

ASSEMBLY BILL NO. 168—ASSEMBLYMEN GIUNCHIGLIANI,  
ANDERSON, PARKS, GOLDWATER, GIBBONS, ARBERRY,  
ATKINSON, BUCKLEY, CLABORN, COLLINS, CONKLIN,  
HORNE, LESLIE, MANENDO AND WILLIAMS

FEBRUARY 20, 2003

---

JOINT SPONSOR: SENATOR CARLTON

---

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing industrial insurance.  
(BDR 53-255)

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

~

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

---

---

AN ACT relating to industrial insurance; prohibiting a self-insured employer, an association of self-insured public or private employers or a private carrier from entering into a contract with an organization for managed care under certain circumstances; increasing the period during which the Administrator of the Division of Industrial Relations of the Department of Business and Industry must cause an audit of certain insurers to be conducted; revising the requirements for determining the percentage of disability for certain injuries and occupational diseases; requiring an employer who offers temporary, light-duty employment to an injured employee to confirm the offer within a certain period under certain circumstances; providing that such an offer must specify a position that has the same seniority and employment benefits as the position of the employee at the time of his injury; requiring a person who wishes to contest a decision of the Administrator to impose or refuse to impose an administrative fine to file a notice of appeal in the district court; authorizing a person who is aggrieved by a written determination of the



\* A B 1 6 8 R 1 \*

Administrator or the failure of the Administrator to respond to a written request to appeal the determination or failure to respond to an appeals officer under certain circumstances; and providing other matters properly relating thereto.

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

1     **Section 1.** NRS 616A.070 is hereby amended to read as  
2 follows:

3     616A.070 “Benefit penalty” means an additional amount of  
4 money that is payable to a claimant if the Administrator has  
5 determined that a violation of any of the provisions of paragraphs  
6 (a) to ~~(d)~~ (e), inclusive, of subsection 1 of NRS 616D.120 has  
7 occurred.

8     **Sec. 2.** Chapter 616B of NRS is hereby amended by adding  
9 thereto the provisions set forth as sections 3 and 4 of this act.

10     **Sec. 3. 1.** *A self-insured employer, an association of self-*  
11 *insured public or private employers or a private carrier shall not*  
12 *enter into a contract with an organization for managed care*  
13 *unless the organization’s proposed plan for providing medical and*  
14 *health care services ensures that, if medical or health care services*  
15 *are to be provided by the organization, an employee who is injured*  
16 *in the county in which he is employed may choose the services of*  
17 *any provider of health care located in that county or an adjacent*  
18 *county if the employee’s place of employment is not within a 20-*  
19 *mile radius of a provider of health care who has contracted with*  
20 *the organization to participate in the plan and provide the services*  
21 *required by the employee. If those services are not available, the*  
22 *injured employee may choose the services of any provider of*  
23 *health care located in this state.*

24     **2.** *The fees charged by a provider of health care chosen by an*  
25 *injured employee pursuant to this section may not exceed the fees*  
26 *established in accordance with NRS 616C.260 or the usual fee*  
27 *charged by that provider, whichever is less.*

28     **Sec. 4. 1.** *A self-insured employer, an association of self-*  
29 *insured public or private employers or a private carrier shall not*  
30 *enter into a contract with an organization for managed care*  
31 *unless the organization’s proposed plan for providing medical and*  
32 *health care services:*

33     **(a)** *Will provide all medical and health care services that may*  
34 *be required for industrial injuries and occupational diseases that*  
35 *are compensable under chapters 616A to 617, inclusive, of NRS in*



1 *a manner that ensures the availability and accessibility of*  
2 *adequate treatment to injured employees;*

3 *(b) Provides to injured employees an adequate choice of*  
4 *providers of health care who have contracted with the*  
5 *organization to participate in the proposed plan; and*

6 *(c) Provides appropriate financial incentives to reduce costs of*  
7 *medical and health care services without affecting the quality of*  
8 *any care provided to an injured employee.*

9 *2. The Division may adopt regulations to ensure the adequacy*  
10 *of an insurer's panel of providers of health care established*  
11 *pursuant to subsection 1.*

12 **Sec. 5.** NRS 616B.003 is hereby amended to read as follows:

13 616B.003 1. The Administrator shall cause to be conducted  
14 at least every ~~3~~ 5 years an audit of all insurers who provide  
15 benefits to injured employees pursuant to chapters 616A to 616D,  
16 inclusive, or chapter 617 of NRS. The Administrator shall cause to  
17 be conducted each year on a random basis additional partial audits  
18 of any insurer who has a history of violations of the provisions of  
19 chapters 616A to 616D, inclusive, or chapter 617 of NRS, or the  
20 regulations adopted pursuant thereto, as determined by the  
21 Administrator.

22 2. The Administrator shall require the use of standard auditing  
23 procedures and shall establish a manual to describe the standard  
24 auditing procedures. The manual must include:

- 25 (a) Specific audit objectives;
- 26 (b) Standards for documentation;
- 27 (c) Policies for supervisory review;
- 28 (d) Policies for the training of auditors;
- 29 (e) The format for the audit report; and
- 30 (f) Procedures for the presentation, distribution and retention of  
31 the audit report.

32 3. The Commissioner and the Administrator shall establish a  
33 procedure for sharing information between the Division of  
34 Insurance of the Department of Business and Industry and the  
35 Division concerning the qualifications of employers as self-insured  
36 employers pursuant to NRS 616B.300 or as an association of self-  
37 insured public or private employers pursuant to NRS 616B.353.

38 4. On or before March 1 of each year, the Administrator shall  
39 make a report of each audit to the Legislature, if it is in session, or to  
40 the Interim Finance Committee if the Legislature is not in session.

41 **Sec. 6.** NRS 616B.527 is hereby amended to read as follows:

42 616B.527 1. A self-insured employer, an association of self-  
43 insured public or private employers or a private carrier may:

- 44 (a) ~~Enter~~ *Except as otherwise provided in sections 3 and 4 of*  
45 *this act, enter* into a contract or contracts with one or more



1 organizations for managed care to provide comprehensive medical  
2 and health care services to employees for injuries and diseases that  
3 are compensable pursuant to chapters 616A to 617, inclusive, of  
4 NRS.

5 (b) Enter into a contract or contracts with providers of health  
6 care, including, without limitation, physicians who provide primary  
7 care, specialists, pharmacies, physical therapists, radiologists,  
8 nurses, diagnostic facilities, laboratories, hospitals and facilities that  
9 provide treatment to outpatients, to provide medical and health care  
10 services to employees for injuries and diseases that are compensable  
11 pursuant to chapters 616A to 617, inclusive, of NRS.

12 (c) Require employees to obtain medical and health care  
13 services for their industrial injuries from those organizations and  
14 persons with whom the self-insured employer, association or private  
15 carrier has contracted pursuant to paragraphs (a) and (b), or as the  
16 self-insured employer, association or private carrier otherwise  
17 prescribes.

18 (d) Except as otherwise provided in subsection 3 of NRS  
19 616C.090, require employees to obtain the approval of the self-  
20 insured employer, association or private carrier before obtaining  
21 medical and health care services for their industrial injuries from a  
22 provider of health care who has not been previously approved by the  
23 self-insured employer, association or private carrier.

24 2. An organization for managed care with whom a self-insured  
25 employer, association of self-insured public or private employers or  
26 a private carrier has contracted pursuant to this section shall comply  
27 with the provisions of NRS 616B.528, 616B.5285 and 616B.529.

28 **Sec. 7.** NRS 616C.110 is hereby amended to read as follows:

29 616C.110 1. For the purposes of NRS 616B.557, 616C.490  
30 and 617.459, the Division ~~[shall]~~ :

31 (a) *Shall* adopt regulations incorporating *by reference* the *most*  
32 *recently published edition of the* American Medical Association's  
33 *Guides to the Evaluation of Permanent Impairment* ~~[by reference~~  
34 ~~and may]~~ *not later than 1 year after the publication of that edition;*  
35 *and*

36 (b) *May* amend those regulations from time to time as it deems  
37 necessary. ~~[In adopting the Guides to the Evaluation of Permanent~~  
38 ~~Impairment, the Division shall consider the edition most recently~~  
39 ~~published by the American Medical Association.]~~

40 2. If the *Guides to the Evaluation of Permanent Impairment*  
41 adopted by the Division contain more than one method of  
42 determining the rating of an impairment, the Administrator shall  
43 designate by regulation the method which must be used to rate an  
44 impairment pursuant to NRS 616C.490.



1       **Sec. 8.** NRS 616C.340 is hereby amended to read as follows:  
2       616C.340 1. The Governor shall appoint one or more appeals  
3 officers to conduct hearings ~~fin-contested claims for compensation~~  
4 ~~pursuant to NRS 616C.360.] and appeals as required pursuant to~~  
5 ~~chapters 616A to 617, inclusive, of NRS.~~ Each appeals officer shall  
6 hold office for 2 years ~~from] after~~ the date of his appointment and  
7 until his successor is appointed and has qualified. Each appeals  
8 officer is entitled to receive an annual salary in an amount provided  
9 by law and is in the unclassified service of the State.

10       2. Each appeals officer must be an attorney who has been  
11 licensed to practice law before all the courts of this state for at least  
12 2 years. Except as otherwise provided in NRS 7.065, an appeals  
13 officer shall not engage in the private practice of law.

14       3. If an appeals officer determines that he has a personal  
15 interest or a conflict of interest, directly or indirectly, in any case  
16 which is before him, he shall disqualify himself from hearing the  
17 case.

18       4. The Governor may appoint one or more special appeals  
19 officers to conduct hearings ~~fin-contested claims for compensation~~  
20 ~~pursuant to NRS 616C.360.] and appeals as required pursuant to~~  
21 ~~chapters 616A to 617, inclusive, of NRS.~~ The Governor shall not  
22 appoint an attorney who represents persons in actions related to  
23 claims for compensation to serve as a special appeals officer.

24       5. A special appeals officer appointed pursuant to subsection 4  
25 is vested with the same powers as a regular appeals officer. A  
26 special appeals officer may hear any case in which a regular appeals  
27 officer has a conflict, or any case assigned to him by the Senior  
28 Appeals Officer to assist with a backlog of cases. A special appeals  
29 officer is entitled to be paid at an hourly rate, as determined by the  
30 Department of Administration.

31       6. The decision of an appeals officer is the final and binding  
32 administrative determination of a claim for compensation under  
33 chapters 616A to 616D, inclusive, or chapter 617 of NRS, and the  
34 whole record consists of all evidence taken at the hearing before the  
35 appeals officer and any findings of fact and conclusions of law  
36 based thereon.

37       **Sec. 9.** NRS 616C.345 is hereby amended to read as follows:

38       616C.345 1. Any party aggrieved by a decision of the  
39 hearing officer relating to a claim for compensation may appeal  
40 from the decision by filing a notice of appeal with an appeals officer  
41 within 30 days after the date of the decision.

42       2. If a dispute is required to be submitted to a procedure for  
43 resolving complaints pursuant to NRS 616C.305 and:

44       (a) A final determination was rendered pursuant to that  
45 procedure; or



1 (b) The dispute was not resolved pursuant to that procedure  
2 within 14 days after it was submitted,  
3 any party to the dispute may file a notice of appeal within 70 days  
4 after the date on which the final determination was mailed to the  
5 employee, or his dependent, or the unanswered request for  
6 resolution was submitted. Failure to render a written determination  
7 within 30 days after receipt of such a request shall be deemed by the  
8 appeals officer to be a denial of the request.

9 3. Except as otherwise provided in NRS 616C.380, the filing of  
10 a notice of appeal does not automatically stay the enforcement of the  
11 decision of a hearing officer or a determination rendered pursuant to  
12 NRS 616C.305. The appeals officer may order a stay, when  
13 appropriate, upon the application of a party. If such an application is  
14 submitted, the decision is automatically stayed until a determination  
15 is made concerning the application. A determination on the  
16 application must be made within 30 days after the filing of  
17 the application. If a stay is not granted by the officer after reviewing  
18 the application, the decision must be complied with within 10 days  
19 after the date of the refusal to grant a stay.

20 4. Except as otherwise provided in this subsection, ~~the appeals~~  
21 ~~officer shall,~~ within 10 days after receiving a notice of appeal  
22 pursuant to this section or *NRS 616D.140, or within 10 days after*  
23 *receiving a notice of* a contested claim pursuant to subsection 5 of  
24 NRS 616C.315, *the appeals officer shall* schedule a hearing on the  
25 merits of the appeal or contested claim for a date and time within 90  
26 days after his receipt of the notice and give notice by mail or by  
27 personal service to all parties to the matter and their attorneys or  
28 agents at least 30 days before the date and time scheduled. A request  
29 to schedule the hearing for a date and time which is:

30 (a) Within 60 days after the receipt of the notice of appeal or  
31 contested claim; or

32 (b) More than 90 days after the receipt of the notice or  
33 claim,  
34 may be submitted to the appeals officer only if all parties to the  
35 appeal or contested claim agree to the request.

36 5. An appeal or contested claim may be continued upon written  
37 stipulation of all parties, or upon good cause shown.

38 6. Failure to file a notice of appeal within the period specified  
39 in subsection 1 or 2 may be excused if the party aggrieved shows by  
40 a preponderance of the evidence that he did not receive the notice of  
41 the determination and the forms necessary to appeal the  
42 determination. The claimant, employer or insurer shall notify the  
43 hearing officer of a change of address.



1       **Sec. 10.** NRS 616C.475 is hereby amended to read as follows:  
2       616C.475 1. Except as otherwise provided in this section,  
3 NRS 616C.175 and 616C.390, every employee in the employ of an  
4 employer, within the provisions of chapters 616A to 616D,  
5 inclusive, of NRS, who is injured by accident arising out of and in  
6 the course of employment, or his dependents, is entitled to receive  
7 for the period of temporary total disability, 66 2/3 percent of the  
8 average monthly wage.  
9       2. Except as otherwise provided in NRS 616B.028 and  
10 616B.029, an injured employee or his dependents are not entitled to  
11 accrue or be paid any benefits for a temporary total disability during  
12 the time the injured employee is incarcerated. The injured employee  
13 or his dependents are entitled to receive such benefits when the  
14 injured employee is released from incarceration if he is certified as  
15 temporarily totally disabled by a physician or chiropractor.  
16       3. If a claim for the period of temporary total disability is  
17 allowed, the first payment pursuant to this section must be issued by  
18 the insurer within 14 working days after receipt of the initial  
19 certification of disability and regularly thereafter.  
20       4. Any increase in compensation and benefits effected by the  
21 amendment of subsection 1 is not retroactive.  
22       5. Payments for a temporary total disability must cease when:  
23       (a) A physician or chiropractor determines that the employee is  
24 physically capable of any gainful employment for which the  
25 employee is suited, after giving consideration to the employee's  
26 education, training and experience;  
27       (b) The employer offers the employee light-duty employment or  
28 employment that is modified according to the limitations or  
29 restrictions imposed by a physician or chiropractor pursuant to  
30 subsection 7; or  
31       (c) Except as otherwise provided in NRS 616B.028 and  
32 616B.029, the employee is incarcerated.  
33       6. Each insurer may, with each check that it issues to an injured  
34 employee for a temporary total disability, include a form approved  
35 by the Division for the injured employee to request continued  
36 compensation for the temporary total disability.  
37       7. A certification of disability issued by a physician or  
38 chiropractor must:  
39       (a) Include the period of disability and a description of any  
40 physical limitations or restrictions imposed upon the work of the  
41 employee;  
42       (b) Specify whether the limitations or restrictions are permanent  
43 or temporary; and



1 (c) Be signed by the treating physician or chiropractor  
2 authorized pursuant to NRS 616B.527 or appropriately chosen  
3 pursuant to subsection 3 of NRS 616C.090.

4 8. If the certification of disability specifies that the physical  
5 limitations or restrictions are temporary, the employer of the  
6 employee at the time of his accident ~~[is not required to comply]~~ *may*  
7 *offer temporary, light-duty employment to the employee. If the*  
8 *employer makes such an offer, the employer shall confirm the*  
9 *offer in writing within 10 days after making the offer. The*  
10 *making, acceptance or rejection of an offer of temporary, light-*  
11 *duty employment pursuant to this subsection does not affect the*  
12 *eligibility of the employee to receive compensation or vocational*  
13 *rehabilitation services and does not exempt the employer from*  
14 *complying* with NRS 616C.545 to 616C.575, inclusive, and  
15 616C.590 or the regulations adopted by the Division governing  
16 vocational rehabilitation services . ~~[if the employer offers the~~  
17 ~~employee temporary, light-duty employment.]~~ Any offer of  
18 temporary, light-duty employment made by the employer must  
19 specify a position that:

20 (a) Is substantially similar to the employee’s position at the time  
21 of his injury in relation to the location of the employment and the  
22 hours he is required to work; ~~[and]~~

23 (b) Provides a gross wage that is:

24 (1) If the position is in the same classification of  
25 employment, equal to the gross wage the employee was earning at  
26 the time of his injury; or

27 (2) If the position is not in the same classification of  
28 employment, substantially similar to the gross wage the employee  
29 was earning at the time of his injury ~~[;]~~ *and*

30 *(c) Has the same seniority and employment benefits as the*  
31 *position of the employee at the time of his injury.*

32 **Sec. 11.** NRS 616C.495 is hereby amended to read as follows:

33 616C.495 1. Except as otherwise provided in NRS 616C.380,  
34 an award for a permanent partial disability may be paid in a lump  
35 sum under the following conditions:

36 (a) A claimant injured on or after July 1, 1973, and before  
37 July 1, 1981, who incurs a disability that does not exceed 12 percent  
38 may elect to receive his compensation in a lump sum. A claimant  
39 injured on or after July 1, 1981, and before July 1, 1995, who incurs  
40 a disability that does not exceed 25 percent may elect to receive his  
41 compensation in a lump sum.

42 (b) The spouse, or in the absence of a spouse, any dependent  
43 child of a deceased claimant injured on or after July 1, 1973, who is  
44 not entitled to compensation in accordance with NRS 616C.505, is





1 entitled to a lump sum equal to the present value of the deceased  
2 claimant's undisbursed award for a permanent partial disability.

3 (c) Any claimant injured on or after July 1, 1981, and before  
4 July 1, 1995, who incurs a disability that exceeds 25 percent may  
5 elect to receive his compensation in a lump sum equal to the present  
6 value of an award for a disability of 25 percent. If the claimant  
7 elects to receive compensation pursuant to this paragraph, the  
8 insurer shall pay in installments to the claimant that portion of the  
9 claimant's disability in excess of 25 percent.

10 (d) Any claimant injured on or after July 1, 1995, may elect to  
11 receive his compensation in a lump sum in accordance with  
12 regulations adopted by the Administrator and approved by the  
13 Governor. The Administrator shall adopt regulations for  
14 determining the eligibility of such a claimant to receive all or any  
15 portion of his compensation in a lump sum. Such regulations may  
16 include the manner in which an award for a permanent partial  
17 disability may be paid to such a claimant in installments.  
18 Notwithstanding the provisions of NRS 233B.070, any regulation  
19 adopted pursuant to this paragraph does not become effective unless  
20 it is first approved by the Governor.

21 2. If the claimant elects to receive his payment for a permanent  
22 partial disability in a lump sum pursuant to subsection 1, all of his  
23 benefits for compensation terminate. His acceptance of that payment  
24 constitutes a final settlement of all factual and legal issues in the  
25 case. By so accepting, he waives all of his rights regarding the  
26 claim, including the right to appeal from the closure of the case or  
27 the percentage of his disability, except:

28 (a) His right to reopen his claim according to the provisions of  
29 NRS 616C.390; ~~and~~

30 (b) Any counseling, training or other rehabilitative services  
31 provided by the insurer ~~;~~ *and*

32 *(c) His right to receive a benefit penalty in accordance with*  
33 *NRS 616D.120.*

34 The claimant must be advised in writing of the provisions of this  
35 subsection when he demands his payment in a lump sum, and has 20  
36 days after the mailing or personal delivery of ~~this~~ *the* notice within  
37 which to retract or reaffirm his demand, before payment may be  
38 made and his election becomes final.

39 3. Any lump-sum payment which has been paid on a claim  
40 incurred on or after July 1, 1973, must be supplemented if necessary  
41 to conform to the provisions of this section.

42 4. Except as otherwise provided in this subsection, the total  
43 lump-sum payment for disablement must not be less than one-half  
44 the product of the average monthly wage multiplied by the  
45 percentage of disability. If the claimant received compensation in



1 installment payments for his permanent partial disability before  
2 electing to receive his payment for that disability in a lump sum, the  
3 lump-sum payment must be calculated for the remaining payment of  
4 compensation.

5 5. The lump sum payable must be equal to the present value of  
6 the compensation awarded, less any advance payment or lump sum  
7 previously paid. The present value must be calculated using monthly  
8 payments in the amounts prescribed in subsection 7 of NRS  
9 616C.490 and actuarial annuity tables adopted by the Division. The  
10 tables must be reviewed annually by a consulting actuary.

11 6. If a claimant would receive more money by electing to  
12 receive compensation in a lump sum than he would if he receives  
13 installment payments, he may elect to receive the lump-sum  
14 payment.

15 **Sec. 12.** NRS 616C.590 is hereby amended to read as follows:

16 616C.590 1. Except as otherwise provided in this section, an  
17 injured employee is not eligible for vocational rehabilitation  
18 services, unless:

19 (a) The treating physician or chiropractor approves the return of  
20 the injured employee to work but imposes permanent restrictions  
21 that prevent the injured employee from returning to the position that  
22 he held at the time of his injury;

23 (b) The injured employee's employer does not offer  
24 employment that:

25 (1) The employee is eligible for considering the restrictions  
26 imposed pursuant to paragraph (a); ~~and~~

27 (2) Provides a gross wage that is equal to or greater than 80  
28 percent of the gross wage that the employee was earning at the time  
29 of his injury; and

30 (3) *Has the same seniority and employment benefits as the*  
31 *position of the employee at the time of his injury; and*

32 (c) The injured employee is unable to return to gainful  
33 employment with any other employer at a gross wage that is equal  
34 to or greater than 80 percent of the gross wage that the employee  
35 was earning at the time of his injury.

36 2. If the treating physician or chiropractor imposes permanent  
37 restrictions on the injured employee for the purposes of paragraph  
38 (a) of subsection 1, he shall specify in writing:

39 (a) The medically objective findings upon which his  
40 determination is based; and

41 (b) A detailed description of the restrictions.  
42 The treating physician or chiropractor shall deliver a copy of the  
43 findings and the description of the restrictions to the insurer.

44 3. If there is a question as to whether the restrictions imposed  
45 upon the injured employee are permanent, the employee may



1 receive vocational rehabilitation services until a final determination  
2 concerning the duration of the restrictions is made.

3 4. Vocational rehabilitation services must cease as soon as the  
4 injured employee is no longer eligible for the services pursuant to  
5 subsection 1.

6 5. An injured employee is not entitled to vocational  
7 rehabilitation services solely because the position that he held at the  
8 time of his injury is no longer available.

9 6. An injured employee or his dependents are not entitled to  
10 accrue or be paid any money for vocational rehabilitation services  
11 during the time the injured employee is incarcerated.

12 7. Any injured employee eligible for compensation other than  
13 accident benefits may not be paid those benefits if he refuses  
14 counseling, training or other vocational rehabilitation services  
15 offered by the insurer. Except as otherwise provided in NRS  
16 616B.028 and 616B.029, an injured employee shall be deemed to  
17 have refused counseling, training and other vocational rehabilitation  
18 services while he is incarcerated.

19 8. If an insurer cannot locate an injured employee for whom it  
20 has ordered vocational rehabilitation services, the insurer may close  
21 his claim 21 days after the insurer determines that the employee  
22 cannot be located. The insurer shall make a reasonable effort to  
23 locate the employee.

24 9. The reappearance of the injured employee after his claim has  
25 been closed does not automatically reinstate his eligibility for  
26 vocational rehabilitation benefits. If the employee wishes to  
27 reestablish his eligibility for ~~[such]~~ *those* benefits, he must file a  
28 written application with the insurer to reinstate his claim. The  
29 insurer shall reinstate the employee's claim if good cause is shown  
30 for the employee's absence.

31 **Sec. 13.** Chapter 616D is hereby amended by adding thereto  
32 a new section to read as follows:

33 *1. If a person wishes to contest a decision of the*  
34 *Administrator to impose or refuse to impose an administrative fine*  
35 *pursuant to this chapter or chapter 616A, 616B, 616C or 617 of*  
36 *NRS, he must file a notice of appeal with the district court in*  
37 *accordance with this section. The notice of appeal must set forth*  
38 *the reasons the proposed administrative fine should or should not*  
39 *be imposed.*

40 *2. A person who is aggrieved by:*

41 *(a) A written determination of the Administrator; or*

42 *(b) The failure of the Administrator to respond within 70 days*  
43 *to a written request mailed to the Administrator by the person who*  
44 *is aggrieved,*



1 *may appeal from the determination or failure to respond by filing*  
2 *a request for a hearing before the district court. The request must*  
3 *be filed within 30 days after the date on which the notice of the*  
4 *Administrator's determination was mailed by the Administrator or*  
5 *within 100 days after the date on which the unanswered written*  
6 *request was mailed to the Administrator, as applicable. The failure*  
7 *of the Administrator to respond to a written request for a*  
8 *determination within 70 days after receipt of the request shall be*  
9 *deemed by the district court to be a denial of the request.*

10 3. *If a notice of appeal is not filed as required by this section,*  
11 *the imposition of or refusal to impose the administrative fine shall*  
12 *be deemed a final order and is not subject to review by any court*  
13 *or agency.*

14 4. *An administrative fine imposed pursuant to this chapter or*  
15 *chapter 616A, 616B, 616C or 617 of NRS must be paid to the*  
16 *Division. If the violation for which the fine is levied was*  
17 *committed by a person while acting within the course and scope of*  
18 *his agency or employment, the fine must be paid by his principal*  
19 *or employer. The fine may be recovered in a civil action brought*  
20 *in the name of the Division in a court of competent jurisdiction in*  
21 *the county in which the violation occurred or in which the person*  
22 *against whom the fine is levied has his principal place of business.*

23 **Sec. 14.** NRS 616D.120 is hereby amended to read as follows:

24 616D.120 1. Except as otherwise provided in this section, if  
25 the Administrator determines that an insurer, organization for  
26 managed care, health care provider, third-party administrator or  
27 employer has:

28 (a) ~~Through fraud, coercion, duress or undue influence:~~  
29 ~~(1)~~ Induced a claimant to fail to report an accidental injury  
30 or occupational disease;

31 ~~(2) Persuaded~~  
32 (b) *Without justification, persuaded* a claimant to ~~settle~~ :

33 (1) *Settle* for an amount which is less than reasonable;

34 ~~(3) Persuaded a claimant to settle~~

35 (2) *Settle* for an amount which is less than reasonable while a  
36 hearing or an appeal is pending; or

37 ~~(4) Persuaded a claimant to accept~~

38 (3) *Accept* less than the compensation found to be due him  
39 by a hearing officer, appeals officer, court of competent jurisdiction,  
40 written settlement agreement, written stipulation or the Division  
41 when carrying out its duties pursuant to chapters 616A to 617,  
42 inclusive, of NRS;

43 ~~(b)~~ (c) Refused to pay or unreasonably delayed payment to a  
44 claimant of compensation *or other relief* found to be due him by a  
45 hearing officer, appeals officer, court of competent jurisdiction,



1 written settlement agreement, written stipulation or the Division  
2 when carrying out its duties pursuant to chapters 616A to 616D,  
3 inclusive, or chapter 617 of NRS, if the refusal or delay occurs:

4 (1) Later than 10 days after the date of the settlement  
5 agreement or stipulation;

6 (2) Later than 30 days after the date of the decision of a  
7 court, hearing officer, appeals officer or *the* Division, unless a stay  
8 has been granted; or

9 (3) Later than 10 days after a stay of the decision of a court,  
10 hearing officer, appeals officer or *the* Division has been lifted;

11 ~~(e)~~ (d) Refused to process a claim for compensation pursuant  
12 to chapters 616A to 616D, inclusive, or chapter 617 of NRS;

13 ~~(d)~~ (e) Made it necessary for a claimant to initiate proceedings  
14 pursuant to chapters 616A to 616D, inclusive, or chapter 617 of  
15 NRS for compensation found to be due him by a hearing officer,  
16 appeals officer, court of competent jurisdiction, written settlement  
17 agreement, written stipulation or the Division when carrying out its  
18 duties pursuant to chapters 616A to 616D, inclusive, or chapter 617  
19 of NRS;

20 ~~(e)~~ (f) Failed to comply with the Division's regulations  
21 covering the payment of an assessment relating to the funding of  
22 costs of administration of chapters 616A to 617, inclusive, of NRS;

23 ~~(f)~~ (g) Failed to provide or unreasonably delayed payment to  
24 an injured employee or reimbursement to an insurer pursuant to  
25 NRS 616C.165; or

26 ~~(g)~~ (h) Intentionally failed to comply with any provision of, or  
27 regulation adopted pursuant to, this chapter or chapter 616A, 616B,  
28 616C or 617 of NRS,

29 the Administrator shall impose an administrative fine of \$1,000 for  
30 each initial violation, or a fine of \$10,000 for a second or  
31 subsequent violation.

32 2. Except as otherwise provided in chapters 616A to 616D,  
33 inclusive, or chapter 617 of NRS, if the Administrator determines  
34 that an insurer, organization for managed care, health care provider,  
35 third-party administrator or employer has failed to comply with any  
36 provision of this chapter or chapter 616A, 616B, 616C or 617 of  
37 NRS, or any regulation adopted pursuant thereto, the Administrator  
38 may take any of the following actions:

39 (a) Issue a notice of correction for:

40 (1) A minor violation, as defined by regulations adopted by  
41 the Division; or

42 (2) A violation involving the payment of compensation in an  
43 amount which is greater than that required by any provision of this  
44 chapter or chapter 616A, 616B, 616C or 617 of NRS, or any  
45 regulation adopted pursuant thereto.



1 The notice of correction must set forth with particularity the  
2 violation committed and the manner in which the violation may be  
3 corrected. The provisions of this section do not authorize the  
4 Administrator to modify or negate in any manner a determination or  
5 any portion of a determination made by a hearing officer, appeals  
6 officer or court of competent jurisdiction or a provision contained in  
7 a written settlement agreement or written stipulation.

8 (b) Impose an administrative fine for:

9 (1) A second or subsequent violation for which a notice of  
10 correction has been issued pursuant to paragraph (a); or

11 (2) Any other violation of this chapter or chapter 616A,  
12 616B, 616C or 617 of NRS, or any regulation adopted pursuant  
13 thereto, for which a notice of correction may not be issued pursuant  
14 to paragraph (a).

15 The fine imposed ~~may~~ **must** not be greater than \$250 for an initial  
16 violation, or more than \$1,000 for any second or subsequent  
17 violation.

18 (c) Order a plan of corrective action to be submitted to the  
19 Administrator within 30 days after the date of the order.

20 3. If the Administrator determines that a violation of any of the  
21 provisions of paragraphs (a) to ~~(d),~~ (e), inclusive, of subsection 1  
22 has occurred, the Administrator shall order the insurer, organization  
23 for managed care, health care provider, third-party administrator or  
24 employer to pay to the claimant a benefit penalty in an amount that  
25 is not less than \$5,000 and not greater than \$25,000. To determine  
26 the amount of the benefit penalty, the Administrator shall consider  
27 the degree of physical harm suffered by the injured employee or his  
28 dependents as a result of the violation of paragraph (a), (b), (c), ~~or~~  
29 (d) **or (e)** of subsection 1, the amount of compensation found to be  
30 due the claimant, and the number of fines and benefit penalties  
31 previously imposed against the insurer, organization for managed  
32 care, health care provider, third-party administrator or employer  
33 pursuant to this section. If this is the third violation within 5 years  
34 for which a benefit penalty has been imposed against the insurer,  
35 organization for managed care, health care provider, third-party  
36 administrator or employer, the Administrator shall also consider the  
37 degree of economic harm suffered by the injured employee or his  
38 dependents as a result of the violation of paragraph (a), (b), (c), ~~or~~  
39 (d) **or (e)** of subsection 1. Except as otherwise provided in this  
40 section, the benefit penalty is for the benefit of the claimant and  
41 must be paid directly to him within 10 days after the date of the  
42 Administrator's determination. If the claimant is the injured  
43 employee and he dies before the benefit penalty is paid to him, the  
44 benefit penalty must be paid to his estate. Proof of the payment of  
45 the benefit penalty must be submitted to the Administrator within 10



1 days after the date of his determination unless an appeal is filed  
2 pursuant to NRS 616D.140. Any compensation to which the  
3 claimant may otherwise be entitled pursuant to chapters 616A to  
4 616D, inclusive, or chapter 617 of NRS must not be reduced by the  
5 amount of any benefit penalty received pursuant to this subsection.

6 4. In addition to any fine or benefit penalty imposed pursuant  
7 to this section, the Administrator may assess against an insurer who  
8 violates any regulation concerning the reporting of claims  
9 expenditures or premiums received that are used to calculate an  
10 assessment, an administrative penalty of up to twice the amount of  
11 any underpaid assessment.

12 5. If:

13 (a) The Administrator determines that a person has violated any  
14 of the provisions of NRS 616D.200, 616D.220, 616D.240,  
15 616D.300, 616D.310 or 616D.350 to 616D.440, inclusive; and

16 (b) The Fraud Control Unit for Industrial Insurance *of the Office*  
17 *of the Attorney General* established pursuant to NRS 228.420  
18 notifies the Administrator that the unit will not prosecute the person  
19 for that violation,  
20 the Administrator shall impose an administrative fine of not more  
21 than \$10,000.

22 6. Two or more fines of \$1,000 or more imposed in 1 year for  
23 acts enumerated in subsection 1 must be considered by the  
24 Commissioner as evidence for the withdrawal of:

25 (a) A certificate to act as a self-insured employer.

26 (b) A certificate to act as an association of self-insured public or  
27 private employers.

28 (c) A certificate of registration as a third-party administrator.

29 7. The Commissioner may, without complying with the  
30 provisions of NRS 616B.327 or 616B.431, withdraw the  
31 certification of a self-insured employer, association of self-insured  
32 public or private employers or third-party administrator if, after a  
33 hearing, it is shown that the self-insured employer, association of  
34 self-insured public or private employers or third-party administrator  
35 violated any provision of subsection 1.

36 **Sec. 15.** NRS 616D.130 is hereby amended to read as follows:

37 616D.130 1. Upon receipt of a complaint for a violation of  
38 subsection 1 of NRS 616D.120, or if the Administrator has reason to  
39 believe that such a violation has occurred, the Administrator shall  
40 cause to be conducted an investigation of the alleged violation.  
41 Except as otherwise provided in subsection 2, the Administrator  
42 shall, within 30 days after initiating the investigation:

43 (a) Render a determination. The determination must include his  
44 findings of fact and, if he determines that a violation has occurred,  
45 one or more of the following:



1 (1) The amount of any fine required to be paid pursuant to  
2 NRS 616D.120.

3 (2) The amount of any benefit penalty required to be paid to  
4 a claimant pursuant to NRS 616D.120.

5 (3) A plan of corrective action to be taken by the insurer,  
6 organization for managed care, health care provider, third-party  
7 administrator or employer, including the manner and time within  
8 which the violation must be corrected.

9 (4) A requirement that notice of the violation be given to the  
10 appropriate agency that regulates the activities of the violator.

11 (b) Notify the Commissioner if he determines that a violation  
12 was committed by a self-insured employer, association of self-  
13 insured public or private employers or third-party administrator.

14 2. Upon receipt of a complaint for any violation of paragraph  
15 (a), (b) or ~~(c)~~ (d) of subsection 1 of NRS 616D.120, or if the  
16 Administrator has reason to believe that such a violation has  
17 occurred, the Administrator shall complete the investigation  
18 required by subsection 1 within ~~(20)~~ 90 days and, within 30 days  
19 after the completion of the investigation, render a determination and  
20 notify the Commissioner if he determines that a violation was  
21 committed by a self-insured employer, association of self-insured  
22 public or private employers or third-party administrator.

23 3. If, based upon the Administrator's findings of fact, he  
24 determines that a violation has not occurred, he shall issue a  
25 determination to that effect.

26 **Sec. 16.** NRS 616D.140 is hereby amended to read as follows:

27 616D.140 1. If a person wishes to contest a decision of the  
28 Administrator to impose ~~[an administrative fine]~~ or *refuse to impose*  
29 *a* benefit penalty pursuant to ~~[this chapter or chapter 616A, 616B,~~  
30 ~~616C or 617 of NRS.]~~ *NRS 616D.120*, he must file a notice of  
31 appeal with ~~[the Division within 10 days after receipt of the~~  
32 ~~Administrator's decision, showing why]~~ *an appeals officer in*  
33 *accordance with this section. The notice of appeal must set forth*  
34 *the reasons* the proposed ~~[fine or]~~ benefit penalty should *or should*  
35 not be imposed.

36 2. ~~[If a notice of appeal is filed as required by subsection 1, the~~  
37 ~~Administrator shall, in accordance with the provisions of NRS~~  
38 ~~233B.121, issue a notice of hearing that must include a date for a~~  
39 ~~hearing on the matter, which must be no sooner than 30 days after~~  
40 ~~the notice of appeal is filed. The Administrator may grant a~~  
41 ~~continuance of the hearing upon a showing of good cause.]~~ *A*  
42 *person who is aggrieved by:*

43 (a) *A written determination of the Administrator; or*





1       ***(b) The failure of the Administrator to respond within 70 days***  
2 ***to a written request mailed to the Administrator by the person who***  
3 ***is aggrieved,***  
4 ***may appeal from the determination or failure to respond by filing***  
5 ***a request for a hearing before an appeals officer. The request***  
6 ***must be filed within 30 days after the date on which the notice of***  
7 ***the Administrator's determination was mailed by the***  
8 ***Administrator or within 100 days after the date on which the***  
9 ***unanswered written request was mailed to the Administrator, as***  
10 ***applicable. The failure of the Administrator to respond to a written***  
11 ***request for a determination within 70 days after receipt of the***  
12 ***request shall be deemed by the appeals officer to be a denial of the***  
13 ***request.***

14       3. If a notice of appeal is not filed as required by this section,  
15 the imposition of ***or refusal to impose*** the ~~fine or~~ benefit penalty  
16 shall be deemed a final order and is not subject to review by any  
17 court or agency.

18       4. ~~{Except as otherwise provided in NRS 616A.467, a}~~ A  
19 hearing held pursuant to this section must be conducted by the  
20 ~~[Administrator or a person designated by him. A record of the~~  
21 ~~hearing must be kept but it need not be transcribed unless it is~~  
22 ~~requested by the person against whom the order or notice of~~  
23 ~~violation has been issued and that person pays the cost of~~  
24 ~~transcription. The Administrator}~~ ***appeals officer as a hearing de***  
25 ***novo. The appeals officer*** shall render a written decision on the  
26 appeal. ***Except as otherwise provided in this section, the provisions***  
27 ***of NRS 616C.345 to 616C.385, inclusive, apply to an appeal filed***  
28 ***pursuant to this section.***

29       5. ~~{An administrative fine imposed pursuant to this chapter or~~  
30 ~~chapter 616A, 616B, 616C or 617 of NRS must be paid to the~~  
31 ~~Division. If the violation for which the fine is levied was committed~~  
32 ~~by a person while acting within the course and scope of his agency~~  
33 ~~or employment, the fine must be paid by his principal or employer.~~  
34 ~~The fine may be recovered in a civil action brought in the name of~~  
35 ~~the Division in a court of competent jurisdiction in the county in~~  
36 ~~which the violation occurred or in which the person against whom~~  
37 ~~the fine is levied has his principal place of business.~~

38       ~~—6.~~ A benefit penalty imposed pursuant to NRS 616D.120 must  
39 be paid to the claimant on whose behalf it is imposed. If such ***a***  
40 payment is not made within the period required by NRS 616D.120,  
41 the benefit penalty may be recovered in a civil action brought by the  
42 Administrator on behalf of the claimant in a court of competent  
43 jurisdiction in the county in which the claimant resides, in which the  
44 violation occurred or in which the person who is required to pay the  
45 benefit penalty has his principal place of business.



- 1 ~~[7.]~~ 6. Any party aggrieved by a decision ~~[of the Administrator~~  
2 ~~rendered]~~ *issued* pursuant to this section *by an appeals officer* may  
3 appeal the decision directly to the district court.  
4 **Sec. 17.** NRS 616D.280 is hereby repealed.

---

---

**TEXT OF REPEALED SECTION**

---

---

**616D.280 Injury to employee caused by absence of safety device.**

1. If any workman is injured because of the absence of any safeguard or protection required to be provided or maintained by, or pursuant to, any statute, ordinance, or any divisional regulation under any statute, the employer is liable to the Division for a penalty of not less than \$300 nor more than \$2,000, to be collected in a civil action at law by the Division.

2. The provisions of subsection 1 do not apply if the absence of the safeguard or protection is due to the removal thereof by the injured workman himself, or with his knowledge by any fellow workman, unless the removal is by order or direction of the employer or superintendent or foreman of the employer.

3. If the safeguard or protection is removed by the workman himself, or with his consent is removed by any of his fellow workmen, unless done by order or direction of the employer or superintendent or foreman of the employer, the compensation of the injured workman, as provided for by NRS 616C.405, 616C.425, 616C.435, 616C.440, 616C.445 and 616C.475 to 616C.505, inclusive, must be reduced 25 percent.

