

**A SURVEY OF THE FUNCTIONS
OF THE
INSURANCE COMMISSIONER**

BULLETIN No. 6



**Nevada Legislative
Counsel Bureau**

December 1948

A SURVEY OF THE FUNCTIONS OF
THE INSURANCE COMMISSIONER

Bulletin No. 6

Nevada Legislative
Counsel Bureau

December 1948

FORWARD

The Nevada Legislative Counsel Bureau is a fact-finding organization designed to assist legislators, State officers, and citizens in obtaining the facts concerning the government of the State, proposed legislation, and matters vital to the welfare of the people. This office will always be nonpartisan and nonpolitical; it will not deal in propaganda, take part in any political campaign, nor endorse or oppose any candidates for public offices.

The primary purpose of the Bureau is to assist citizens and officials in obtaining effective State government at a reasonable cost. The plan is to search out facts about government and to render unbiased interpretations of them. Its aim is to cooperate with public officials and to be helpful rather than critical. Your suggestions, comments, and criticisms will greatly aid in accomplishing the object for which we are all working--the promotion of the welfare of the State of Nevada.

A SURVEY OF THE FUNCTIONS OF THE INSURANCE COMMISSIONER

I. HISTORICAL BACKGROUND.

In 1861 the Nevada Legislature enacted the first law licensing and regulating insurance businesses in this State. Besides enacting various rules and regulations, the law provided that the State Controller be authorized and directed to make a thorough examination of the books, accounts, securities, and all property belonging to any insurance company incorporated under the laws of this State. Refusal to allow such examination gave the Controller the authority to revoke the certificate or license of the company. It was also declared the duty of the Controller to make such investigation or require such proof as shall be satisfactory to him concerning the financial condition of the company. The Controller was authorized to issue licenses, and collect fees therefor, to such insurance companies as are qualified to do business under the act. The Controller was authorized to require insurance companies to file authenticated copies of their certificate of incorporation, or charter or deed of settlement under which their organization or formation was effected and their business conducted.

In 1889 the Legislature enacted a law that required all insurance companies to file with the State Controller a sworn statement describing their financial condition, and a detailed statement of assets and liabilities, and amount and character of business transacted in Nevada, and penalties were provided for the failure to file such annual statements.

In 1891 the Legislature enacted a law regulating mutual insurance companies, and provided that all such companies doing business in Nevada shall file an annual statement of its affairs with the State Controller, and the Controller or his deputy was given the power of examination into the affairs of any such corporation. If the Controller found that the corporation was not doing business in conformity with the law, or that it was operating on a fraudulent basis, or that it could not pay its obligations, the Controller was directed to take the necessary steps to restrain the company from engaging in further business in Nevada. The Controller was authorized to issue licenses, and to collect fees, from mutual insurance companies.

In 1897 the Legislature enacted a law providing for the incorporation of mutual fire insurance companies, and defined their powers and duties. The law directed that the Attorney General examine the articles of incorporation and by-laws, and if he found them to be in accordance with the requirements of the act, he was required to certify the same to the State Controller. The latter was also authorized to make an examination, and if he was satisfied with the operation, the company was ready to do business. In addition, the company was

required to file an annual statement with the Controller showing the number of members, the amount of property at risk, the amount of premium or deposit notes in force, the claims for losses due and payable, the amount paid for losses during the year, and other pertinent information relative to the affairs of the company. The Controller was authorized to make examinations of the affairs of the company at any time, and if he was not satisfied with the operation, he had the power to close the business.

In 1915 the Nevada Legislature, for the first time, declared the State Controller to be the Ex Officio Insurance Commissioner. This act declared it the duty of the Insurance Commissioner to issue licenses to all authorized insurance solicitors, and to collect a fee therefor. The act declared that the Insurance Commissioner shall have the right to make an examination of the condition of any insurance company doing business in the State, and may withdraw or withhold his certificate of authority to do business. The act declared that the Insurance Commissioner shall place all state insurance, and that upon request, he shall make fire surveys in any city or town. The act declared that all insurance fees collected for licenses, penalties, and so forth, were to go into the general fund of the State Treasury. The act authorized the Insurance Commissioner to appoint as a deputy any competent person to make an examination of nonresident insurance corporations, the expenses of the examination to be borne by the company examined, but in no case higher than the compensation allowed by the local laws of the State where the examination is made.

In 1925 the Legislature authorized the State Controller, as Ex Officio Insurance Commissioner, to license and regulate the business of title insurance, and in 1929 the Controller was authorized to license and regulate the business of land value insurance. In 1933 the Legislature enacted tax of 1½% upon the amount of the gross premiums received by insurance companies doing business in the State.

The regulation of insurance in Nevada culminated in the adoption of an Insurance Code, which was approved on March 31, 1941. It was sought, by this Code, to correlate all of the various laws effecting the business of insurance in one comprehensive enactment. This Code generally provided for the regulation of the insurance business, specifying the manner in which insurance companies may operate and conduct business in this State, designating an Insurance Commissioner, defining his powers and duties, defining the different forms of insurance, providing for their consolidation, for the licensing and qualification of agents, defining their powers, duties and limitations, providing for fees, costs, and expenses for the operation of insurance companies and agents, providing penalties for violations, and relating to other matters properly connected therewith.

In 1947 the Legislature amended the Insurance Code by providing for the regulation of rates for certain casualty insurance, motor vehicle insurance, and fire, marine, and inland marine insurance, and providing for rating organizations and advisory organizations. In

addition, the 1947 Legislature provided for solicitor's licenses, and additional regulations for agents licenses, including the requirement of written examinations for agents to receive licenses.

II. HISTORICAL BACKGROUND OF FEDERAL REGULATION OF INSURANCE.

In 1866 the State of Virginia passed a law requiring a non-resident insurance company to obtain a license before transacting business in Virginia. A condition precedent to issuance of a license was the deposit of prescribed security and likewise, each agent of a nonresident insurance company was required to procure a license before transacting business in Virginia. The constitutionality of the act was tested in 1868 before the U. S. Supreme Court, which held that issuing a policy of insurance was not a transaction of commerce, nor were policies of insurance articles of commerce in any proper meaning of the word "commerce." Accordingly, the Supreme Court laid down the proposition that, as policies of insurance were not commerce, they could not be interstate commerce, and consequently were not subject to federal regulation or control, and the control and regulation thereof was wholly within the province and power of the several states. This decision established the law to the effect that the states, and the states alone, had complete and exclusive power to regulate and control the business of insurance. This decision of the Supreme Court was consistently reaffirmed in several cases thereafter.

The matter was under periodic discussion in Congress, but both branches of Congress consistently concluded that regulation of the business was beyond congressional power. Accordingly, up to 1944, the business of insurance became geared to state regulation, and the several states in varying degrees enacted laws regulating and taxing the business of insurance, upon the assumption of exclusive state authority, and seldom were the states concerned with federal constitutional limitations upon their power to so regulate and tax the business. The State of Nevada, from time to time, acting upon the assumption of exclusive state authority, adopted various statutes regulating or controlling the business of insurance and its various phases, and subjecting the business to state taxation, as outlined in Part I. This regulation culminated in the adoption of an Insurance Code, which was approved on March 31, 1941. Over and beyond such amendatory legislation as may have been necessary from time to time to keep the Insurance Code current, it was believed that this Code afforded a pattern of regulation then adequate to meet the needs of the State of Nevada and to comply with the necessities and demands of the public interest and welfare. Such was the belief until 1944, when the U. S. Supreme Court reversed the long line of decisions in which it had held for seventy-six years that insurance was not commerce. In that year the Supreme Court held that insurance transactions stretching across state lines constitute commerce among the several states so as to subject them to congressional regulation under the commerce clause of the U. S. Constitution, and it further held that the Sherman Anti-Trust Act does apply to the business of insurance. In 1944, there were no federal statutes specifically

regulating insurance, but there were six federal statutes then in force which, by virtue of the decision would or might become applicable, including the Sherman Anti-Trust Act. Included also were the National Labor Relations Act and the Fair Labor Standards Act, which appear applicable to labor relations between the insurers and their employees. It is to be noted, however, that none of these acts are in any sense regulations or regulatory patterns for the insurance business as such, and there is no federal regulation of the business of insurance at the present time.

In 1945, Congress enacted U. S. Public Law No. 15, which provided a moratorium period until January 1, 1948, to permit the states to make necessary readjustments in their laws with respect to insurance in order to bring them into conformity with the decision of the Supreme Court. The President pointed out that after the moratorium period the anti-trust laws and certain related statutes would be applicable in full force and effect to the insurance business "except to the extent that the states have assumed the responsibility for the regulation of whatever aspect of the insurance business may be involved..... Congress did not intend to permit private rate fixing, which the Anti-Trust Act forbids, that was willing to permit actual regulation of rates by affirmative action of the states." Public Law No. 15 established a pattern for future state regulation under permissive authority of the federal government. It is to be noted that such permissive authority is not all-inclusive. Any agreement to boycott, coerce or intimidate or any action of boycott, coercion or intimidation, is flatly prohibited by the law, and the states have no authority to sanction any such agreement or act and thereby remove the prohibition of the federal law.

Another federal act which was made applicable to the insurance business, due to the aforementioned set of circumstances, was the Clayton Act which outlaws discrimination "in price between different purchasers of commodities of like grade and quality," where a substantial lessening of competition may tend toward monopoly. Consequently, the All Industry Committee was formed in 1945, which compiled a model rating bill recommended to the several states, covering the fire, marine, and inland marine fields, and a like modeled bill covering the casualty and surety fields. The Insurance Commissioner of the State of Nevada actively participated in the drafting of these bills. It was agreed upon all sides that Public Law No. 15 required regulation of the insurance business by the several states prior to January 1, 1948, if the states were to continue in the insurance picture. The model bills specifically provide that nothing contained therein was intended (1) to prohibit or discourage reasonable competition, or (2) to prohibit or encourage uniformity in insurance rates, rating systems, rating plans, or practices. All rates are subject to statutory test that they shall not be excessive, inadequate or unfairly discriminatory. Rates filed by individual insurers may differ, since variable factors, as loss experience, expense experience, margin for profits and contingencies, dividends, savings and unobserved premium deposits, may be taken into consideration in formulating rates. Flexibility to provide intelligent treatment for large risks is permitted through freedom in

developing rating plans and authorization of grouping risks by classifications. Such classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations and hazards or expense, or both, and such standards may measure any difference among risks that can be demonstrated to have a probable effect upon losses or expenses.

Consequently, the Insurance Commissioner of Nevada recommended to the 1947 Legislature that it enact into law the aforementioned model bills regulating rates of insurance, in view of the fact that no further opportunity beyond the 1947 Session would be afforded for compliance with Public Law No. 15, or for the continued retention and preservation of Nevada's authority in the regulation and taxation of the business of insurance, prior to the expiration date of the moratorium, to wit, January 1, 1948. The Insurance Commissioner also recommended that the 1943 New York standard form of fire policy be adopted as the standard form of fire insurance policy for this state. The 1947 Legislature enacted into law the recommendations of the Insurance Commissioner but made some amendments to the bill having to do with rate regulation.

III. RIGHTS, POWERS, AND DUTIES OF THE STATE INSURANCE COMMISSIONER.

- A. The State Controller is designated as Ex Officio Insurance Commissioner and charged with the enforcement and execution of all Nevada Insurance Laws. His general powers regarding regulation and investigation are as follows:
 1. To make rules and regulations necessary for making effective the Nevada Insurance Laws.
 2. To conduct investigations to determine whether any person is guilty of violation of Nevada Insurance Laws.
 3. To conduct examinations, investigations, and hearings necessary for the administration of Nevada Insurance Laws.
 - (a) All examinations, hearings, or investigations may be conducted by the commissioner or other examiners designated by him.
 - (b) The person conducting the investigation has the power to subpoena and examine witnesses.
 - (c) Any certificates or documents properly filed in the commissioners office may be used in court as evidence.
- B. The Commissioner must report annually to the Governor.
- C. Any orders or decisions issued by the Commissioner, with few exceptions, are subject to review by the district court of Ormsby County.

- D. The State Controller acting as Ex Officio Insurance Commissioner shall place all insurance required by the State of Nevada.
- E. The Controller also shall have the power to inspect all state buildings and order fire and safety appliances necessary. He may also order removal of combustibles and rubbish from any State property. He is further given the power to order changes in entrances and exits of buildings to insure safety, and may order fire escapes as deemed necessary. Failure to act upon any such orders of the Commissioner gives the Commissioner the power to order such work done.
- F. When 25% of the taxpayers of a city or town wish a survey of the city's or town's water and fire fighting facilities, with a view to having lower rates established for the city or town, the Insurance Commissioner shall deputize someone to make such survey. The Insurance Commissioner or deputy shall appear and argue the case before the proper board, should the survey warrant it.
- G. The Insurance Commissioner has the power to direct all insurance transactions between the State and the companies. All moneys collected for licenses, penalties or other moneys paid by companies or solicitors shall be paid into the General Fund of the State Treasury.
- H. The support of the State Insurance Commissioner's Department shall be from the General Fund subject to appropriation by the Legislature.
- I. In line with the general enforcement and execution of Nevada's Insurance Laws the Commissioner of Insurance has to do the following routine things not specifically stated in Article XVII, which defines the general powers of the Commissioner:
1. With regard to incorporation of new companies in Nevada, the Commissioner shall make sure that they have filed required papers with the State, and deposited cash or a bond with the State, before authorized to transact business and be issued a license.
 2. The Commissioner shall handle applications from companies organized outside Nevada to do business in Nevada, and make sure that they comply with the regulations of the insurance laws, and deposit proper securities with the State, before issuing a license.
 3. The Commissioner shall act as attorney for companies licensed to do business in Nevada, with regard to their being served legal papers.
 4. The Commissioner shall revoke or suspend the license of

any company that fails to comply with the insurance laws of Nevada.

5. The Commissioner shall amend licenses of companies who wish them changed to comply with different types of business, only when such amending is in accordance with the Nevada Insurance Laws.
6. The Commissioner shall renew annual licenses of companies when they so request, and when they are still in compliance with Nevada Laws.
7. The Commissioner is given the right to examine the books of any company or person doing business in Nevada.
8. In December of each year, the Commissioner must furnish to all companies doing business in Nevada, two or more blanks showing the form adopted by the Commissioner, so that they can publish newspaper statements.
9. The Commissioner shall keep deposits, securities, and moneys of the insurance companies which are placed with the State. The companies may collect the incomes from these deposits.
10. The Commissioner shall release any deposits of the companies to them upon request, provided the minimum deposit is maintained.
11. The Commissioner, in a few cases, may extend time limits and make other minor changes in the rules and regulations upon request of companies, and shall grant the companies hearings in certain cases.
12. A State tax of 2% shall be paid to the Commissioner on all premium income of the companies.
13. The Commissioner shall charge and collect the fees for annual licenses, power of attorney fees, filing fees for annual company statements, agent's licenses, solicitor's licenses, nonresident broker's licenses, and for expenses incurred in the examination of company books.
14. The Commissioner may require supplemental statements with regard to the proper assessment of the privilege tax.
15. The Commissioner shall examine contracts and statements with regard to the merger and consolidation of companies, and issue certificates to that effect, provided all regulations have been met.
16. The Commissioner shall report to the Attorney General any company that is in violation of its charter, or in violation of any laws of this State.

17. The Commissioner shall act as receiver in cases of re-organization or liquidation of insurance companies.
18. The Commissioner shall annually make valuation of all outstanding policies of every domestic incorporated life insurer doing business in Nevada.
19. The Commissioner may value the policies of foreign life insurers.
20. The Commissioner may vary the standard of interest and mortality as to contracts issued in countries other than the U. S.; may vary standards of mortality in particular cases; may value policies in groups; and may accept the valuation of insurance departments of other states or countries.
21. The Commissioner must approve all policy forms used by companies. (accident, health, and life insurance)
22. The Commissioner shall issue licenses to burial societies, when they comply with the law and state regulations.
23. The Commissioner must notify any agent or company of any complaint against them, and fix a date for their hearing.
24. The Commissioner may suspend licenses to transact business in Nevada, if charges against a company or agent prove to be correct.
25. The Commissioner shall issue licenses to agents to do business in Nevada, when they comply with the law, and submit necessary information.
26. The Commissioner is authorized to issue temporary licenses under certain conditions.
27. The Commissioner is authorized to issue solicitor's licenses, when the applicant is qualified.
28. The Commissioner may refuse to issue licenses when the applicant has been guilty of various charges.
29. The Commissioner shall give written examinations to applicants for agent's licenses, under the 1947 law, and shall issue such licenses after he is satisfied with the results of the examination, and that the applicant has fulfilled all the requirements of the law.
30. The Commissioner is given various duties under the 1947 law with regard to rate filing and the making of rates. He has the right to disapprove the filings, to license rate making organizations, and must approve advisory organizations. At least once every five years the Com-

missioner shall examine rate making organizations that are licensed in Nevada.

IV. GENERAL DISCUSSION.

Section 59 of the 1941 act authorizes the Insurance Commissioner to collect a tax of 2% upon the total premium income from all insurance business in the State, less county and municipal taxes and the amounts of annual licenses paid by the companies. Section 61 (3) declares that companies failing to report for the purpose of paying the privilege tax, shall be required to pay a penalty equal to 10% of the amount of the tax. Section 60 of the same act directs the Insurance Commissioner to collect the following fees:

Company License Fees	\$ 20 - \$ 25 - \$100
Nonresident Broker's License	100
Filing Company Statements	10
Filing Power of Attorney	5
Agent's or Solicitor's Licenses	2
Certificates	1

Section 2(i) of the 1947 act providing for examination of agents provides that the Insurance Commissioner shall collect an examination fee of \$10, such fee to be paid in addition to the \$2 license fee. The Attorney General has ruled that since there was no appropriation for the administration of examinations, and no provision for placing the examination fee in the General Fund of the State, the Insurance Commissioner may use such examination fees for the administration of the act, in addition to the amounts appropriated by the Legislature. The 2% tax on premiums goes to the General Fund, along with penalties up to 10% of the tax which may be assessed for failure to report the premium income. During the fiscal year 1946-1947 the Insurance Commissioner's office collected \$193,898 in fees and premium taxes, and \$233,038 during the fiscal year 1947-1948.

Sections 14, 43, and 44 of the 1941 act requires certain insurance companies to deposit cash or securities with the Insurance Commissioner for the protection of policy holders and creditors of the companies. In cases of domestic companies, the securities are given directly to the Insurance Commissioner, who deposits them with the State Treasurer. In cases of out-of-state companies, the Insurance Commissioner usually accepts a certificate showing that the securities are on deposit in the state where the home office of the company is located. There are some cases where out-of-state companies actually deposit securities with the Insurance Commissioner, and in these cases the securities are again turned over to the State Treasurer.

It is impossible to determine the cost of operating the office of the Insurance Commissioner, to collect the fees, and to regulate the operations of the insurance companies. The appropriation for the office of the State Controller includes appropriated items for the salary the Insurance Examiner, and for the salary of the Insurance

Clerk. These are the only items definitely chargeable to the Insurance Department; there is nothing appropriated for travel, for office expenses, and so forth. The work of the Insurance Commissioner cannot be segregated from the work of the Controller as far as costs are concerned.

During the biennium 1945-1947, the Insurance Examiner received a salary of \$258.53 a month, and the Insurance Clerk received a salary of \$200 a month. The money to pay the salaries was provided by Section 7, Chapter 245 (The General Appropriation Act) and Section 1, Chapter 160, Statutes of Nevada, 1945. The 1947 Legislature appropriated slightly smaller amounts for the salaries of these two employees, when it raised practically all other salaries in the other state departments. During the biennium 1947-1949, the Insurance Examiner receives a salary of \$256.66 per month, and the Insurance Clerk receives a salary of \$192.50 per month, as provided by Section 7, Chapter 278, Statutes of Nevada, 1947.

The general insurance law of 1941 provides that the Insurance Commissioner shall make examinations of the books and records and operations of insurance companies. In 1945 and 1946 the Insurance Examiner spent some time examining out-of-state insurance companies. National insurance companies are examined every three years by representatives of the National Association of Insurance Commissioners and the Nevada Insurance Examiner accomplished some of this work through appointment by the head of Zone 6 (Western District) of the Association. The job paid \$25 a day plus \$9 - \$12 a day subsistence, which is paid by the insurance company examined. In 1945, the Insurance Examiner conducted several out-of-state examinations over an interval of six weeks to two months, and he was paid simultaneously by the State. In 1946, the Insurance Examiner conducted one investigation lasting for approximately five and one-half months, but during this interval he was not on the State payroll, and the work of the Nevada office was conducted by the Insurance Clerk. There is nothing in the law to prohibit the Insurance Examiner from receiving payment from the State of Nevada along with additional salary when conducting out-of-state examinations under the direction of the Association of Insurance Commissioners. So far, during the biennium 1947-1949, the Insurance Examiner has made no out-of-state examinations, the given reason being that the work in the Insurance Commissioner's office is so great that it is impossible for the Examiner to leave. There is some indication that a salary increase for the Insurance Examiner will be requested of the 1949 Legislature, not only because of general economic conditions, but because of the fact that he is receiving no income from outside sources at this time.

Section 135 of the General Insurance Law of 1941 reads as follows:

"Sec. 135. The State Controller, acting as Ex Officio Insurance Commissioner, shall place all insurance required by the State of Nevada upon its property, dealing only with companies authorized to do business in the State; and shall also have the power to inspect all

state buildings and order such fire extinguishing and safety appliances as shall be deemed necessary for the protection of the property against fire; and shall have the further power to order the removal of combustibles and rubbish from said property, or order such changes in the entrances or exits of the buildings as shall insure the safety of the inmates, together with such fire escapes as he may deem necessary."

Section 136 of the General Insurance Law of 1941 reads as follows:

"Sec. 136. Should the commissioners or board in charge of such state property refuse to comply with the order of the State Insurance Commissioner within thirty days after such order reaches them, the Insurance Commissioner shall have the power to order the required work done and the required fire extinguishing and safety appliances installed at the expense of the commission or board having charge of said property, and payment for the same shall be a valid claim against the State."

The State Controller, as Ex Officio Insurance Commissioner, places all insurance on all state property, including the University of Nevada, State buildings in Carson City, the National Guard Armory, the Governor's Mansion, State fish hatcheries, the University Farms State automobiles, and so forth. None of the State departments or department heads have any part in the selection of the insuring companies. State insurance is of three types: (1) Fire or blanket insurance, (2) fleet or car insurance, and (3) miscellaneous insurance, such as is placed on items in the Nevada State Museum. Most of the State's policies are of the first two types, and each of the two types are divided into two separate groups of policies: (a) the Highway Department, and (b) all other departments. The University of Nevada is included in group (b). The State's insurance is placed in the hands of several insurance companies, and the Insurance Commissioner has a card index system which shows how the business is divided.

In October 1947 the Carson City Fire Department declared that fire hazards existed in the State Capitol Building at Carson City. In conjunction with the custodian of the building, the Insurance Commissioner took steps to improve conditions, remove some of the hazards, and to clean up the basement of the building. Removal of all hazards could not be accomplished because of the lack of funds. The Insurance Commissioner may make recommendations in connection with this matter to the 1949 Legislature. It appears that the Insurance Commissioner has made but few inspections of other State buildings and property, as far as fire hazards are concerned. However, approximately one year ago a representative of a fire insurance company made an inspection of all state buildings at the request of the Insurance Commissioner. He was paid by the insurance company, and made recommendations to the custodians of all state buildings, including all institutions and the University of Nevada. There is need for an appointive State Superintendent of Buildings and Grounds.

with full authority to hire staff and maintain the State buildings and grounds, at least at Carson City. Such an official would make perhaps weekly inspections of fire hazards, being an "on the ground" official. The Insurance Commissioner would make inspections once or twice a year, and operate as a check after the Superintendent.

Chapter 153, Statutes of Nevada, 1947, provided for an appropriation of \$18,903.95 for the payment of fire insurance premiums upon State owned buildings. This was to take care of increased premium costs arising because of the increase in valuation of State owned buildings, and meant that the Insurance Commissioner would place some new and larger fire insurance policies during the biennium. The majority of the State's policies are for five year terms, and this means that approximately one-fifth of all State insurance policies expire every year.

While the Insurance Commissioner places all State fire and automobile insurance, the various state departments pay their premium money on automobile or fleet insurance directly to the insurance company. On the other hand, the premium money for fire insurance is handled through the office of the Insurance Commissioner. Automobile or fleet insurance is paid out of the departmental budgets of the various departments insured.

As far as the University of Nevada is concerned, the University Controller issued all automobile insurance for University cars prior to 1947, and the policies were distributed to many agents in Reno. Since 1947 the Insurance Commissioner has issued or placed all fleet policies for University automobiles, on the ground that a better rate could be obtained, and University automobiles are now covered by the fleet policy covering all state-owned cars, except those of the Department of Highways which are covered by a separate fleet policy. The Insurance Commissioner indicated that bills for the University automobile insurance are received by his office and forwarded directly to the University, which may pay them with any funds that are convenient, as far as he is concerned. He indicated that separate, individual automobile insurance formerly cost the University more money; now they receive a cheaper rate because they are part of the State's fleet policy. According to the University Controller, this is the method or procedure whereby University automobiles are insured:

- (1) The University Controller issues a request to the Insurance Commissioner for insurance on a particular automobile or automobiles.
- (2) The Insurance Commissioner insures the vehicle, and the insurance company sends the bill to the Insurance Commissioner, who forwards it to the University.
- (3) The University must accept the insurance, and pays the premium cost directly to the insurance agent out of University funds.

The University Controller has indicated that at the present time the University has nothing to do with the insurance of University buildings for fire protection, this is accomplished by the Insurance Commissioner, but the insurance is paid out of the University budget. In commenting on fire insurance of University buildings, the Insurance Commissioner indicated that all University building insurance is paid for out of the general state appropriation for building fire insurance, as is the case of all other state buildings. All the buildings are insured at 100% valuation, thereby enabling the State to obtain a reduced rate. The Commissioner indicated the possibility that if the state attempted to insure for less than 100% valuation, the insurance companies might carefully appraise the values of all state buildings, and in doing so, raise the valuation of them all. He further made the point that the policies do not place a specific value on state buildings, but merely insure them at a 100% valuation, which means that when there is a loss by fire, the state gets a 100% reimbursement - everything destroyed is paid for. On the other hand, cement floors, cement walls, etc. that can be used in rebuilding, are not paid for, i. e., there is no loss to the state.

Because of limited staff and cramped quarters, the Insurance Commissioner is in no position to comply with all of the various phases of the statutes which have been passed by the Legislature. There are many functions which the Commissioner and his staff are forced to neglect simply because they do not have the time to take care of them all. From time to time citizens of Nevada request information about, or actual investigations of, agents or companies that are operating in Nevada. There may have been violations of the law, and while the Insurance Commissioner and his staff keep abreast of their correspondence, launching any kind of an investigation to determine whether there have been infractions of the law is completely out of the question. As there is no money available for travel expenses, it becomes evident that adequate investigation is impossible. Ordinary office routine is sufficient to occupy the time of the limited staff. The load of ordinary office correspondence is increased by out-of-state companies that write to Nevada requesting interpretations of Nevada's insurance laws. Nevada's laws are not sufficiently broad enough to cover most of these inquiries, as they deal with new phases of insurance. The suggestion has been made that there should again be a complete recodification of Nevada's insurance laws by insurance attorneys.

Chapter 100, Statutes of Nevada, 1947, provided for the regulation of rates of casualty, motor vehicle, fire, marine, and inland marine insurance, and that all rates and changes in rates shall be reviewed and approved by the Nevada Insurance Commissioner. In actual practice, it is found that such rate changes are filed with the Insurance Commissioner as required by the law, but that there is no time for such changes to be reviewed by the Insurance Commissioner

It has been estimated that to do this one job alone at least one technical man and one stenographer would be required. Section 121(1) of the same law provides for the promotion of rules and statistical plans for the use of rate makers, and for use in annual company statements, to more or less determine the fairness of rates, and to determine whether rating systems comply with the standards set forth in other sections of the law. It has been indicated that this involves a great deal of work, and administration of the Section has not been feasible to date. This law requires that rate making organizations be licensed by the Insurance Commissioner, and that their operations be restudied every five years. The licensing of rate making organizations is a simple matter, but restudying them every five years provides still another impossibility. Insurance companies are required to file rating systems with the Insurance Commissioner, and once such plans are set up they are hard to change. No insurer is required to record or report its loss experience on a classification basis that is inconsistent with the rating system filed by it. The law also states that the Insurance Commissioner may appoint rate organizations, or advisory organizations, to assist him in statistical studies of rates. Companies are willing to assist in the matter voluntarily, but the point has been made that as soon as such companies are appointed, it is tantamount to automatic approval of their rate plan, and this cannot be done until someone finds the time to make an adequate study of the rate plans. So far the Insurance Commissioner has appointed only one statistical organization to make studies of rates. It has been indicated that the new rate law has meant a carload of rate correspondence, and to comply with all the requirements of the 1947 law two men and two stenographers would be necessary. The two men would have to be rate specialists, with a comprehensive knowledge of underwriting and rate procedure. Under the 1941 law, the office was sufficiently staffed to handle everything but the examinations of companies, and this last matter has become even more impossible of accomplishment since that time. Sixty-seven new companies have entered the picture since 1942, ordinary licensing has increased, and there has been a steady increase in the State's insurance business. All this has added up to making the work a major task.

Chapter 152, Statutes of Nevada, 1947, require written examinations before the issuance of agents' licenses, but provided no funds in order to carry out the requirements of the act. The law provides that prospective agents may take their examinations in places other than the State Capitol, but no funds are provided for giving the examinations outside of the Commissioner's Office. The act required the Insurance Commissioner to prepare for the use of an applicant, a complete and comprehensive booklet containing the information on which the written examination is based, so that the applicant can study the insurance business in preparation for the examination. Since no funds were provided for the printing of the booklet, it was printed and sold to prospective agents.

It appears that the Insurance Commissioner's office has been unable to maintain complete statistics on the operations of the office, primarily because of the size of the work load. All State insurance policies are properly listed, along with the amounts of the insurance, and the names of the insurers. Statistics on companies operating in Nevada shows a jump from 276 in 1941 to 345 in 1947. The number of agents licensed in 1941 amounted to 2,885, while in 1946 the number increased to 3,326, keeping in mind that an insurance agent may have licenses for several insurance companies. One resident agent is known to have 43 licenses for 43 insurance companies, but this is a rare and unusual extreme. There are a goodly number of agents representing up to 7 or 8 companies, however.

The statement has been made that the Nevada Insurance Commissioner should participate in the examinations of out-of-state insurance companies, which are made every three years. The examination is made in the home office of the insurance company and is handled through the National Association of Insurance Commissioners. The United States is divided into six zones, each zone being composed of eight states. There is a commissioner who acts as chairman of each zone, and he has charge of the examinations. The actual examination of the insurance companies is done by the various state commissioners, and they are rotated so that every so often they participate in an examination. Nevada's Commissioner finds that he has no time to serve in such a capacity, because of the large amount of work at home. This not only throws a bad light on Nevada's operations, but hampers the work of the National Association of Insurance Commissioners.

INSURANCE COMMISSIONER

Increase in Volume of Original Duties Since 1941:

Year	No. of Companies Operating in Nevada	No. of Agents Issued Licenses	No. of State Insur. Policies
1941	276	2,885	300 - 350
1942	278	2,475	
1943	299	2,500	
1944	308	2,543	
1945	320	2,807	
1946	330	3,326	550
1947	345	3,259	

Duties by Law That Are Now Being Carried Out Completely:

- 1947 - Approval of new insurance forms.
- 1941 - License of new companies, including rate making organizations.
- 1941 - License of new agents.
- 1941 - Insurance of all State property.
- General requests for information on Nevada's insurance laws.
- 1941 - Licensing or certification of advisory organizations to rate organizations.

Duties by Law That Are Now Being Carried Out Partially:

1947 - Administration of the law on rate regulation.

During the fiscal year 1946-1947 the office of the Insurance Commissioner collected \$193,898 in fees and taxes on insurance premiums. During the fiscal year 1947-1948 the office collected \$233,038. The office is supported by direct appropriation from the General Fund, except for fees collected for examination of insurance agents, which sums may also be used for administrative purposes. For the biennium 1945-1947 the Legislature appropriated \$11,481 for the operation of the Insurance Commissioner's office, and for the biennium 1947-1949, the Legislature appropriated \$10,780. Good governmental practice demands that the Legislature appropriate on a good budgetary basis, the money necessary for the operation of various state departments and offices. On the basis of demonstrated need, the Legislature should appropriate the necessary funds for efficient operation. At the present time there are a goodly number of special ear-marked funds in existence which continue from year to year, without the Legislature ever having the necessity to examine the funds and the way the money is disbursed and used from them. Ear-marked funds eliminate advantages accruing from a budget system, and prevent legislative control of the purse-strings of the State. The insurance laws of Nevada require the regulation and licensing of the insurance business, and impose many duties upon the office of the Insurance Commissioner. The Legislature has set forth the duties in the law, and if it means what it says it should put up the money to do the job. If it does not do so, then the law should be amended so as to place only a minimum and practical number of duties upon the office, keeping in mind that such a course might eventually result in federal intervention. If the Legislature does not appropriate the money necessary to do the job as outlined in the insurance laws at the present time, it is not inconceivable that in the near future persons engaged in the insurance business in Nevada may endeavor to ear-mark a portion or all of the fees and taxes collected by the Insurance Commissioner's office for the purpose of paying the cost of administration. Failure to provide the money to do a job as specified in the law is a powerful argument for the creation of an ear-marked or special fund, and once a special fund is created legislative control of expenditures disappears.

In discussing the office of the State Controller, as Ex Officio Insurance Commissioner, Mr. Frank Helmick remarked as follows:

"Actually, there is no connection between the office of the State Controller and the work of regulating insurance companies and collecting licenses and premium taxes from them. The Controller keeps the books and accounts of the State and is not a collection or regulatory agent. The office of Insurance Commissioner should be transferred to the Superintendent of Banks, who by training or otherwise, is more qualified to regulate insurance than the Controller.

His office is equipped to collect licenses and by a separate appropriation to the Bank Examiner for the expenses of conducting the Insurance Department, a definite check on expenditures could be maintained.

"The main reason for suggesting that the office be transferred to the Superintendent of Banks is that it would permit the work to continue at no greater expense than at present. However, it is possible that a separate Department of Insurance should be created that would eliminate any connection with any present State department. It would cost considerably more to operate, and the question would be if the added efficiency would be worth the additional cost."

Many southern states place the insurance office in a department of banking and insurance as suggested by Mr. Holmick. For instance, in New York and Texas the office is completely separate from any other agency, and in Arizona and Utah the office is placed under the Corporation Commission. A number of insurance men have indicated to the Legislative Counsel that in the absence of extensive consolidation of state departments and agencies, they would prefer a separate Insurance Department in charge of a director whose qualifications are carefully set forth in the law. The director would be appointed by the Governor, and the lay board serving without pay would act in an advisory capacity only to the department. The present plan has been called monopolistic in favor of the general agents, but the Insurance Commissioner pointed out that resident agents receive all state fire insurance policies, and none are given directly to general agents. The suggestion has been made that the State insurance be distributed by a State Insurance Board in conjunction with a board selected by the Nevada Insurance Agents Association. On the other hand, the point has been made that the office of the Insurance Commissioner was created to regulate and control insurance companies and agents, rather than having them regulate and direct the office of the Insurance Commissioner. It is obvious that the Legislature should make a separate appropriation for the office of the Insurance Commissioner. Adequate consultation and discussion by all persons interested in the insurance business in Nevada should result in an improved State Insurance Department.