private carrier must be open to inspection by the administrator or his auditor or agent in a similar manner and for a similar purpose.

Sec. 42. NRS 616.337 is hereby amended to read as follows:

616.337 All [self-insured employers] insurers shall report to the administrator, annually or at intervals which the administrator requires, all accidental injuries, occupational diseases, dispositions of claims [, reserves] and payments made under this chapter, chapter 617 of NRS or regulations adopted by the department pursuant thereto. All self-insured employers shall similarly report their reserves to the administrator.

Sec. 43. NRS 616.340 is hereby amended to read as follows:

616.340 1. Every employer within the provisions of this chapter, shall, immediately upon the occurrence of an injury to

any of his employees, render to the injured employee all necessary first aid, including cost of transportation of the injured employee to the nearest place of proper treatment where the injury is such as to make it reasonably necessary for such transportation.

2. Each such employer who is not self-insured or his agent shall within 6 working days following receipt of knowledge of an injury to an employee, notify the insurer's claims administrator in writing of the accident.

3. The insurer may pay the costs of rendering [such] necessary first aid and transportation of the injured employee of an employer who is not self-insured, to the nearest place of proper treatment if the employer fails or refuses to pay the costs. The [administrator] insurer may charge to and collect from the employer, as reimbursement, the amount of the costs incurred by the insurer in providing such first aid and transportation services to the injured employee.

4. Any employer who fails to comply with the provisions of subsection 2 may be fined not more than \$250 for each such failure.

Sec. 44. NRS 616.355 is hereby amended to read as follows:

616.355 Any physician [, having] who has attended an employee within the provisions of this chapter or chapter 617 of NRS in a professional capacity [,] may be required to testify before an appeals officer. A physician who testifies is entitled to receive the same fees as witnesses in civil cases and, if the appeals officer so orders at his own discretion, a fee equal to that

authorized for a consultation by the appropriate schedule of fees for physicians. These fees must be paid by the [system or the self-insured employer.] insurer. Information gained by the attending physician while in attendance on the injured employee is not a privileged communication if required by an appeals officer for a proper understanding of the case and a determination of the rights involved.

Sec. 45. NRS 616.377 is hereby amended to read as follows:

616.377 1. If an employee who has been hired and who is regularly employed in this state suffers an accident or injury arising out of and in the course of his employment, and his employer has failed to provide mandatory industrial insurance coverage, the employee may elect to receive compensation under the provisions of this chapter by:

(a) Filing a written notice of his election with the administrator; and

(b) Making an irrevocable assignment to the administrator of his right of action against the uninsured employer.

2. Any employer who has failed to provide mandatory coverage required under the provisions of this chapter does not escape liability in any action brought by the employee or the administrator by asserting any of the defenses enumerated in subsection 3 of NRS 616.375 and the presumption of negligence set forth in that subsection is applicable.

3. The administrator shall assign a claim of an employee of an uninsured employer to the system for settlement and the payment

of benefits and shall reimburse the system for claims adjusted and benefits paid.

4. [A self-insured employer must bear] Each insurer is liable for a proportionate amount of a claim made pursuant to this chapter, and is entitled to a proportionate amount of the assignment made pursuant to this section.

Sec. 46. NRS 616.395 is hereby amended to read as follows:

616.395 1. [Except for a self-insured employer, every employer within,] Every employer insured by the system and those electing to be governed by [,] the provisions of this chapter, with the exception of the state, counties, [municipal corporations,] cities, [and] school districts [,] and other political subdivisions, shall pay premiums to the state insurance fund . [, premiums in the form of an advance deposit as fixed by order of the manager. All premium rates in effect on July 1, 1947, must be continued in full force until changed as provided by law.]

2. Every employer [within or electing to be governed by the provisions of this chapter who] who elects to be insured by the system and enters into business or resumes operations shall, before commencing or resuming operations, notify the manager of such fact, accompanying the notification with an estimate of his monthly payroll, [and pay the premium on the payroll for the first 2 months of operations.

3. The system may accept as a substitute for payment of premiums either a bond or pledge of assets. The amount and sufficiency of security required, other than cash, must be determined by the

manager but must not be of a value less than the amount of cash required by this section.

4. The system shall accept as a substitute for cash payment of premiums as required in this section a savings certificate or a time deposit certificate issued by a bank or savings and loan association in Nevada, which indicates an amount at least equal to, but must not be required to be more than, the next integral multiple of \$100 above the cash which would otherwise be required by this section and must state that such amount is unavailable for withdrawal except by direct and sole order of the manager. Interest earned on the deposit accrues to the account of the employer.] and pay the premium or deposit required by the manager.

Sec. 47. NRS 616.400 is hereby amended to read as follows:

616.400 1. [Except for a self-insured employer, every employer within, and those electing to be governed by, the provisions of this chapter,] Every employer insured by the system shall, [on or before the 25th day of each month,] at intervals established by the manager, furnish the system with a true and accurate payroll showing:

(a) The total amount paid to employees for services performed during [the] each month; and

(b) A segregation of employment in accordance with the requirements of the system,
together with the premium due thereon.

2. [In determining the total amount paid to employees by each employer for services performed during a year, the maximum amount

paid by each employer to any one employee during the year shall be deemed to be \$24,000.

3.] Any employer by agreement in writing with the manager may arrange for the payment of premiums in advance [for a period of more than 60 days.] at any interval established by the manager.

[4.] 3. Failure on the part of any such employer to comply with the provisions of this section and NRS 616.395 operates as a rejection of this chapter, effective at the expiration of the period covered by his estimate. The manager shall notify the administrator of each such rejection.

[5.] 4. If an audit of the accounts or actual payroll of an employer shows the actual premium earned exceeds the estimated advance premium paid, the manager may require the payment of a sum sufficient to cover the deficit, together with such amount as in his judgment constitutes an adequate advance premium for the period covered by the estimate.

[6.] 5. The manager shall notify any employer or his representative by first class mail of any failure on his part to comply with the foregoing provisions. The notice or its omission does not modify or waive the requirements or effective rejection of this chapter as otherwise provided in this chapter.

Sec. 48. NRS 616.405 is hereby amended to read as follows:

616.405 1. Except for a self-insured employer, or an employer insured by a private carrier, as soon as possible after the expiration of each quarter year, every state office, department, board, commission, bureau, agency or institution, operating by authority of law, and the auditor or comptroller of each

county, and the clerk or other chief financial officer of each [municipal corporation,] city, [and] school district [,] and other political subdivision, shall furnish the manager with a true and accurate payroll of the state office, department, board, commission, bureau, agency or institution, and county, metropolitan police department, [municipal corporation,] city, [or] school district [,] or other political subdivision, showing:

(a) The aggregate number of shifts worked during the preceding quarter.

(b) The total amount paid to employees for services performed during the quarter.

(c) A segregation of employment in accordance with the requirements of the system.

2. Each of the state offices, departments, boards, commissions, bureaus, agencies and institutions shall submit claims for the amount of premiums due to the system; and each of the auditors, comptrollers , [and] clerks and other chief financial officers shall make up and submit to the respective governing boards of [each] the appropriate county, metropolitan police department, [municipal corporation,] city, [and] school district [,] or other political subdivision, for approval, claims for the amount of premiums due the system.

Sec. 49. NRS 616.410 is hereby amended to read as follows:

616.410 1. The system shall collect a premium upon the total payroll of every employer [within the provisions of this chapter, except as otherwise provided, in such a percentage as the manager

shall fix by order for accident benefits.] insured by the system at the rate approved by the commissioner.

2. Every employer paying this premium is relieved from furnishing accident benefits, and the accident benefits must be provided by the system.

3. The system is liable for any accident benefits provided in this section, but the account provided for accident benefits must be a separate and distinct account, and must, on the records of the system, be so kept.

Sec. 50. NRS 616.420 is hereby amended to read as follows:

616.420 1. If the administrator finds that the employer is furnishing the requirements of accident benefits in such a manner that there are reasonable grounds for believing that the health, life or recovery of the employee is being endangered or impaired thereby, or that an employer has failed to provide benefits pursuant to NRS 616.415 for which he has made arrangements, the administrator may, upon application of the employee, or upon its own motion, order a change of physicians or of any other accident benefit requirements.

2. If the administrator orders a change of physicians or of any other accident benefits, the cost of the change must be borne by the [system or the self-insured employer.] insurer.

3. The cause of action of an insured employee against an employer insured by the system or a private carrier or against a hospital association must be assigned to the system [.] or private carrier.

Sec. 51. NRS 616.490 is hereby amended to read as follows:

616.490 1. If the provisions of this chapter relative to compensation for injuries to or death of employees become invalid because of any adjudication, or are repealed, the period intervening between the occurrence of an injury or death, not previously compensated for under this chapter by lump sum payment or completed monthly payments, and [such] the repeal or the rendition of the final adjudication of the validity [shall] must not be computed as a part of the time limited by law for the commencement of any action relating to such injury or death if the action is commenced within 1 year after such repeal or adjudication.

2. In any such action any sum paid [out of the state insurance fund or by a self-insured employer] by an insurer by reason of injury to an employee by whom, or by whose dependents, the action is prosecuted, [shall] must be taken into account and credited upon the recovery as payment.

Sec. 52. NRS 616.497 is hereby amended to read as follows:

616.497 1. [Notwithstanding the provisions of chapter 355 of NRS or of any other law, the] The manager may, pursuant to a resolution of the board, invest and reinvest any money in the funds of the system deemed available for investment [as provided in NRS 616.4971 to 616.4984, inclusive,] in the investments authorized for insurers by chapter 682A of NRS within the limits prescribed by that chapter and may employ investment counsel for that purpose.

2. [The provisions of NRS 616.497 to 616.4984, inclusive, do] This section does not prevent the manager from making investments in accordance with the provisions of chapter 355 of NRS.

Sec. 53. NRS 616.4971 is hereby amended to read as follows:

616.4971 1. No person, firm or corporation engaged in business as a broker or dealer in securities or who has a direct pecuniary interest in any such business who receives commissions for transactions performed as an agent for the system is eligible for employment as investment counsel for the system.

2. The board shall not engage investment counsel unless:

(a) The principal business of the person, firm or corporation selected by the board consists of rendering [investment] supervisory services [,] for investments, that is, [the giving of] giving continuous advice as to the investment of funds on the basis of the individual needs of each client;

(b) The person, firm or corporation and its predecessors have been continuously engaged in such business for a period of 3 or more years, and the senior management personnel of the person, firm or corporation have an average of 10 years professional experience as investment managers;

(c) The person, firm or corporation, as of the time originally hired, has at least \$250,000,000 of assets under management contract, exclusive of any assets related to governmental agencies in this state;

(d) The person, firm or corporation is registered as an investment adviser under the laws of the United States of America as

from time to time in effect, or is a national bank or an investment management subsidiary of a national bank;

(e) The contract between the system and the investment counsel is of no specific duration and is voidable at any time by either party; and

(f) The person, firm or corporation has been approved by the state board of finance for employment as investment counsel.

3. More than one investment counsel may be employed in the discretion of the board.

4. The expense of such employment must be paid from the state insurance fund.

5. Any investment program adopted by the system and all investments made thereunder must be reported quarterly in writing by the board to the state board of finance, and such report is subject to review by the state board of finance. The state board of finance may require the board to provide further reports and may recommend modifications in the investment program, including replacement of the investment counsel. If, after a reasonable time, the board has not taken suitable corrective action in response to recommendations by the state board of finance, the state board of finance may direct the board to carry out its recommendations in a manner acceptable to the state board of finance. Any directives from the state board of finance must be in writing.

6. With the approval of the state board of finance, the board may designate the bank or banks which shall have the custody of

the various investments authorized in [NRS 616.4972 to 616.4984, inclusive.] NRS 616.497.

7. The system may accept due bills from brokers upon delivery of warrants if the certificates representing such investments are not readily available.

Sec. 54. NRS 616.500 is hereby amended to read as follows:

616.500 1. Notice of the injury for which compensation is payable under this chapter must be given to the insurer as soon as practicable, but within 30 days after the happening of the accident.

2. In case of death of the employee resulting from the injury, notice must be given to the insurer as soon as practicable, but within 60 days after death.

3. The notice must:

(a) Be in writing;

(b) Contain the name and address of the injured employee;

(c) State in ordinary language the time, place, nature and cause of the injury; and

(d) Be signed by the injured employee or by a person in his behalf, or in case of death, by one or more of his dependents or by a person on their behalf.

4. No proceeding under this chapter for compensation for an injury may be maintained unless the injured employee, or someone on his behalf, files with the insurer a claim for compensation with respect to the injury within 90 days after the happening of the accident, or, in the case of death, within 1 year after death.

5. The notice required by this section must be served by delivery of a copy of the notice, or by mailing by certified mail a copy thereof in a sealed postpaid envelope addressed to the insurer. Such mailing constitutes complete service.

6. Failure to give notice or to file a claim for compensation within the time limit specified in this section is a bar to any claim for compensation under this chapter, but such failure may be excused by the insurer on one or more of the following grounds:

(a) That notice for some sufficient reason could not have been made.

(b) That failure to give notice will not result in an unwarrantable charge against the [state insurance fund.] insurer.

(c) That failure to give notice was due to the employee's or beneficiary's mistake or ignorance of fact or of law, or of his physical or mental inability, or to fraud, misrepresentation or deceit.

7. The insurer must either accept or deny responsibility for compensation under this chapter or chapter 617 of NRS [within] not later than 30 days after the notice provided for in this section is received. If additional information is necessary to determine liability, the insurer may extend the period to 60 days upon notice to the claimant if the administrator approves. If additional information is still necessary, the insurer may grant

a further extension if the administrator approves and the claimant gives his written consent, but the total period may not be extended to more than 90 days.

Sec. 55. NRS 616.530 is hereby amended to read as follows:

616.530 1. If an employee who has been hired or is regularly employed in this state receives personal injury by accident arising out of and in the course of such employment outside this state, and he, or his personal or legal representatives, dependents or next of kin commence any action or proceeding in any other state to recover any damages or compensation for the injury or death from his employer, the act of commencing [such] this action or proceeding constitutes an irrevocable waiver of all compensation for the injury or death to which persons would otherwise have been entitled under the laws of this state.

2. If the injured employee, his personal or legal representatives, dependents or next of kin recover a final judgment against the employer for damages arising out of the injury or death in any court of competent jurisdiction in any other state, the compensation which would otherwise have been payable under the laws of this state, up to the full amount thereof, but less any sums previously paid for the injury or death, must be applied in satisfaction of the judgment as follows:

(a) Upon receipt of an authenticated copy of the final judgment and writ of execution or other process issued in aid thereof, the insurer shall forthwith determine the total amount of compensation which would have been payable under the laws of this state

had claim therefor been made to the insurer. In the case of compensation payable in installments, the insurer shall convert it into a lump sum amount by such system of computation as the administrator deems proper.

(b) The insurer shall thereupon order to be paid in full or partial satisfaction of the judgment a sum not to exceed the total amount of compensation computed as provided in this section or the amount of the judgment, whichever is the lesser.

(c) Except for a self-insured employer, if the judgment is satisfied fully by the employer before any payment by the system or private carrier pursuant to paragraph (b), the amount payable thereunder must be paid to the employer.

Sec. 56. NRS 616.645 is hereby amended to read as follows:

616.645 1. [Any employer] An employer insured by the system who refuses to submit his books, records and [payrolls] payroll for inspection, as provided by NRS 616.335, to a representative of the system or the administrator, presenting written authority for the inspection, is subject to a penalty of [\$100] \$1,000 for each offense, to be collected by civil action in the name of the system or the administrator.

2. A self-insured employer or an employer insured by a private carrier who refuses to submit his books, records and payroll to the administrator for inspection as provided by NRS 616.335, is subject to a penalty of \$1,000 for each offense, to be collected by civil action in the name of the administrator.

3. The person who gives such a refusal is guilty of a misdemeanor.

Sec. 57. NRS 616.647 is hereby amended to read as follows:

616.647 1. The administrator may impose an administrative fine, not to exceed [\$500] \$5,000 for each violation, if the insurer or employer intentionally or repeatedly:

(a) Induces a claimant for compensation to fail to report an accidental injury or occupational disease.

(b) Persuades a claimant to settle for an amount which is less than reasonable.

(c) Persuades a claimant to settle for an amount which is less than reasonable while a hearing or an appeal is pending.

(d) Persuades a claimant to accept less than the compensation found to be due him.

(e) Refuses to pay or delays payment to a claimant of compensation found to be due him.

(f) Makes it necessary for a claimant to resort to proceedings against the employer or insurer for compensation found to be due him.

(g) Fails to comply with department regulations for the acceptance and rejection of claims, determination and calculation of a claimant's average monthly wage, determination and payment of compensation, delivery of accident benefits and reporting relating to these matters.

(h) Fails to comply with the department's regulations covering the payment of an assessment relating to the funding of costs of administration of this chapter and chapter 617 of NRS.

(i) Fails to report to the administrator a change of insurer or

the cancellation, termination or other lapse of coverage for industrial insurance.

2. If the employer or insurer requests a hearing concerning the fine imposed pursuant to subsection 1, the administrator shall set a date for a hearing within 20 days after receiving the appeal request, and shall give the employer or insurer at least 10 business days' notice of the time and place of the hearing.

3. A record of the hearing must be kept but it need not be transcribed unless it is requested by the employer or insurer and [he] the party requesting the transcript pays the cost of transcription.

4. Within 5 business days after the hearing, the administrator shall either affirm or disaffirm the fine and give the employer or insurer written notice thereof by certified mail.

5. Two or more fines of [\$500] \$5,000 levied by the administrator in 1 year for violations enumerated in subsection 1 must be considered by the commissioner as evidence for the possible revocation of a certificate of [self-insurance.] authority to write industrial insurance.

6. The commissioner may withdraw the certification of a self-insured employer if, after a hearing, it is shown that the self-insured employer committed any of the violations enumerated in subsection 1.

Sec. 58. NRS 616.655 is hereby amended to read as follows:

616.655 Any employer who fails:

1. To post the notice required by NRS 616.305 [shall be] and section 6 of this act is guilty of a misdemeanor.

2. To maintain the notice or notices required by NRS 616.305 [shall be] and section 6 of this act is guilty of a misdemeanor.

Sec. 59. NRS 617.205 is hereby amended to read as follows:

617.205 1. An employer who is certified as a self-insured employer directly assumes the responsibility for providing compensation due his employees and their beneficiaries under this chapter.

2. A self-insured employer or an employer insured by a private carrier is not required to pay the contributions required of other employers by NRS 617.310.

3. The claims of employees and their beneficiaries resulting from occupational diseases while in the employment of self-insured employers or employers insured by a private carrier must be handled in the manner provided by this chapter, and [the self-insured employer is] those insurers are subject to the regulations of the department with respect thereto.

4. The security deposited pursuant to NRS 616.291 does not relieve the employer from responsibility for the administration of claims and payment of compensation under this chapter.

5. A self-insured employer qualifying under the provisions of this chapter must comply with the provisions of NRS 616.291.

Sec. 60. NRS 617.220 is hereby amended to read as follows:

617.220 Employers whose employees are excluded by NRS 617.080, may elect to cover such employees under the provisions of this chapter by notifying the [insurer] system and the administrator

in writing in the manner prescribed in subsection 2 of NRS 616.315.

Sec. 61. NRS 617.310 is hereby amended to read as follows:

617.310 [1. Except for a self-insured employer, every employer within the provisions of this chapter and every employer electing to be governed by the provisions of this chapter, before becoming entitled to the benefits of this chapter in the providing and securing of] Every employer insured by the system, to receive the benefits of this chapter and to provide and secure compensation [to] for his employees, shall pay to the system, for the occupational diseases fund and the medical benefits fund, in the manner and at the times prescribed for the payment of premiums in chapter 616 of NRS, premiums [in amounts fixed by the manager] for the employer's occupation or employment [of such employer] according to the classification, rules and rates [made and promulgated by the manager.] filed by the rating organization and approved by the commissioner.

[2. The manager shall fix the classifications of employment and the rules and rates regulating and prescribing premiums in regard thereto.]

Sec. 62. NRS 617.410 is hereby amended to read as follows:

617.410 Compensation for disability sustained on account of occupational disease by an employee, or the dependents of such employee as defined in this chapter, must be paid [from the occupational diseases fund or if the employee is employed by a self-insured employer, then by the employer.] by the insurer.

Sec. 63. NRS 617.430 is hereby amended to read as follows:

617.430 1. Every employee who is disabled or dies because of an occupational disease, as defined in this chapter, arising out of and in the course of employment in the State of Nevada, or the dependents, as that term is defined in chapter 616 of NRS, of an employee whose death is caused by an occupational disease, are entitled to the compensation provided by chapter 616 for temporary disability, permanent disability, or death, as the facts may warrant, subject to the modifications mentioned in this chapter.

2. In cases of tenosynovitis, prepatellar bursitis, and infection or inflammation of the skin, no person is entitled to such compensation unless for 90 days next preceding the contraction of [such] the occupational disease the employee has been:

(a) A resident of the State of Nevada; or

(b) Employed by a self-insured employer, an employer insured by a private carrier who provides coverage for occupational diseases or an employer contributing to the occupational diseases fund of Nevada for the benefit of [such] the employee.

Sec. 64. NRS 617.460 is hereby amended to read as follows:

617.460 1. Silicosis is an occupational disease and is compensable as such when contracted by an employee and when arising out of and in the course of the employment.

2. Claims for compensation on account of silicosis are forever barred unless application is made to the insurer within 1 year after temporary or total disability or within 6 months after death.

3. Nothing in this chapter entitles an employee or his dependents to compensation, medical, hospital and nursing expenses or payment of funeral expenses for disability or death due to silicosis in the event of the failure or omission on the part of the employee truthfully to state, when seeking employment, the place, duration and nature of previous employment in answer to an inquiry made by the employer.

4. No compensation may be paid in case of silicosis unless, during the 10 years immediately preceding the disablement or death, the injured employee has been exposed to harmful quantities of silicon dioxide dust for a total period of not less than 3 years in employment in Nevada covered by [the insurer.] this chapter or chapter 616 of NRS.

5. Compensation on account of silicosis is payable only in the event of temporary total disability, permanent total disability, or death, in accordance with the provisions of chapter 616 of NRS. Except as provided in NRS 616.615, the insurer shall not allow the conversion of the compensation benefits provided for in this section into a lump-sum payment. Payment of benefits and compensation is limited to the claimant and his dependents.

6. Any claimant who has been disabled by silicosis [prior to] before July 1, 1973, or his dependents, upon receiving the maximum sum payable, \$14,250, to which they are entitled must be terminated from all compensation payments by the insurer, but is entitled to continue to receive the same amount of compensation from the silicosis and disabled pension fund.

Sec. 65. NRS 232.550 is hereby amended to read as follows:

232.550 As used in NRS 232.560 to 232.700, inclusive, unless the context otherwise requires:

1. "Department" means the department of industrial relations.
2. "Director" means the director of the department of industrial relations.
3. "Insurer" includes the state industrial insurance system, self-insured employers, private carriers and those employers covered under the provisions of NRS 616.255 and 616.256.

Sec. 66. NRS 408.373 is hereby amended to read as follows:

408.373 1. Every [successful contractor] person to whom a contract is awarded [shall be] is liable under the provisions of the Nevada Industrial Insurance Act (chapter 616 of NRS), and shall pay the premiums and percentages as required in such act. The Nevada Industrial Insurance Act [shall be] is mandatory and compulsory upon every such contractor. Before paying any money or drawing his warrant in payment to the contractor, the state controller may require satisfactory evidence of [the payment of the premiums] industrial insurance required under the Nevada Industrial Insurance Act, and he shall withhold payment to the contractor or his assigns until such evidence is provided.

2. Every successful contractor to whom a contract is awarded in accordance with the provisions of this chapter [shall be] is subject to the provisions of the Unemployment Compensation Law (chapter 612 of NRS), and, if determined to be an employer within the provisions of the Unemployment Compensation Law and therefore

subject to the payment of contributions as therein provided, shall pay the contributions as required in such law. Payment of contributions levied in accordance with the Unemployment Compensation Law [shall be] is mandatory and compulsory upon every contractor qualified as an employer as therein defined. Before paying any money or drawing his warrant in payment to the contractor, the state controller may require satisfactory evidence of the payment of the contributions required under the Unemployment Compensation Law, and he shall withhold payment to the contractor or his assigns until such evidence is provided.

3. If a contractor fails to pay [premiums or] contributions as required by the provisions of chapter 612 or obtain industrial insurance as required by chapter 616 of NRS, the state controller may make the payments from [moneys] money withheld pursuant to the provisions of subsections 1 and 2 [.] or acquire the insurance.

4. Every successful contractor to whom a contract is awarded [shall be] is subject to the provisions of all federal, state and local laws and the [rules,] regulations and ordinances created under such laws. Failure to comply with such laws, [rules,] regulations and ordinances [shall be] is sufficient cause to withhold any [moneys] money due the contractor until compliance therewith.

Sec. 67. NRS 443.165 is hereby amended to read as follows:

443.165 1. Each person who is eligible for the benefits provided for in NRS 443.145 to 443.165, inclusive, is entitled to receive benefits under the special silicosis program in an amount

equal to the compensation paid to persons eligible for compensation under the provisions of NRS 617.460.

2. [The state industrial insurance system and any self-insured employer] Each insurer providing industrial insurance shall cooperate with the health division of the department of human resources for the purpose of determining the amount of benefits to which persons found eligible by the state board of health are entitled, and shall make available to the state board of health all records which may be of use to the board in determining eligibility.

Sec. 68. NRS 679B.130 is hereby amended to read as follows:

679B.130 1. The commissioner may adopt reasonable regulations for, or as an aid to, the administration or effectuation of any provision [or provisions] of this code [. A regulation shall not extend, modify or conflict with any law of this state or the reasonable implications thereof.] or chapters 616 and 617 of NRS.

2. [Willful violation of any such regulation shall subject the violator] A person who willfully violates any regulation of the commissioner is subject to such suspension or revocation of a certificate of authority or license, or administrative fine in lieu of such suspension or revocation, as may be applicable under this code for violation of the provision to which [such] the regulation relates. [; but no penalty shall apply] No penalty applies to any act done or omitted in good faith in conformity with any such regulation, notwithstanding that [such] the regulation may, after [such] the act or omission, be amended [or] ,

rescinded or determined by a judicial or other authority to be invalid for any reason.

Sec. 69. NRS 680B.030 is hereby amended to read as follows:

680B.030 1. Each insurer and each formerly authorized insurer with respect to insurance transacted while an authorized insurer and property bondsman shall, on or before March 1 each year, or within any reasonable extension of time therefor which the commissioner may for good cause have granted on or before such date, file with the commissioner a report in such form as prescribed by the commissioner showing total premium income, including policy, membership and other fees and assessments, and all other considerations for insurance, bail or annuity contracts received by it during the next preceding calendar year on account of policies and contracts covering property, subjects or risks located, resident or to be performed in this state (with proper proportionate allocation of premiums as to such persons, property, subjects or risks in this state insured under policies and contracts covering persons, property, subjects or risks located or resident in more than one state), after deducting from such total premium income:

- (a) The amount of return premiums;
- (b) Premiums received for reinsurance on such property or risks; and
- (c) Dividends, savings and unabsorbed premium deposits returned to policyholders in cash or credited to their accounts.

The report [shall] must be verified by the oath or affirmation

of the insurer's president, vice president, secretary, treasurer or manager.

2. As used in subsection 1, "total premium income" does not include premiums or considerations received from life insurance policies or annuity contracts issued in connection with the funding of a pension, annuity or profit-sharing plan qualified or exempt under sections 401, 403, 404, 408 or 501 of the United States Internal Revenue Code as [now or hereafter amended or] these sections exist on January 1, 1983, or may be renumbered from time to time.

3. Funds accepted by a life insurer under an agreement which provides for an accumulation of [funds] money to purchase annuities at future dates may for the purposes of the tax imposed by this section be considered as "total premium income" either upon receipt or upon the actual application of such [funds] money to the purchase of annuities. However, any interest credited to [funds] the money accumulated [while under the latter alternative shall] during the period when the money is used to purchase annuities must also be included in "total premium income," and any [funds] money taxed upon receipt, including any interest later credited thereto, [shall not be] is not subject to taxation upon the purchase of annuities. Each life insurer shall signify on its premium tax return covering premiums for the calendar year 1971 its election between such two alternatives. Thereafter an insurer shall not change such election without the consent of the commissioner. Any [such funds] money taxed as "total premiums" [shall,] is, in the event of withdrawal of the [funds] money before

[their] its actual application to the purchase of annuities, [be] eligible to be included as "return premiums" under the provisions of subsection 1.

4. For the purposes of this section, "total premium income" as to title insurance [shall consist] consists of the total amount received by the company from the sale of policies of title insurance.

5. For purposes of this section factory mutuals shall pay 2 percent on all gross premiums upon policies on risks located in this state in force on December 31 next preceding, after deducting from such gross premiums dividends and returns to policyholders computed at the average rate on annual policies expiring during the preceding year, whether actually paid or applied in part payment of any renewal premiums.

6. The commissioner may require at any time verified supplemental statements with reference to any matter pertinent to the proper assessment of the tax.

7. Coincidentally with the filing of [such] this report each [such] insurer shall pay to the commissioner, for the privilege of transacting business in this state, a tax of 2 percent upon such net premiums and net considerations [.] except those net premiums and considerations received for any policies of industrial insurance under chapter 616 and 617 of NRS.

8. A domestic insurer doing business in a state in which [such] that insurer is not licensed and to which the insurer does

not pay a premium tax, shall report and pay the tax on such business to the State of Nevada as though such business were transacted in this state.

9. Payment, by an insurer, of the tax required in this section [shall be] is in lieu of all taxes imposed by the state or any city, town or county upon premiums or upon income of insurers and of franchise, privilege or other taxes measured by income of the insurer. [This subsection shall not be modified or repealed by any law of general application enacted after January 1, 1972, unless expressly referred to or expressly repealed therein.]

10. Any insurer [that] who fails to file the report or pay the tax as required by this section within the time for filing and payment [as] provided in this section shall in addition to any other applicable penalty pay a penalty equal to the rate of 10 percent upon the amount of tax assessed against it.

Sec. 70. Chapter 686B of NRS is hereby amended by adding thereto the provisions set forth as sections 70 to 83, inclusive, of this act.

Sec. 71. 1. Sections 70 to 83, inclusive, of this act apply to the rating organization used by insurers providing industrial insurance. The commissioner shall administer the provisions of those sections.

2. Those provisions apply to all industrial insurance in this state except reinsurance.

Sec. 72. "Industrial insurance" means insurance which provides the benefits required by chapters 616 and 617 of NRS and employer's liability insurance written in connection therewith.

Sec. 73. "Insurer" includes the state industrial insurance system and all private carriers authorized to provide industrial insurance in this state.

Sec. 74. "Willful" or "willfully" in relation to an act or omission which constitutes a violation of this chapter means with actual knowledge or belief that the act or omission constitutes a violation and with specific intent to commit the violation.

Sec. 75. The commissioner shall designate one licensed rating organization to act as his statistical agent and to file the rating system for all insurers. The rating organization shall be organized for the following purposes:

1. To provide reliable statistics and rating information for industrial insurance.
2. To collect and tabulate information and statistics in a uniform statistical plan, to be approved by the commissioner and to be used to develop adequate rates to be submitted to the commissioner for approval.
3. To formulate regulations in connection with approved rates and the administration of classifications and rating systems and to present the proposed regulations to the commissioner for approval.
4. To inspect risks for classification or rate purposes and to furnish to the insurer and, upon request of the employer and after notice to the insurer, to furnish to the employer full information concerning the rates applicable to his insurance.
5. To examine policies, daily reports, endorsements or other

evidence of insurance to ascertain whether they comply with the provisions of law and to adopt reasonable regulations governing their submission. These regulations must be approved by the commissioner before becoming effective.

6. To initiate test audits of insured employers' payrolls and insurers' audits of those payrolls to check the accuracy and reliability thereof, and to examine all records relative thereto so that the accuracy of the classification of risks and rates is assured.

7. To exchange information and experience data with rating organizations, advisory organizations and insurers in this and other states in respect to ratemaking.

8. To perform all acts necessary to carry out the purposes listed in this section or the provisions of this chapter or chapters 616 and 617 of NRS relating to rating organizations.

Sec. 76. Every insurer shall be a member of the rating organization designated by the commissioner. The state industrial insurance system shall be a member of the rating organization and the system is entitled, without election, to membership on any committees established in the state by the rating organization.

Sec. 77. 1. If the designated rating organization finds that the rates of an insurer are not supported by the data reported by the insurer or the data supplied is otherwise inaccurate, the organization may request a hearing by the commissioner.

2. At the hearing, the commissioner shall consider the insurer's ability to report accurate data required by the uniform plan. The commissioner may, after the hearing, order the insurer

to take any action he determines necessary to ensure that the insurer reports accurate data to the designated rating organization.

Sec. 78. 1. Any person aggrieved by any decision, action or omission of the rating organization regarding rates or the policies filed by the organization may request the organization to reconsider the decision, action or omission. If the request for reconsideration is rejected or is not acted upon within 30 days by the rating organization the person requesting reconsideration may within a reasonable time thereafter appeal the decision, action or omission of the rating organization to the commissioner by filing a written complaint and request for a hearing specifying the grounds relied upon.

2. If the commissioner has information on the subject of the appeal and he believes that probable cause for the appeal does not exist or if he believes that the appeal is not made in good faith, he may deny the appeal without a hearing; otherwise, he shall hold a hearing to consider and determine the matter presented by the appeal.

3. The hearing may be held only after the person requesting the reconsideration and the rating organization have been given 10 days' written notice of the hearing.

4. If the commissioner finds that the decision, action or omission of the organization was unreasonable, he shall issue an order directing the rating organization to act in accordance with his decision within a reasonable time after the order.

Sec. 79. 1. If the commissioner has good cause to believe that the rating organization or an insurer does not comply with the requirements of this chapter applicable to it, he shall, unless he has good cause to believe that the noncompliance is willful, give notice in writing to the organization or insurer, stating in what manner and to what extent noncompliance is alleged to exist and specifying a reasonable time, not less than 10 days thereafter, in which the noncompliance may be corrected.

2. Notices under this section are confidential as between the commissioner and the organization or insurer unless a hearing is held.

Sec. 80. 1. If the commissioner has good cause to believe the noncompliance is willful, or if within the period prescribed by the commissioner in the notice, the organization or insurer does not make a change necessary to correct the noncompliance specified by the commissioner or establish to the satisfaction of the commissioner that the noncompliance does not exist, then the commissioner may hold a public hearing. Within a reasonable period of time, which must be not less than 10 days before the date of the hearing, he shall mail written notice specifying the matters to be considered at the hearing to the organization or insurer.

2. The notice must conform to the requirements for a notice to show cause as prescribed by subsection 2 of NRS 679B.320. If no notice has been given as provided in section 79 of this act, the notice given pursuant to this section must state in what manner and to what extent noncompliance is alleged to exist.

3. The hearing must not include any additional subjects not specified in the notices.

Sec. 81. If, after a hearing, the commissioner finds that:

1. The rating organization or any insurer has violated the provisions of this chapter applicable to it, he may issue an order to that organization or insurer, specifying in what respect the violation exists and stating when, within a reasonable period of time, the violation must cease.

2. Any conditions prerequisite to the granting of a license to the rating organization no longer exist, he may issue an order to the organization , specifying the condition which has ceased to exist and stating when within a reasonable time the condition must be complied with. If the condition is not complied with within the time specified, the commissioner may suspend or revoke the license of the organization, in addition to any other penalty provided in this chapter.

3. The rating organization has willfully engaged in any fraudulent or dishonest act or practice, he may suspend or revoke the license of the organization, in addition to any other penalty provided for in this chapter.

Sec. 82. An insurer or other person shall not willfully withhold information from, or knowingly give false or misleading information to, the commissioner or to the designated rating organization, which will affect the rates, rating systems or premiums for industrial insurance.

Sec. 83. No insurer or rating organization or member thereof in its character as a member or officer or employee of the licensed rating organization when acting within the scope of his employment is liable for injury or death or other damage proximately caused by a failure to inspect, or the manner or extent of inspection of, an employer's locations, plants or operations for classification, control of losses or rating, or by that person's comment or failure to comment on the subject matter or object of the inspection.

Sec. 84. NRS 686B.020 is hereby amended to read as follows:

686B.020 [In this chapter, unless contrary to context:] As used in this chapter, unless the context otherwise requires:

1. "Market segment" means any line or kind of insurance or, if it is described in general terms, any subdivision thereof or any class of risks or combination of classes.

2. "Rate service organization" or "rating organization" means any person, other than an employee of an insurer, who assists insurers in rate making or filing by:

(a) Collecting, compiling and furnishing loss or expense statistics;

(b) Recommending, making or filing rates or supplementary rate information; or

(c) Advising about rate questions, except as an attorney giving legal advice.

3. "Supplementary rate information" includes any manual or plan of rates, statistical plan, classification, rating schedule,

minimum premium, policy fee, rating rule, [rate-related] underwriting rule related to rates and any other information prescribed by [rule] a regulation of the commissioner.

Sec. 85. NRS 686B.030 is hereby amended to read as follows:

686B.030 This chapter applies to all kinds and lines of direct insurance written on risks or operations in this state by any insurer authorized to do business in this state, except:

1. Ocean marine insurance;
2. [Workmen's compensation insurance;
- 3.] Contracts issued by fraternal benefit societies;
- [4.] 3. Life insurance and credit life insurance;
- [5.] 4. Variable and fixed annuities; and
- [6.] 5. Group and blanket health insurance and credit health insurance.

Sec. 86. NRS 686B.070 is hereby amended to read as follows:

686B.070 1. Every authorized insurer and every rate service organization licensed under NRS 686B.130 which has been designated by any insurer for the filing of rates under subsection 2 of NRS 686B.090 shall file with the commissioner all:

- [1.] (a) Rates;
- [2.] (b) Forms of policies to which the rates apply;
- [3.] (c) Supplementary [rate information; and
- 4.] information on the rates; and
- (d) Changes and amendments thereof,

made by [it] the insurer or rating service organization for use in this state on or before the date the rates become effective.

2. This section does not apply to filings for industrial insurance made by the rating organization designated by the commissioner.

Sec. 87. NRS 686B.100 is hereby amended to read as follows:

686B.100 1. If the commissioner finds that competition is not an effective regulator of the rates charged or that a substantial number of companies are competing irresponsibly through the rates charged, or that there are widespread violations of this chapter, in any kind or line of insurance or subdivision thereof or in any rating class or rating territory, he may [promulgate a rule requiring] order that in the kind or line of insurance or subdivision thereof or rating class or rating territory [comprehended by the finding] included in his order any subsequent changes in the rates or supplementary rate information must be filed with him at least 15 days before they become effective. He may extend the waiting period for not to exceed 15 additional days by written notice to the [filer] insurer or rating service organization before the first 15-day period expires.

2. By [rule,] regulation, the commissioner may require the filing of supporting data [as to any or all] for any kinds or lines of insurance or subdivisions thereof or classes of risks or combinations thereof as he deems necessary for the proper [functioning of the rate] monitoring and regulation [process.] of rates. The supporting data [shall] must include:

(a) The experience and judgment of the [filer,] insurer or rate service organization filing the rates and, to the extent it

wishes or the commissioner requires, the experience of other insurers or rate service organizations;

(b) [Its] An interpretation of any statistical data relied upon;

(c) Descriptions of the actuarial and statistical methods employed in setting the rates; and

(d) Any other relevant matters required by the commissioner.

3. [A rule promulgated] Any order of the commissioner under subsection 1 [shall expire] expires no more than 1 year after issue. The commissioner may renew the [rule] order if he deems it necessary.

4. Whenever a filing is not accompanied by [such] the information [as] the commissioner [has] required under subsection 2, he may so inform the insurer and the filing [shall be] is deemed to be made when the information is furnished.

5. This section does not apply to rates filed for industrial insurance.

Sec. 88. NRS 686B.110 is hereby amended to read as follows:

686B.110 1. If the commissioner finds that a rate is not in compliance with NRS 686B.050, he shall order that its use be discontinued for any policy issued or renewed after a date specified in the order.

2. Within 1 year after the effective date of an order under subsection 1, no rate promulgated to replace a disapproved one may be used until it has been filed with the commissioner and if it is not disapproved within 30 days thereafter.

3. Whenever an insurer has no legally effective rates as a

result of the commissioner's disapproval of rates or other act, the commissioner shall on request specify interim rates for the insurer that are high enough to protect the interests of all parties and may order that a specified portion of the premiums be placed in an escrow account approved by him. When new rates become legally effective, the commissioner shall order the escrowed [funds] money or any overcharge in the interim rates to be distributed appropriately, except that refunds to policyholders that are de minimis [shall not be] are not required.

4. This section does not apply to rates filed for industrial insurance.

Sec. 89. NRS 686B.120 is hereby amended to read as follows:

686B.120 1. The commissioner may by order require that a particular insurer file any or all of its rates and supplementary [rate] information on the rates 15 days prior to their effective date, if [and to the extent that] he finds, after a hearing, that the protection of the interests of its insureds and the public in this state requires closer supervision of [its] the insurer's rates because of the [insured's] insurer's financial condition or rating practices. He may extend the waiting period for any filing for [not to exceed] a period not exceeding 15 additional days by written notice to the insurer before the first 15-day period expires. A filing not disapproved before the expiration of the waiting period shall be deemed to meet the requirements of this chapter, subject to [the possibility of] subsequent disapproval under NRS 686B.110.

2. This section does not apply to rates filed for industrial insurance.

Sec. 90. NRS 687A.020 is hereby amended to read as follows:

687A.020 This chapter applies to all direct insurance, except annuity contracts and life, health, title, surety, accounts receivable, deposit, mortgage guaranty , [and] ocean marine insurance [.] and industrial insurance provided by the state industrial insurance system.

Sec. 91. NRS 687A.060 is hereby amended to read as follows:

687A.060 1. The association [shall:

(a) Be] is obligated to the extent of the covered claims existing [prior to] before the determination of insolvency and arising within 30 days after the determination of insolvency, or before the policy expiration date if less than 30 days after the determination, or before the insured replaces the policy or on request [effects cancellation] cancels the policy if he does so within 30 days of the determination. The obligation [shall include] includes only that amount of each covered claim , except a claim made under chapters 616 or 617 of NRS, which is less than \$300,000. [In no event shall the association be] The association is not obligated to a policyholder or claimant in an amount in excess of the face amount of the policy from which the claim arises.

[(b)] 2. The association shall:

(a) Be deemed the insurer to the extent of its obligations on the covered claims and to [such extent shall have all] that

extent it has all the rights, duties and obligations of the insolvent insurer as if the insurer had not become insolvent.

[(c)] (b) Assess member insurers amounts necessary to pay the obligations of the association under [paragraph (a) of this] subsection 1 subsequent to an insolvency, the expenses of handling covered claims subsequent to an insolvency, the cost of examinations under NRS 687A.110, and other expenses authorized by this chapter. The assessment of each member insurer [shall] must be in the proportion that the net direct written premiums of the member insurer for the calendar year preceding the assessment bear to the net direct written premiums of all member insurers for the same calendar year. Each member insurer [shall] must be notified of the assessment not later than 30 days before it is due. No member insurer may be assessed in any year an amount greater than 2 percent of that member insurer's net direct written premiums for the calendar year preceding the assessment. If the maximum assessment, together with the other assets of the association, does not provide in any 1 year an amount sufficient to make all necessary payments, the funds available may be prorated and the unpaid portion [shall] must be paid as soon as [funds become] money becomes available. The association may pay claims in any order including the order in which they are received or in groups or categories. The association may exempt or defer, in whole or in part, the assessment of any member insurer if the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in

which the member insurer is authorized to transact insurance. During the period of deferment, no dividends [shall] may be paid to shareholders or policyholders. Deferred assessments [shall] must be paid when payment will not reduce capital or surplus below required minimums. Payments [shall] must be refunded to those companies receiving larger assessments by virtue of deferment, or, in the discretion of any such company, credited against future assessments. Each member insurer [shall] must be allowed a premium tax credit at the rate of 20 percent per year for 5 successive years following the final order in the liquidation period for any amounts paid under this chapter.

[(d)] (c) Investigate claims brought against the fund and adjust, compromise, settle and pay covered claims to the extent of the association's obligation and deny all other claims.

[(e)] (d) Notify such persons as the commissioner directs under paragraph (a) of subsection 2 of NRS 687A.080.

[(f) Process] (e) Act upon claims through its employees or through one or more member insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the commissioner, but such a designation may be declined by a member insurer.

[(g)] (f) Reimburse each servicing facility for obligations of the association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the association, and pay the other expenses of the association authorized by this chapter.

[2.] 3. The association may:

(a) Appear in, defend and appeal any action on a claim brought against the association.

(b) Employ or retain persons necessary to handle claims and perform other duties of the association.

(c) Borrow [funds] money necessary to effect the purposes of this chapter in accord with the plan of operation.

(d) Sue or be sued.

(e) Negotiate and become a party to contracts necessary to carry out the purposes of this chapter.

(f) Perform other acts necessary or proper to effectuate the purposes of this chapter.

(g) If, at the end of any calendar year, the board of directors finds that the assets of the association exceed its liabilities as estimated by the board of directors for the coming year, refund to the member insurers in proportion to the contribution of each that amount by which the assets of the association exceed the liabilities.

(h) Assess each member insurer equally no more than \$100 per year for administrative expenses not related to the insolvency of any particular insurer.

Sec. 92. Chapter 690B of NRS is hereby amended by adding thereto a new section which shall read as follows:

1. Any casualty insurer may write industrial insurance under the general provisions of chapters 616 and 617 of NRS concerning the respective rights and obligations of employees and their employers, if the insurer:

(a) Has a certificate of authority issued by the commissioner under chapter 680A of NRS;

(b) Has been certified by the administrator of the department of industrial relations under chapter 616 of NRS; and

(c) Is specifically qualified under paragraph (c) of subsection 1 of NRS 681A.020.

2. The insurance may be purchased by qualified employers to secure the payment of compensation for employees injured in the course of employment.

3. The employer shall bear the costs for private insurance.

Sec. 93. NRS 616.380, 616.390, 616.4972 to 616.499, inclusive, 617.280, 617.290 and 617.300 are hereby repealed.

Sec. 94. Each employer paying premiums to the state industrial insurance system under the provisions of chapters 616 and 617 of NRS on January 1, 1984, remains insured under the system until that employer elects to purchase industrial insurance under this act.

Sec. 95. Within a reasonable time after July 1, 1983, the state industrial insurance system shall provide the following records of the system and the Nevada industrial commission to the rating organization:

1. Records of accidents and loss experience; and

2. Any other data requested by the rating organization to prepare the filings required by this act.

The rating organization shall reimburse the system for the actual cost of reproducing and delivering those records and data.

Sec. 96. The commissioner of insurance shall adopt a regulation by September 1, 1983, to establish a schedule of dates for the:

1. Licensing and designation of a rating organization;
2. Filing of a rating system by that rating organization;
3. Review by the commissioner, the state industrial insurance system and private carriers of the initial filing; and
4. Approval of a rating system by the commissioner.

Sec. 97. 1. This act shall become effective upon passage and approval for the commissioner of insurance to adopt the schedule required by section 96 of this act.

2. This act shall become effective on July 1, 1983, for the purposes of:

(a) The adoption of regulations by the commissioner of insurance and the administrator of the division of industrial insurance regulation of the department of industrial relations.

(b) The qualification of private carriers to sell industrial insurance.

(c) The designation of a licensed rating organization by the commissioner and the initial filing of classifications of risk and a system of rating by the designated rating organization.

(d) The inspection of the records of the system, the Nevada industrial commission and the administrator with respect to the self-insured employers, by the commissioner and the rating organization.

(e) The filing, by private carriers or the system, of any

increase or decrease from those rates filed with the commissioner by the rating organization.

3. For all other purposes, this act shall become effective on July 1, 1984.