NEVADA INDUSTRIAL COMMISSION STUDY

Bulletin No. 104

LEGISLATIVE COMMISSION
LEGISLATIVE COUNSEL BUREAU

STATE OF NEVADA

December 1972

Carson City, Nevada

FINAL REPORT OF THE SUBCOMMITTEE FOR STUDY OF THE NEVADA INDUSTRIAL COMMISSION

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B. Mahlon Brown
Carl F. Dodge
John Fransway
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Keith Ashworth
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Senate Bill No. 654—Committee on Federal, State and Local Governments

CHAPTER 614

AN ACT directing the legislative commission to make a comprehensive study of the Nevada industrial commission; directing that the costs of such study be paid from funds of the Nevada industrial commission; and providing other matters properly relating thereto.

WHEREAS, There have been questions raised recently concerning the Nevada industrial commission's administration of its various funds; and

WHEREAS, Criticism has been directed at the relationship of the commission to the practicing physicians of Nevada; and

WHEREAS, There have been other questions and criticisms concerning the operations of the commission; and

WHEREAS, It is in the best interest of the people of the State of Nevada to have these questions and criticisms answered; now, therefore,

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

SECTION 1. The legislative commission is hereby directed to:

1. Make a thorough study of the Nevada industrial commission, including, but not limited to, the organization of the commission, the qualifications of commissioners and the commission's methods of operation, an examination of the relationship of the commission to practicing physicians, the method of determining the amount of fees to be paid to physicians, inquiring as to the advantages and disadvantages of a fixed fee schedule, or in the alternative, usual and customary fees and a consideration of the safeguards necessary to implement the rates or fees, evidence of any abuses by physicians, the amount of benefits paid to employees by the commission, the schedules of benefits paid to employees, the amount of premium payments and the effect of private disability and death benefit insurance on the programs under the Nevada Industrial Insurance Act and the Nevada Occupational Diseases Act.

2. Report the results of such study and make recommendations for any necessary legislation to the 57th session of the legislature.

SEC. 2. Notwithstanding the provisions of any other law, the costs of the study herein directed to be made shall be paid from any funds available to the Nevada industrial commission upon a claim or claims therefor made by the legislative commission on the Nevada industrial commission.

SEC. 3. This act shall become effective upon passage and approval.

REPORT OF THE LEGISLATIVE COMMISSION

TO THE MEMBERS OF THE 57th SESSION OF THE NEVADA LEGISLATURE:

This report is submitted in compliance with Senate Bill No. 654 of the 56th session (chapter 614, Statutes of Nevada 1971) which directed the legislative commission to make a comprehensive study of the Nevada industrial commission; directing that the costs of any such study be paid from funds of the Nevada industrial commission. The legislative commission appointed a subcommittee to make the study and recommend appropriate legislation to the next session of the legislature. Senator Carl F. Dodge was designated chairman of the subcommittee and the following legislators were named as members: Senators Melvin D. Close, Jr., Boyd D. Manning, Assemblymen Norman D. Glaser, Keith Ashworth and Randall V. Capurro. Nonlegislative members were: William B. Harris, M. D., William M. Tappan, M. D., Howard W. Gray, Esq., and Louis Paley.

The subcommittee worked diligently during a period of 17 months and its report with suggested draft legislation, attached for your examination, was approved by the legislative commission on November 27, 1972

Respectfully submitted,

Legislative Commission
State of Nevada

November 27, 1972

FINAL REPORT OF THE LEGISLATIVE COMMISSION'S SUBCOMMITTEE FOR STUDY OF THE NEVADA INDUSTRIAL COMMISSION

INTRODUCTION

Senate Bill 654 of the 1971 legislative session (chapter 614 of Statutes of Nevada 1971) directed the Legislative Commission to make an interim study of the Nevada Industrial Commission. Pursuant to this directive, the Legislative Commission appointed the following subcommittee to prosecute the study:

Name	Representing
Senator Carl F. Dodge (Chairman)	Legislature
Senator Melvin D. Close, Jr.	Legislature
Senator Boyd D. Manning	Legislature
Assemblyman Norman D. Glaser	Legislature
Assemblyman Keith Ashworth	Legislature
Assemblyman Randall V. Capurro	Legislature
W. Howard Gray, Esq.	Employers
Mr. Louis Paley	Employees
William B. Harris, M.D.	Medical-Las Vegas
William M. Tappan, M.D.	Medical-Reno

This subcommittee held its organizational meeting June 14, 1971, and agreed upon the following scope of the study:

1. Administrative structure
2. Internal procedure
3. Investment performance
4. Physicians' fees
5. Specific areas of inquiry

Subsequently, following a selection procedure, the subcommittee commissioned Peat, Marwick, Mitchell & Co. (hereafter PMM), Certified Public Accountants, Los Angeles, California, to assist in making the major portion of the study having to do with internal procedure and, to some extent, administrative structure and physicians' fees. The extensive PMM report was received by the subcommittee on March 24, 1972, and subsequently distributed to legislators following approval by the Legislative Commission.

The subcommittee retained Segal Advisors, Inc., investment consultants and actuaries, New York, New York, to evaluate the investment performance over the 4-year period ended June 30, 1971. Its report, dated March 15, 1972, has been distributed to legislators.

Many of the 38 PMM recommendations have been or are in the process of being implemented. Others require statutory implementation and are contained in an omnibus draft bill (BDR 53-17, see Appendix 1 of this report). A few of the recommendations were modified or not accepted by the subcommittee.

The Nevada Industrial Commission was prominently before the public during the 1970 political campaigns in Nevada. There were many charges of mismanagement, inefficiencies, financial problems and abuses. Some doctors in southern Nevada were refusing to perform services for the industrial commission in the care of injured employees. Numerous pieces of legislation affecting the commission were before the 1971 legislature. This study was an obvious outgrowth.

The subcommittee assumed many imperfections in the Nevada Industrial Commission operations. By the same token, it was felt the system had served Nevada, with its small work force, reasonably well over the years. It was not the intention to perform a witch hunt. The subcommittee's mission was to make the industrial commission a better and more efficient system to meet the needs of the future. Therefore, while there was no intent to whitewash or treat lightly the problems of the past, the subcommittee was looking primarily to learn from them in bringing about future improvements.

The balance of this report is made up of comment upon specific areas of concern by the legislature, the public and those who finance, use and provide the services of the Nevada Industrial Commission.

PUBLIC RELATIONS

One of the most glaring deficiencies of the Nevada Industrial Commission has been poor public relations. The public has had little or no understanding of the commission's activities or programs. At the time this study was commenced, there appeared to be a virtually complete breakdown of communications with

the medical profession--and there needed to be communication. The commission seemed unable to overcome the distortions and misunderstandings about so many phases of its affairs. The commissioners seemed to be completely on the defensive rather than to be embarking upon a positive program of better understanding and rapport with all groups.

In recognition of these problems, PMM has recommended the establishment of a full-time position of Training and Information Director. One of the functions of this official would be to aid the commissioners in providing public relations and information dissemination services.

PMM has recommended the appointment of consulting physicians--in Las Vegas, in the Reno-Carson area and in the rural counties, to perform certain functions. It is the subcommittee's thinking that this suggestion should be expanded upon by the creation of medical advisory committees. These committees, made up of respected and capable members of the medical profession, would have several functions. Some of these will be discussed later in this report. Suffice it to say here the creation of these committees would be an enormous step forward in generating and maintaining good communication and better understanding between the Nevada Industrial Commission and the essential medical profession and related vendor groups.

The new Chairman of the Nevada Industrial Commission, Mr. John R. Reiser, appears to be fully aware of the need for better public relations. It is the hope of the subcommittee that he will take recommended steps and fashion additional means to accomplish this.

INVESTMENT PERFORMANCE

During the 1970 campaign, there were numerous charges of mismanagement of the investment portfolio. The charges ranged from virtual bankruptcy to a $1/2 million loss on common stocks. Though a subsequent problem of inadequate reserves developed (which will be discussed later), the fear of bankruptcy was completely unfounded.

Upon analysis it was found that it is very difficult to compare the industrial commission's investment performance with other accepted yardsticks, i.e., the Dow-Jones Average, Standard &

Poor's Composite Stock Index and pooled equity trusts maintained by major banks. The reason is that none of these yardsticks is under similar investment restrictions as the legislature has statutorily placed on the Nevada Industrial Commission. So, in a sense, it is like comparing apples and oranges. This problem of comparison is mentioned in several places in the Segal report.

The loss on the common stock portion of the portfolio was an unrealized paper loss due to the drastic general downturn of the stock market. This stood at $504,723 as of June 30, 1970. As of June 30, 1972, that unrealized loss has been fully recovered and has been turned into an unrealized paper profit of $87,261. There has been a small realized loss on that portion of the portfolio resulting from a sale of common stocks at a market value below the cost of those particular stocks. That amount is $30,224.25. Actually, the common stock portion of the portfolio only constitutes 4 percent of the total, even though there is statutory authority to invest up to 10 percent.

One thing can be said about the common stocks. The timing of the purchase program was not good. Purchases started at a time when the market was moving toward a relative high point. When the market turned downward and stocks were at then favorable prices, the purchases stopped. As Segal comments, "If common stock transactions are to be governed by such short term considerations, and subject to political pressures, it might be best to avoid the acquisition of such holdings altogether." (Segal report, p. 2.)

A more fundamental reason than the common stocks for below average performance during the period under review (4 years ending June 30, 1971) had to do with that portion of the portfolio in United States and corporate bonds. At the beginning of the period, 75 percent of the portfolio was in this category with an average length of time to maturity of 20 years. The interest income return rate over the 4-year period was 4.8 percent. Interest rates started up in the fall of 1968 and peaked in June of 1970, when high grade bonds were returning 8 percent. The industrial commission was caught with a large amount of low yielding long term bonds. Not only were returns low compared to current offerings, but the market value of the bonds fell off substantially because of unattractive yields. Had the industrial commission been forced to liquidate a considerable amount of these bonds due to adverse experience and the need for cash, it would have

taken large losses on the difference between the book value and market value of the bonds liquidated. As of June 30, 1971, the book value of the corporate bonds in the portfolio was $14 million while the market value was $10.5 million, a shrinkage of $3.5 million or 25 percent. It should be pointed out that, if these bonds are held to maturity, they will be redeemed at par and no loss sustained.

Segal and others point out a way of softening the impact in such a trend in the bond market as experienced by the Nevada Industrial Commission. This is what is known as exchange. This involves approval of some changes in accounting procedures which are currently being implemented by the commission after consultation with accounting and actuarial consultants.

In fairness to the investment advisor for the industrial commission, the Segal report (p. 22) indicates that its timing was excellent in the investing of about $1.4 million of new money in 1970 in bonds when prices actually bottomed out for the period under review and interest returns were about 8 percent.

While investment performance left much to be desired for the period under review, it is difficult to determine whether the investment advisor should be replaced. Again, the primary reason is the unique industrial commission restrictions under which the investment advisor must operate. It is difficult, if not impossible, to make direct comparisons. For this reason, and others, the subcommittee is suggesting relaxations in those restrictions. These are concurred in by the Nevada Industrial Commission, the investment advisor and the actuarial consultants to the commission. They are contained in a draft bill (BDR 53-38, see Appendix 2 of this report).

It is recommended that the Nevada Industrial Commission explore the propriety of retaining two investment advisors, each to manage half of the investment portfolio. This would afford an opportunity to directly measure the investment performance of each advisor.

As to the selection of investment advisors, it appears that the qualification requirements set out in NRS 616.4971 are such as to rule out many fine investment counseling firms. The subcommittee is, therefore, recommending some changes in the qualifications which are more realistic in today's business world and still offer adequate safeguards against unqualified firms. These are

contained in an attached draft bill (BDR 53-192, see Appendix 3 of this report).

DEPLETION OF RESERVES AND HIGHER RATES

The PMM report, page IV-15, contains an analysis of Required Liability Reserve which reflects a trend over the last few years of costs substantially greater than those estimated and set up. Page IV-16 details the reasons for the insufficiencies, a majority of which arose from unpredictable legislative, judicial and medical cost changes. So while there may have been some in-house error in reserve estimates, there were substantial exterior influences.

Attached is a draft bill (BDR 17-15, see Appendix 4 of this report), which requires a fiscal note on any legislative proposal which would increase costs. Another draft bill (BDR 53-39, see Appendix 5 of this report), provides that the findings of the medical review board are final and binding upon the employee as well as the industrial commission as to medical determinations and facts. This draft bill, along with a provision of the draft bill (BDR 53-193, see Appendix 6 of this report), making commission hearings subject to the Administrative Procedures Act whereby the Nevada Industrial Commission findings of fact are final and binding on the court, will go far to minimize a growing trend of court reversal--both as to eligibility for payment and the level of payment.

The aforementioned trend of encroachment on the Nevada Industrial Commission's provisions for anticipated contingencies reduced those reserves in the aggregate $5,414,726 during 1970-71. This required an immediate infusion of substantial additional revenues. Accordingly, an 18 percent rate increase went into effect July 1, 1971, and an additional 30 percent increase on January 1, 1972. Compounded, the 1972 rate structure represents a 53.4 percent increase over that of January 1, 1971. Under any reasonable conditions, this action should reverse the unacceptable trend of the last 3 or 4 years.

Because of this large increase in rates, which has a major effect upon employer costs, it is felt it would not be prudent to recommend substantial benefit increases until the Provision for Fluctuation in Experience, which was depleted from $6,239,125 in 1970 to $1,606,067 in 1971, is rebuilt to approximately $8 million as recommended by PMM.

ADMINISTRATIVE STRUCTURE

The subcommittee's analysis indicates that the top echelon administrative structure in the Nevada Industrial Commission is still valid for the forseeable future. The Nevada Industrial Commission is not large enough yet to warrant splitting the administrative and adjudicative functions performed by the commissioners. PMM recommended an executive director, which position would assure professional continuity in the operation of an insurance business, even though commissioners came and went by executive appointment. This recommendation was not adopted. However, the subcommittee is suggesting one change, contained in the omnibus draft bill (BDR 53-17, see Appendix 1). This would designate the commission chairman as the executive director. He would have final responsibility for general administrative functions and personnel administration. This is in accord with similar action taken by the 1971 legislature in the case of the Gaming Control Board, also a three-person group. It is also in accord with firm recommendations of the National Commission on State Workmen's Compensation Laws contained in its report which came to the subcommittee in August 1972. Other recommendations in that report will be discussed later herein.

In this connection, it is hoped that future governors of Nevada will act responsibly in appointing chairmen with professional rather than political qualifications. Governor O'Callaghan is commended for such an appointment.

USUAL AND CUSTOMARY FEES

Considerable time has been spent with members of the Nevada medical profession discussing the merits and pitfalls of paying for medical services on a usual and customary fee basis rather than on the relative value schedule now used by the Nevada Industrial Commission.

It has been determined that the term "usual and customary" means different things to different people. So before the industrial commission could seriously consider this approach, there would need to be a common agreed upon definition of what the term means. From there, the matter should be pursued by the commission on its merits.

The position of the subcommittee is that the Nevada Industrial Commission should take all reasonable action to maintain a good

working relationship with the medical profession. In the main, it is thought, that relationship exists now. Dissatisfaction exists among a minority of doctors, mainly in Las Vegas.

There is nothing inherently wrong or unworkable about a usual and customary fee basis. There should be no concept of welfare service contributions or subsidization by doctors to the industrial commission. The doctor is entitled to receive approximately the same fee from the commission as he would charge the man off the street or the person with partial private medical coverage in like economic circumstances. Medical costs are substantially higher in southern Nevada than in the north. But that is a fact of life for everyone, and, presumably, abundant competition will one day be the leveling influence in these costs. In the meantime competition is not all that abundant in any part of Nevada, particularly among anesthesiologists and orthopedic surgeons--the principal medical practitioners involved in industrial commission work. And this is a fact of life with which the Nevada Industrial Commission must deal.

If the Nevada Industrial Commission were to institute a usual and customary fee schedule, it would need to institute adequate and effective controls to prevent escalating medical costs not projected in rates. It would not be defensible to Nevada employers, or, for that matter, to employees, for the commission to operate a gravy train for any Nevada doctor who wished to avail himself of the ride.

PMM discusses this problem in considerable detail, commencing at page IV-4 of its report. The subcommittee concurs with its observations and recommendations.

SECOND INJURY FUND

One of the improvements to the Nevada Industrial Commission advocated by labor and other groups is the establishment of a second injury fund.

If a worker sustains an original injury in the course of employment, the costs attendant thereto are charged to his employer's account. If he sustains a later injury which actually is traceable to the first injury (e.g., a chronic weak back) the costs of the second injury are charged against whomever his employer happened to be at the time of the second injury. Obviously,

the subsequent employer will not wish to hire a man with a known history of recurring injury.

The second injury fund, proposed in an attached draft bill (BDR 53-13, see Appendix 7 of this report), would be charged for the cost of the subsequent injury rather than the subsequent employer, as at present. The additional cost of maintaining such a fund is not considered excessive by the commission. Legislative committees considering this proposal can make their own evaluation of cost impact.

The subcommittee felt that the social and humanitarian considerations of encouraging employers to gainfully employ people in this category were so strong as to warrant this proposal.

EXCLUSIVE STATE FUND

The subcommittee retained, as a special consultant, F. Britton McConnell, Esq., Attorney at Law, Los Angeles, California. Mr. McConnell has had a lifetime of experience in all phases of workmen's compensation. He served under two governors as Insurance Commissioner of the State of California. He has been very helpful as a counselor to the subcommittee. His report is attached hereto as Exhibit "A". Because of his broad experience, he was asked to make an assessment of whether the industrial commission should remain a monopoly or be exposed to the competition of private carriers. As indicated in his report, his judgment is that the Nevada Industrial Commission should be continued as an exclusive state fund at this point in time.

Although PMM was not asked to comment on this matter, its thorough analysis of the Nevada Industrial Commission led it to the same conclusion, as conveyed in personal conversations with its representatives.

The national AFL-CIO feels that the industrial commission should remain an exclusive fund for the reason that, not having to pull out a profit percentage from the premium dollar, more of the premium is available to pay benefits to workers.

The subcommittee concurs that, for the present, the industrial commission should not be exposed to competition. The work force and the number of employers in Nevada is small. If Nevada were to lose many of the large employers upon whom it depends for

actuarial validity, the health of the fund would be endangered. The 28 largest private employers reported 31 percent of the payroll and 22 percent of the Nevada Industrial Commission's premium in fiscal 1970. The 181 largest private employers (1.4 percent of 12,800 employers) reported 41.7 percent of the payroll and premium.

One of the problems with the industrial commission's being an exclusive state fund is that it has not been viewed strictly as an insurance business operated under state auspices. Nevada governors have viewed it as another executive agency subject to their orders and a place where people, who may or may not be qualified, can be given jobs as a matter of political patronage. The legislature has viewed it from time to time as a welfare activity where increased benefits, sometimes retroactive, should be financed out of existing reserves, with no thought of making such benefits prospective from a time when increased premium rates would be instituted to finance them. Part of the present depleted reserve situation is traceable to this type of legislative thinking.

To so consider the Nevada Industrial Commission as a political entity is counterproductive if Nevada's professed purpose is to operate it as an insurance business. The state would be forced to consider it as a proprietary operation if it permitted coverage by private carriers. In the absence of private competition, the legislature might well wish to consider operating the industrial commission as a quasi-public corporation in the same way that the United States Postal Service is now operated. The governor would appoint a multimember board of directors representing labor, management, vendors and the public. This board would select and replace commissioners (observing present labor and management representation), determine policy, set rates, review benefits, adopt budgets and generally oversee the business. The industrial commission would not be part of the state personnel system, but would compete in the marketplace for the type of personnel necessary to run an efficient insurance business.

The one basic problem which concerns the subcommittee, and employers and employees generally, is how to insure proper efficiency in the commission without the pressures of competition to hone the operation. It is of paramount importance to see to it that the Nevada Industrial Commission Chairman is a qualified,

capable man and performs accordingly. Also, periodic reviews, such as this study, will place the commission under the same analysis and suggestions for improvement as are periodically made in the private insurance business.

SAFETY

The industrial commission embarked upon a safety program in 1955 with the legislative creation of the Department of Industrial Safety. Today, 18 of the 129 employees in the Nevada Industrial Commission are involved in this department.

As far as the subcommittee is able to determine, the safety program is adequate and helpful in reducing accidents.

One of the reasons the subcommittee did not explore this area further is because of the federal Occupational Safety and Health Act of 1970, commonly referred to as OSHA. This is a stringent piece of legislation under which the United States Department of Labor has issued occupational safety and health standards which are federally enforced with severe sanctions and penalties.

By virtue of executive action by Governor O'Callaghan, a committee within the executive branch has been working out the details of a state act which, hopefully, would comply with the federal requirement and permit enforcement here at home.

Federal attitudes, guidelines and enforcement procedures are just now coming prominently to the attention of the states and employers therein. For this reason, this whole matter was considered by the subcommittee to be in a state of flux.

For purposes of early and complete consideration of this matter by the legislature, the subcommittee discussed a draft proposal known as the Nevada Occupational Safety and Health Act. The Governor's committee authored the proposed bill, which was presented about the time the subcommittee was completing its study. The subject is extensive and it was felt that the subcommittee could not give it proper consideration within the purview of its study. A bill will be introduced on this subject early in the 1973 legislative session.

PMM cautions that if the Nevada Industrial Commission is the state's agency to implement the federal mandates (and this is

the plan), the commission will become involved in performing certain services of a general state nature. In anticipation, the commission should set up an accounting system which can properly segregate costs so that Nevada employers will not be paying for services properly chargeable to the state general fund or federal programs.

PREVENTION OF ABUSES

It is common knowledge that various kinds of abusive practices are perpetrated against the Nevada Industrial Commission. Some constitute fraud, some are petty larceny and some, unilateral license.

PMM has made some excellent suggestions for reducing these practices by the establishment of a fidelity control program (see PMM report, p. III-20, et seq.).

In the subcommittee's opinion, enormous strides could be made in reducing some of these practices through the creation of regional medical advisory committees, as previously mentioned. Many matters involving technical and professional medical judgment could be considered by them and resolved in a fair and objective way. Some of the matters, reviewable on a case-by-case basis, which come to mind are:

1. Is the patient a malingerer?
2. Is the doctor prolonging treatment for his own financial gain, or as a result of supervisory inattention?
3. Has the medical attention been proper and adequate?
4. When should medical treatment be considered complete? This is particularly important in the case of the psychotic patient who is never convinced that he has had adequate treatment.
5. Is the doctor performing unnecessary procedures or loading costs with in-house services, i.e., extensive therapy treatment, X-rays, clinical tests?

MANDATORY COVERAGE

The subcommittee is not recommending mandatory coverage in the two optional areas existing under Nevada law, namely, agricultural employers and those employers having less than two employees.

Attention is called, however, to the fact that the National Commission on State Workmen's Compensation Laws recommends that coverage in these areas be mandated by 1975 or before. These recommendations will have significant impact throughout America, and it is the opinion of the subcommittee that states which do not comply will be forced to do so by federal legislation. Agricultural interests and employers of domestic help need to be fully aware that time is probably running out on the present exemptions in Nevada's law.

REHABILITATION

Presently in Nevada, as in over half the states, the rehabilitation of injured workmen is handled by the Rehabilitation Division of the Department of Health, Welfare and Rehabilitation. This activity is largely funded by federal money and little or none of the industrial commission premiums are used in this type of case. There is a large question as to whether Nevada would be better off if the Nevada Industrial Commission assumed this responsibility, including the cost.

The subcommittee intended to pursue this question when Mr. Thomas L. Hutchings was the Chairman of the Nevada Industrial Commission. Mr. Hutchings suggested, as a first step, that he arrange a trip to Vancouver, British Columbia, to observe a notably successful rehabilitation facility operated by the workmen's compensation system. Soon after that, Mr. Hutchings was replaced, and his successor, Mr. Reiser, had many other immediate things to do in orienting himself, so the matter became sidetracked. At the end of September 1972, Mr. Reiser and Mr. Evans from the commission, accompanied by several labor and management representatives, did make such an observation trip to Vancouver, British Columbia. The consensus of this group was that British Columbia is doing a noticeably better job than Nevada in rehabilitating injured workmen, and is absorbing the cost within substantially lower rate structure.

In British Columbia, 76 percent of those undergoing rehabilitation have been able to return to jobs where they maintained or improved their previous salary levels. Further, it appears that they are returned to those jobs in a much shorter time than in Nevada.

The subcommittee does not profess to know all the reasons for this difference in performance. But the fact that the difference

exists indicates that the industrial commission should study this matter intensively, with a view toward developing a body of information upon which collective decisions can be made about how it can best discharge this very important responsibility to workers.

A draft bill (BDR 53-194, see Appendix 8 of this report) will provide the framework for action by the industrial commission to accomplish a rehabilitation program. Its adoption is recommended by the subcommittee.

MISCELLANEOUS BILLS

Included herewith are the following recommended draft bills.

1. Appendix 9 (BDR 53-16) is a housekeeping draft bill to remove an unrealistic requirement upon physicians to inform the injured workman of his rights under the Nevada Industrial Insurance Act.
2. Appendix 10 (BDR 53-195) is a bill to place the Nevada Industrial Commission on a calendar year basis rather than fiscal July 1-June 30. This is a recommendation of PMM contained on page IV-24, with reasons therefor.
3. Appendix 11 (BDR 53-14) is a draft bill covering the subject of legal fees in industrial commission cases. PMM points out on pages III-28 and III-29 that Nevada is the only state which is silent on the subject. The object, of course, is to protect workmen against excessive legal costs.

CONCLUSION

The subcommittee has not attempted to comment on all of the many and varied matters which it reviewed. Attention is again called to the fact that the PMM and Segal Advisors reports, previously circulated, are components of this report. The PMM report covered the major areas of review in considerable detail with recommendations.

The Nevada Industrial Commission, which financed this study, has been most cooperative in furnishing information to the subcommittee and its consultants. The subcommittee is convinced that the industrial commission wants to improve its operations and its public image. It can only be hoped that this study will prove fruitful to that end.

Respectfully submitted,

Senator Carl F. Dodge, Chairman
Senator Melvin D. Close, Jr.
Senator Boyd D. Manning
Assemblyman Norman D. Glaser
Assemblyman Keith Ashworth
Assemblyman Randall V. Capurro
W. Howard Gray, Esq.
Mr. Louis Paley
William B. Harris, M.D.
William M. Tappan, M.D.

SUMMARY--Makes technical changes in Nevada industrial commission organization and procedures. Fiscal Note: No. (BDR 53-17)

AN ACT relating to Nevada industrial commission; providing for reports of earnings by persons receiving permanent total disability benefits; making commission chairman responsible for administration of Nevada industrial commission; deleting all references to accident benefit fund, compensation payment fund and rent and expense fund; establishing state insurance fund deposit account; permitting adoption of voluntary rating plans; increasing amount of charge in premium contributions; permitting extension of accident benefits without commission approval; and providing other matters properly relating thereto.

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

Section 1. Chapter 616 of NRS is hereby amended by adding thereto a new section which shall read as follows:

Any employee receiving permanent total disability benefits shall report annually on the anniversary date of the award to the commission all of his earnings for the prior 12-month period. In the event the employee fails to make such a report to the commission within 30 days following the anniversary date, the commission shall notify the employer and the employee that such reports have not been received and the commission may then suspend any further payments until such report of earnings is filed with the commission.

Sec. 2. NRS 616.140 is hereby amended to read as follows:

616.140 1. The third commissioner selected by the governor shall be the chairman. The appointee shall have not less than 5 years' actuarial experience and shall have a degree of master of business administration or experience deemed equivalent to that degree.

2. The annual salary of the chairman shall be in an amount determined pursuant to the provisions of NRS 284.182.

3. The chairman, in addition to the other duties prescribed by this chapter, shall serve as executive director. In the capacity of executive director he shall be responsible for all general administrative and clerical functions of the commission, including maintenance of files and records and personnel administration.

Sec. 3. NRS 616.165 is hereby amended to read as follows:

616.165 [A] Except as otherwise provided by this chapter, a decision on any question arising under this chapter concurred in by two of the commissioners shall be the decision of the commission.

Sec. 4. NRS 616.220 is hereby amended to read as follows:

616.220 The commission shall:

1. Adopt reasonable and proper rules to govern its procedure.

2. Prescribe the time within which adjudications and awards shall be made.

3. Prepare, provide and regulate forms of notices, claims and other blank forms deemed proper and advisable.

4. Furnish blank forms upon request.

5. Regulate the nature and extent of the proofs and evidence, and the method of taking and furnishing the same, to establish the rights to compensation from the state insurance fund .
[and the accident benefit fund.]

6. Provide the method of making investigations, physical examinations, and inspections.

7. Prescribe the methods by which the staff of the commission may approve or reject claims, and may determine the amount and nature of benefits payable in connection therewith. Every such approval, rejection and determination shall be subject to review by the commission.

8. Provide for adequate notice to each claimant of his right:

(a) To review by the commission of any determination or rejection by the staff.

(b) To judicial review of any final decision by the commission.

Sec. 5. NRS 616.285 is hereby amended to read as follows:

616.285 Where an employer has in his service two or more employees under a contract of hire, except as otherwise expressly provided in this chapter, the terms, conditions and provisions of

this chapter for the payment of premiums to the state insurance fund [and, except as further otherwise provided, to the accident benefit fund,] for the payment of compensation and the amount thereof for such injury sustained by an employee of such employer, shall be conclusive, compulsory and obligatory upon both employer and employee.

Sec. 6. NRS 616.365 is hereby amended to read as follows:

616.365 If the happening of the accident or the infliction of the injury to the employee shall not have been reported by the employee or his physician forthwith, as described in this chapter, and immediately after the happening of the accident and injury, or if the injured employee or those in charge of him (the injured employee being a party to the refusal) shall refuse to permit the physician so designated to make an examination and to render medical attention as may be required immediately, no compensation shall be paid for the injury claimed to result from the accident; but it shall be within the discretion of the commission to relieve the injured person or his dependents from loss or forfeiture of compensation if the commission shall be of the opinion, after investigation, that:

1. The circumstances attending the failure on the part of the employee, or of his physician, to report the accident and injury

are such as to have excused the employee and his physician for the failure to so report; and

2. Relieving the employee or his dependents from the consequences of the failure to report will not result in an unwarrantable charge against the state insurance fund . [or the accident benefit fund.]

Sec. 7. NRS 616.380 is hereby amended to read as follows:

616.380 1. In addition to the authority given the commission to determine and fix premium rates of employers as provided in NRS 616.395 to 616.405, inclusive, the commission:

(a) Shall apply that form of rating system which, in its judgment, is best calculated to merit or rate individually the risk more equitably, predicated upon the basis of the employer's individual experience;

(b) Shall adopt equitable rules and regulations controlling the same, which rules and regulations, however, shall conserve to each risk the basic principles of workmen's compensation insurance; and

(c) May subscribe to a rating service of any rating organization for casualty, fidelity and surety insurance rating.

2. The rating system or any rating by a rating organization pursuant to this section is subject to the limitation that the

amount of any increase or reduction of premium rate or additional charge or rebate of premium contributions shall be in the discretion of the commission . [, but shall not exceed 20 percent where the accident experience of an employer comprises less than 24 consecutive months or 30 percent where the accident experience comprises more than 24 consecutive months.]

3. The rating system provided by this section is subject to the further limitation that no increase or reduction of premium rate or additional charge or rebate of premium contributions shall become effective for 60 days after adoption by the commission. Upon the adoption of any increase or reduction of premium rate or additional charge or rebate of premium contributions provided by this section the commission shall give written notice thereof to the employer affected by such rate change, charge or rebate and grant the employer, if requested by him, a hearing before the commission prior to the effective date of such rate change, charge or rebate. At such hearing consideration shall be given to the objections as made by the parties appearing, and all matters in dispute shall be resolved after such hearing by the commission in a manner which will not unjustly affect the objecting party. The objective to be accomplished by the commission shall be to prescribe and collect only such premiums

as may be necessary to pay the obligations created by this chapter, administrative expenses, and to carry such reasonable reserves as may be prescribed by law or may be deemed necessary to meet such contingencies as may be reasonably expected.

4. Subsections 2 and 3 of this section shall not apply to rating plans made by voluntary agreement between the commission and employer which increases or reduces premium contributions for employers. Such voluntary rating plans may be retrospective in nature. A voluntary rating plan must be in writing and signed by both the commission and the employer.

Sec. 8. NRS 616.395 is hereby amended to read as follows:

616.395 1. Every employer within, and those electing to be governed by, the provisions of this chapter, with the exception of the state, counties, municipal corporations, cities, and school districts, shall, on or before July 1, 1947, and thereafter, as required by the commission, pay to the commission, for a state insurance fund [and, except as otherwise provided herein, for an accident benefit fund, premiums in such a percentage of his estimated total payroll for the ensuing 2 months] , premiums in the form of an advance deposit as shall be fixed by order of

the commission. All premium rates now in effect shall be continued in full force and effect until changed, altered or amended by order of the commission.

2. Every employer within, and those electing to be governed by, the provisions of this chapter, who shall enter into business or resume operations subsequent to July 1, 1947, shall, before commencing or resuming operations, as the case may be, notify the commission of such fact, accompanying such notification with an estimate of his monthly payroll, and shall make payment of the premium on such payroll for the first 2 months of operations.

3. The commission shall be empowered to accept as a substitute for payment of premiums [, for the ensuing or first 2 months of operation as provided by this section,] either a bond or pledge of assets. The amount and sufficiency of security required, other than cash, shall be determined by the commission but shall not be of a value less than the amount of cash required by this section.

4. The commission shall accept as a substitute for cash payment of premiums as required in this section a savings certificate issued by a bank or savings and loan association in Nevada, which certificate shall indicate an amount at least equal to, but shall not be required to be more than, the next integral multiple of $100 above the cash which would otherwise be required by this

section and shall state that such amount is unavailable for withdrawal except by direct and sole order of the commission. Interest earned on the deposit shall accrue to the account of the employer and not the commission.

Sec. 9. NRS 616.410 is hereby amended to read as follows:

616.410 1. [For the purpose of providing a fund to take care of accident benefits as provided in this chapter, the] The commission is authorized and directed to collect a premium upon the total payroll of every employer within the provisions of this chapter, except as otherwise provided, in such a percentage as the commission shall fix by order [.] for accident benefits.

2. Every such employer paying such premium shall be relieved from furnishing accident benefits, and the same shall be provided by the commission. [Every employer paying such premium for accident benefits may collect one-half thereof, not to exceed $1 per month, from each employee, and may deduct the same from the wages of the employee.]

3. All fees and charges for accident benefits shall be subject to regulation by the commission and shall not be in excess of such fees and charges as prevail in the same community for similar treatment of injured persons of like standard of living.

4. The commission may adopt reasonable rules and regulations necessary to carry out the provisions of this section.

5. The state insurance fund provided for in this chapter shall [not] be liable for any accident benefits provided in this section, but the [fund] account provided for accident benefits shall be a separate and distinct [fund,] account, and shall, on the commission records, be so kept.

Sec. 10. NRS 616.415 is hereby amended to read as follows:

616.415 1. Every employer operating under this chapter, alone or together with other employers, may make arrangements for the purpose of providing accident benefits as defined in this chapter for injured employees. [Such employer may collect one-half of the cost of such accident benefits from his collective employees, not to exceed $1 per month from any one employee, and may deduct the same from the wages of each employee.]

2. Employers electing to make such arrangements for providing accident benefits shall notify the commission of such election and render a detailed statement of the arrangements made, which arrangements shall not become effective until approved by the commission.

3. Every employer who maintains a hospital of any kind for his employees, or who contracts with a physician for the hospital care of injured employees, shall, on or before January 30 of each

year, make a written report to the commission for the preceding year, which report shall contain a statement showing:

(a) Total amount of hospital fees collected, showing separately the amount contributed by the employees and the amount contributed by the employers; and

(b) An itemized account of the expenditures, investments or other disposition of such fees; and

(c) What balance, if any, remains.

Such reports shall be verified by the employer, if an individual; by a member, if a partnership; by the secretary, president, general manager or other executive officer, if a corporation; by the physician, if contracted to a physician.

4. Every employer who fails to notify the commission of such election and arrangements, or who fails to render the financial report required, shall be liable for accident benefits as provided by NRS 616.410.

Sec. 11. NRS 616.420 is hereby amended to read as follows:

616.420 If it be shown or the commission finds that the employer is furnishing the requirements of accident benefits in such a manner that there are reasonable grounds for believing that the health, life or recovery of the employee is being

endangered or impaired thereby, the commission may, upon application of the employee, or upon its own motion, order a change of physicians or of any other accident benefit requirements, and if the employer fails to comply promptly with such order, the injured employee may elect to have accident benefits provided by or through the commission, in which event the cause of action of the injured employee against the employer or hospital association shall be assigned to the commission for the benefit of the [accident benefit] state insurance fund, and the commission shall furnish to the injured employee the accident benefits provided for in this chapter.

Sec. 12. NRS 616.425 is hereby amended to read as follows:

616.425 1. All premiums, contributions, penalties, bonds, securities and all other properties received, collected or acquired by the commission pursuant to the terms of this chapter shall:

(a) Be credited on the records of the commission to the [proper] state insurance fund.

(b) Constitute, for the purpose of custody thereof, the state insurance fund, which shall be held by the commission as custodian thereof for the benefit of employees and their dependents within the provisions of this chapter. Each commissioner shall be liable on his official bond for the faithful performance of his custodial duty as a member of the commission.

2. The commission shall deliver from such state insurance fund to the custody of the state treasurer such moneys as are deemed by the commission necessary to maintain an adequate balance in the [compensation payment fund,] state insurance fund deposit account, which is hereby created for the transaction of the ordinary business and functions of the commission, including compensation.

Sec. 13. NRS 616.435 is hereby amended to read as follows:

616.435 1. All disbursements from the [compensation payment] state insurance fund shall be paid by the state treasurer upon warrants or vouchers of the commission authorized and executed by the commission pursuant to chapter 351 of NRS (Uniform Facsimile Signatures of Public Officials Act). The state treasurer shall be liable on his official bond for the faithful performance of his duty as custodian of the [compensation payment fund.] state insurance fund deposit account. The State of Nevada shall not be liable for the payment of any compensation or any salaries or expenses in the administration of this chapter, except from the [compensation payment fund,] state insurance fund deposit account, but shall be responsible for the safety and preservation of the state insurance fund.

2. A sum of $200,000 in the aggregate may be regularly maintained on deposit by the commission in all the collection depositary banks. Such [fund] account kept currently on deposit shall be used for the transaction of the ordinary business and functions of the commission, including compensation. Such [fund] account shall be a trust [fund,] account, and shall not be removed or drawn upon except on checks or drafts of the commission authorized and executed by the commission pursuant to chapter 351 of NRS (Uniform Facsimile Signatures of Public Officials Act), and shall be made payable to the state treasurer for the [compensation payment fund.] state insurance fund deposit account.

3. Anything to the contrary in this chapter notwithstanding, the commission shall authorize disbursements from the [accident benefit fund and the compensation payment] state insurance fund to provide all benefits provided for in this chapter.

Sec. 14. NRS 616.450 is hereby amended to read as follows:

616.450 Any income derived from rentals, as provided in NRS 616.180, shall be placed in [a fund] an account to be known as the rent and expense [fund.] account. All disbursements on account of expenses incurred in the operation and maintenance of the buildings shall be [paid from] charged against the rent and expense [fund.] account. The fund shall constitute a part of the assets of the [compensation payment] state insurance fund.

Sec. 15. NRS 616.480 is hereby amended to read as follows:

616.480 The commission may reinsure any risk, or any part thereof, and arrange for such other reinsurance as, in its opinion, will properly protect the state insurance fund . [and the accident benefit fund.]

Sec. 16. NRS 616.485 is hereby amended to read as follows:

616.485 If the provisions of NRS 616.395, 616.400 and 616.405 for the creation of a state insurance fund , [and an accident benefit fund,] or the provisions of this chapter making the compensation to the workman provided in it exclusive of any other remedy on the part of the workman, shall be held invalid, the entire chapter shall be thereby invalidated, except the provisions of NRS 616.495, and an accounting according to the justice of the case shall be had on moneys received. In other respects an adjudication of invalidity of any part of this chapter shall not affect the validity of the chapter as a whole or any part thereof.

Sec. 17. NRS 616.490 is hereby amended to read as follows:

616.490 1. If the provisions of this chapter relative to compensation for injuries to or death of workmen become invalid because of any adjudication, or be repealed, the period intervening between the occurrence of an injury or death, not previously

compensated for under this chapter by lump sum payment or completed monthly payments, and such repeal or the rendition of the final adjudication of the validity shall not be computed as a part of the time limited by law for the commencement of any action relating to such injury or death; provided, that such action be commenced within 1 year after such repeal or adjudication.

2. In any such action any sum paid out of the state insurance fund [or the accident benefit fund] by reason of injury to a workman by whom, or by whose dependents, the action is prosecuted, shall be taken into account or disposed of as follows: If the defendant employer shall have paid without delinquency into the state insurance fund [and the accident benefit fund] the premiums provided for by NRS 616.395, 616.400 and 616.405, or furnished accident benefits pursuant to NRS 616.415, any such sums shall be credited upon the recovery as payment thereon, otherwise the sum shall not be so credited.

Sec. 18. NRS 616.495 is hereby amended to read as follows:

616.495 If this chapter shall hereafter be repealed, all moneys which are in the state insurance fund [or the accident benefit fund] at the time of the repeal shall be subject to such disposition as may be provided by the legislature, and in

default of such legislative provisions distribution thereof shall be in accordance with the justice of the matter, due regard being had to obligations of compensation incurred and existing.

Sec. 19. NRS 616.500 is hereby amended to read as follows:

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

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

3. The notice shall:

(a) Be in writing; and

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

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

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

4. No proceeding under this chapter for compensation for an injury shall be maintained unless the injured employee, or someone on his behalf, files with the commission a claim for compensation

with respect to the injury within 90 days after the happening of the accident, or, in the case of death, within 1 year after death.

5. The notice required by this section shall be served upon the commission either by delivery to and leaving with it a copy of the notice, or by mailing to it by registered or certified mail a copy thereof in a sealed postpaid envelope addressed to the commission at its office in Carson City, Nevada. Such mailing shall constitute complete service.

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

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

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

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

Sec. 20. NRS 616.515 is hereby amended to read as follows:

616.515 Every injured employee within the provisions of this chapter shall be entitled to receive, and shall receive promptly, such accident benefits as may reasonably be required at the time of the injury and within 6 months thereafter, which may be further extended [by unanimous vote of the commission] for additional periods as may be [in the opinion of the commission,] required.

Sec. 21. NRS 617.320 is hereby amended to read as follows:

617.320 1. The occupational diseases fund and the medical benefits fund are hereby created.

2. The occupational diseases fund shall be a separate and distinct fund and shall be so kept on the records of the commission, but shall, in the hands of the commission and, for the purposes of custody thereof, be and constitute a part of the state insurance fund, subject to the same provisions in regard thereto as are contained in chapter 616 of NRS.

3. The commission shall have all of the powers, authority and duties with respect to the prosecution and defense of suits, the collection, administration, investment and disbursement of the occupational diseases fund as are provided for in chapter

616 of NRS relative to the prosecution and defense of suits, the collection, administration, investment and disbursement of the state insurance fund [and the accident benefit fund] for the compensation of injured employees which are not inconsistent with the terms of this chapter.

SUMMARY--Authorizes modification of Nevada industrial commission investment procedures to increase returns. Fiscal Note: No. (BDR 53-38)

AN ACT relating to modification of investment procedures of the Nevada industrial commission; authorizing certain additional investments; eliminating certain restrictions on investments in common stock; increasing permissible percentage of investments in common and preferred stock; reducing restrictions on bond investments; and providing other matters properly relating thereto.

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

Section 1. Chapter 616 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. The commission may invest and reinvest the moneys in its funds in:

1. Commercial paper as it is set forth in the Uniform Commercial Code - Commercial Paper NRS 104.3101 et seq. Eligible commercial paper may not exceed 180 days maturity and must be of prime quality as defined by a nationally recognized organization which rates such securities. It is further limited to issuing corporations with net worth in excess of 50 million dollars ($50,000,000) which are incorporated under the laws of the United States or any state thereof or the District of Columbia.

2. Collective or part interest in commercial paper held by national banks and issued by companies whose commercial paper meets the requirements prescribed in paragraph 1 hereof.

3. Bankers' acceptances of the kind and maturities made eligible by law for rediscount with Federal Reserve Banks, and generally accepted by banks or trust companies which are members of the Federal Reserve System.

4. Time certificates of deposit issued by commercial banks.

5. Savings accounts in state banks, located in and organized under the laws of this state, or national banks.

Sec. 3. 1. Subject only to the limitations of NRS 616.4984 and not in any way subject to the limitations of NRS 616.4981, the commission may invest and reinvest the moneys in its funds in securities and stock recommended by investment counsel whether or not the securities or stock are expressly authorized or qualify under chapter 616 of NRS if, in the opinion of the investment counsel, the investment conforms to the overall investment objectives of the commission subject to the standard as set forth in the following paragraph, and provided that the aggregate of the investments under this section at cost shall not exceed 10 percent of the assets.

2. In investing in securities and stock under this section for the commission, investment counsel shall exercise the judgment and

care under the circumstances then prevailing which men of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds considering the probable income as well as the probable safety of their capital. Within the limitation of the foregoing standard there may be acquired and retained as investments of the commission under this section every kind of investment which men of prudence, discretion and intelligence acquire or retain for their own account.

Sec. 4. NRS 616.4972 is hereby amended to read as follows:

616.4972 1. The commission may invest and reinvest the moneys in its funds in bonds or other evidences of indebtedness of the United States of America or any of its agencies or instrumentalities when such obligations are guaranteed as to principal and interest by the United States of America or by any agency or instrumentality thereof.

2. The commission may invest and reinvest the moneys in its fund in obligations of the United States Postal Service or the Federal National Mortgage Association, whether or not guaranteed as to principal and interest by the United States of America.

3. The commission may invest and reinvest the moneys in its funds in obligations issued or guaranteed by the International Bank for Reconstruction and Development and the Inter-American Development Bank.

Sec. 5. NRS 616.4978 is hereby amended to read as follows:

616.4978 1. The commission may invest and reinvest the moneys in its funds in bonds, debentures, notes and other evidences of indebtedness issued, assumed or guaranteed by any solvent corporation or corporations (other than those organized and chartered for the sole purpose of holding stocks of other corporations) created or existing under the laws of the United States or of any of the states of the United States or the District of Columbia, or the Dominion of Canada or any of its provinces, which are not in default either as to principal [and] or interest; provided:

(a) In the case of any public utility company, the net earnings available for its fixed charges for a period of 5 fiscal years next preceding the date of investment therein have averaged per year not less than [two] one and one-half times its average annual fixed charges after depreciation and income taxes applicable to such period and if, during either of the last 2 years of such period, such net earnings have been not less than [two] one and one-half times its fixed charges for such year.

(b) In the case of any finance company, the net earnings available for its fixed charges for a period of 5 fiscal years next preceding the date of investment therein have averaged per year not less than one [and one-half] times its average annual fixed charges after depreciation and income taxes applicable to such period and if, during either of the last 2 years of such period, such net earnings have not been less than one [and one-half] times its fixed charges for such year.

(c) In the case of any solvent institution other than those described in paragraphs (a) and (b) above, the net earnings available for its fixed charges for a period of 5 fiscal years next preceding the date of investment therein have averaged per year not less than [three] one and one-half times its average annual fixed charges after depreciation and income taxes applicable to such period and if, during either of the last 2 years of such period, such net earnings have been not less than [three] one and one-half times its fixed charges for such year.

2. The commission shall not invest in any one issue of such bonds described in paragraphs (a), (b) and (c) of subsection 1 in an amount in excess of 10 percent of any one such issue.

Sec. 6. NRS 616.498 is hereby amended to read as follows:

616.498 1. The commission may invest and reinvest the moneys in its funds in preferred or guaranteed stock or shares of any

solvent institution created or existing under the laws of the United States or of any state, district or territory thereof, if all the prior obligations and prior preferred stocks, if any, of such institutions at the date of acquisition are eligible as investments under this section and if the net earnings of such institution available for its fixed charges during either of the last 2 years have been, and during each of the last 5 years have averaged not less than [two] one and one-half times, in the case of a public utility company, [and three times,] one times in the case of a finance company and one and one-half times in the case of any solvent institution other than a public utility company [,] or a finance company, the sum of its average annual fixed charges, if any, its average annual maximum contingent interest, if any, and its average annual preferred dividend requirements. For the purpose of this section, such computation shall refer to the fiscal years immediately preceding the date of acquisition, and the term "preferred dividend requirement" shall be deemed to mean cumulative or non-cumulative dividends, whether paid or not.

2. The commission shall not invest more than 1 percent of its assets in the preferred stock of any one issuing company, nor shall the aggregate of its investments under this section exceed 10 percent of its assets.

Sec. 7. NRS 616.4981 is hereby amended to read as follows:

616.4981 1. The commission may invest and reinvest the moneys in its funds in nonassessable (except for taxes or wages) common stock or shares of any solvent institution created or existing under the laws of the United States or any state, district or territory thereof, if [:

(a) All the obligations and preferred stock, if any, of such institution are eligible as investments under NRS 616.4971 to 616.4984, inclusive; and

(b) Such] <u>such</u> institution has paid cash dividends for a period of 5 fiscal years next preceding the date of acquisition.

2. The commission shall not invest more than 1 percent of its assets in the common stock or capital stock of any one issuing company, nor shall the aggregate of its investments under this section at cost exceed [10] <u>20</u> percent of its assets.

SUMMARY--Revises qualifications and terms of employment of investment counsel for Nevada industrial commission. Fiscal Note: No. (BDR 53-192)

AN ACT relating to industrial insurance; revising qualifications and terms of employment of investment counsel for Nevada industrial commission; permitting employment of more than one investment counsel; revising procedure for investment program review by state board of finance; and providing other matters properly relating thereto.

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

Section 1. NRS 616.4971 is hereby amended to read as follows:

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

2. The commission shall not engage investment counsel unless:

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

(b) [The principal ownership and control of such person, firm or corporation rests with individuals who are actively engaged in such business;

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

(c) Such person, firm or corporation shall, as of the time originally hired, have at least $250,000,000 of assets under management contract, exclusive of any assets related to governmental agencies in the State of Nevada;

(d) Such person, firm or corporation is registered as an investment adviser under the laws of the United States of America as from time to time in effect [;] , or is a national bank or an investment management subsidiary of a national bank; and

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

(f) [Such person, firm or corporation is a member of the Investment Counsel Association of America; and

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

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

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

[4. All investments made by the commission and any investment program undertaken by the commission shall be subject to review by the state board of finance each quarter. If after such review, the state board of finance finds that the investment policies pursued by the commission are not in the best interests of the state insurance fund or the State of Nevada, the state board of finance may require the commission to discharge any investment counsel employed by it.]

5. Any investment program adopted by the commission and all investments made thereunder shall be reported quarterly in writing by the commission to the state board of finance, and such report shall be subject to review by the state board of finance. The state board of finance may require the commission to provide further reports and may recommend modifications in the investment program, including replacement of the investment counsel. If, after a reasonable time, the commission has not taken suitable corrective

action in response to recommendations by the state board of finance, the state board of finance may direct the commission to implement its recommendations in a manner acceptable to the state board of finance. Any directives from the state board of finance shall be in writing.

6. With the approval of the state board of finance, the commission may designate the bank or banks which shall have the custody of the various investments authorized in NRS 616.4972 to 616.4984, inclusive.

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

SUMMARY--Provides for fiscal notes showing financial impact of any legislative bill or amendment thereto for all bills affecting Nevada industrial insurance premiums or state insurance fund. Fiscal Note: No. (BDR 17-15)

AN ACT relating to legislative bills or amendments thereto; requiring fiscal notes showing financial impact on Nevada industrial insurance premiums or state insurance fund created by chapter 616 of NRS for all legislative bills or amendments thereto; and providing other matters properly relating thereto.

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

Section 1. Chapter 218 of NRS is hereby amended by adding thereto a new section which shall read as follows:

1. Before any bill which affects the premiums charged to employers as provided in chapters 616 or 617 of NRS or the state insurance fund established by chapter 616 of NRS is considered at a public hearing of any committee of the assembly or the senate or before a vote is taken thereon by such committee, the legislative counsel shall obtain a fiscal note in the manner and form, to the extent applicable, provided for in NRS 218.271 to 218.2758, inclusive, showing the financial impact on the premiums charged employers by the Nevada industrial commission and on the state insurance fund.

2. Such information shall be provided by the Nevada industrial commission upon request of the legislative counsel.

3. The department of administration is not required to review such fiscal notes but upon request of any legislator, the fiscal analyst shall review such fiscal note and submit his findings to the requester.

Sec. 2. NRS 218.271 is hereby amended to read as follows:

218.271 [The] Except as otherwise provided by this chapter, the requirement of NRS 218.272 to 218.2758, inclusive, that a fiscal note be obtained before a bill is considered in committee applies only to bills whose preparation is requested of the legislative counsel by an agency or officer of the executive branch of the state government, but any legislator may reqest the preparation of a fiscal note for a bill whose fiscal effect is $2,000 or more which he has introduced or is about to introduce, and the provisions of NRS 218.272 to 218.2758, inclusive, concerning the form, preparation and printing of fiscal notes apply also to such requests.

SUMMARY--Provides that Nevada industrial commission medical board's findings shall be binding on employee and empowers commission to set compensation of medical board. Fiscal Note: No. (BDR 53-39)

AN ACT to amend NRS 616.190 to provide that Nevada industrial commission medical board's findings shall be binding on employee; empowering commission to set compensation of medical board; and providing other matters properly relating thereto.

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

Section 1. NRS 616.190 is hereby amended to read as follows:

616.190 1. The chairman of the commission annually shall request the Nevada State Medical Association to select and establish two lists, each composed of three designated and three alternate licensed physicians, who are in good professional standing and who have displayed an active interest in the advancement of their profession, any three of which physicians from each list, when appointed by the governor shall be and constitute two separate medical boards with concurrent jurisdiction throughout the state for the purposes mentioned in this chapter.

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

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

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

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

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

5. Each member of the medical boards shall receive as full compensation for his services a sum [not to exceed $50] to be fixed by the commission for each referred case, which sum shall

represent compensation for the initial review of medical records, the meeting and the preparation of the report.

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

SUMMARY--Clarifies application of Nevada Administrative Procedure Act to Nevada industrial commission. Fiscal Note: No. (BDR 53-193)

AN ACT relating to the Nevada industrial commission; clarifying the application of the Nevada Administrative Procedure Act to proceedings of the commission; providing for judicial proceedings from final decisions of the commission; and providing other matters properly relating thereto.

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

Section 1. Chapter 616 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. The Nevada Administrative Procedure Act, chapter 233B of NRS, shall apply to all proceedings by the commission under this chapter.

Sec. 3. 1. No judicial proceedings shall be instituted for compensation for an injury or death under this chapter unless:

(a) A claim for compensation is filed as provided in NRS 616.500; and

(b) A final decision of the commission has been rendered on such claim.

2. Judicial proceedings instituted for compensation for an injury or death under this chapter shall be limited to

judicial review as prescribed by NRS 233B.130 to 233B.150, inclusive.

Sec. 4. Chapter 617 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 and 6 of this act.

Sec. 5. The Nevada Administrative Procedure Act, chapter 233B of NRS, shall apply to all proceedings by the commission under this chapter.

Sec. 6. 1. No judicial proceedings shall be instituted for benefits for an occupational disease under this chapter, unless:

(a) A claim is filed within the time limits prescribed in NRS 617.330; and

(b) A final decision of the commission has been rendered on such claim.

2. Judicial proceedings instituted for benefits for an occupational disease under this chapter shall be limited to judicial review as prescribed by NRS 233B.130 to 233B.150, inclusive.

Sec. 7. NRS 616.220 is hereby amended to read as follows:

616.220 [The] In accordance with the Nevada Administrative Procedure Act, the commission shall:

1. Adopt reasonable and proper rules to govern its procedure.

2. Prescribe the time within which adjudications and awards shall be made.

3. Prepare, provide and regulate forms of notices, claims and other blank forms deemed proper and advisable.

4. Furnish blank forms upon request.

5. Regulate the nature and extent of the proofs and evidence, and the method of taking and furnishing the same, to establish the rights to compensation from the state insurance fund and the accident benefit fund.

6. Provide the method of making investigations, physical examinations, and inspections.

7. Prescribe the methods by which the staff of the commission may approve or reject claims, and may determine the amount and nature of benefits payable in connection therewith. Every such approval, rejection and determination shall be subject to review by the commission.

8. Provide for adequate notice to each claimant of his right:

(a) To review by the commission of any determination or rejection by the staff.

(b) To judicial review of any final decision by the commission.

Sec. 8. NRS 616.245 is hereby amended to read as follows:

616.245 1. A transcribed copy of the evidence and proceedings, or any specific part thereof, of any final hearing or investigation, made by a stenographer appointed by the commission, being certified by that stenographer to be a true and correct transcript of the testimony in the final hearing or investigation, or of a particular witness, or of a specific part thereof, and carefully compared by him with his original notes, and to be a correct statement of the evidence and proceedings had on the final hearing or investigation so purporting to be taken and transcribed, may be received in evidence with the same effect as if the stenographer were present and testified to the facts so certified.

2. A copy of the transcript shall be furnished on demand to any party upon the payment of the fee therefor as provided for transcripts in courts of record.

Sec. 9. NRS 617.160 is hereby amended to read as follows:

617.160 1. This chapter shall be administered by the Nevada industrial commission.

2. [The] In accordance with the Nevada Administrative Procedure Act, the commission shall:

(a) Adopt reasonable and proper rules to govern its procedure.

(b) Prescribe the time within which adjudications and awards shall be made.

(c) Prepare, provide and regulate forms of claims and such other forms deemed proper and advisable.

(d) Regulate the nature and extent of the proofs and evidence, and the method of taking and furnishing the same, to establish the rights to compensation from the [occupational diseases fund and the medical benefits] <u>state insurance</u> fund.

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

(f) Adopt such other reasonable rules and regulations as may be necessary to carry out the provisions of this chapter.

SUMMARY--Establishes subsequent accident account of the state insurance fund of the Nevada industrial commission and provides for charges thereto. Fiscal Note: No. (BDR 53-13)

AN ACT relating to Nevada industrial insurance; establishing a subsequent accident account of the state insurance fund of the Nevada industrial commission; providing for charges thereto; and providing other matters properly relating thereto.

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

Section 1. Chapter 616 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 4, inclusive, of this act.

Sec. 2. There shall be a special account within the state insurance fund to be known and designated as the subsequent injury account, which shall be used only for the purpose of defraying charges against it as provided in section 3 of this act.

Sec. 3. Whenever a workman has sustained previous bodily infirmity or disability from any previous injury whether or not arising out of and in the course of employment and shall suffer a further injury in employment covered by this chapter

and becomes disabled from the combined effects thereof, then the accident experience of the employer at the time of the subsequent injury or disease shall be charged only with the injury cost which would have resulted solely from the subsequent injury had there been no preexisting disability. Such injury cost shall be based upon an evaluation of the disability by one of the medical boards created by this chapter. The difference between the charge attributed solely to the subsequent injury and charged to the employer's experience, and the total cost of the total disability compensation reserve shall be charged against the subsequent injury account.

Sec. 4. The total incurred costs charged to the subsequent injury account shall be distributed as loss expense to each manual class of the state insurance fund as of June 30 of each year, and the total industrial premium contributions of each manual class for the preceding fiscal year shall be used in determining the proportionate charge to each manual class to defray the total accumulated charges to the subsequent injury account during the current fiscal year.

SUMMARY--Empowers Nevada industrial commission to provide rehabilitation services. Fiscal Note: No. (BDR 53-194)

AN ACT relating to industrial insurance; empowering the Nevada industrial commission to provide rehabilitation services to injured workmen; providing that commission may refuse to pay compensation benefits to workmen refusing rehabilitation services; and providing other matters properly relating thereto.

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

Section 1. Chapter 616 of NRS is hereby amended by adding thereto a new section which shall read as follows:

1. To aid in getting injured workmen back to work or to assist in lessening or removing any resulting handicap, the commission may take such measures and make such expenditures from the state insurance fund as it may deem necessary or expedient to accomplish such purpose, regardless of the date on which such workman first became entitled to compensation.

2. Any workman eligible for rehabilitation benefits will not be paid those benefits if he refuses counseling, training or other rehabilitation services offered to him by the commission.

SUMMARY--Deletes provision requiring physicians to advise workman of rights under Nevada Industrial Insurance Act.
Fiscal Note: No. (BDR 53-16)

AN ACT relating to Nevada Industrial Insurance Act; deletes requirement of chapter 616 of NRS that physicians have duty of advising workman of his rights under act; and providing other matters properly relating thereto.

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

Section 1. NRS 616.350 is hereby amended to read as follows:

616.350 It shall be the duty of the physician [to inform the injured workman of his rights under this chapter and] to lend [all necessary] assistance in making application for compensation and such proof of other matters as required by the rules of the commission, without charge to the workman.

SUMMARY--Requires Nevada industrial commission to use calendar year in determining premium rates. Fiscal Note: No. (BDR 53-195)

AN ACT relating to industrial insurance; providing that the Nevada industrial commission shall use a calendar year in determining and fixing premium rates; and providing other matters properly relating thereto.

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

Section 1. Chapter 616 of NRS is hereby amended by adding thereto a new section which shall read as follows:

The commission shall use a calendar year basis in calculating, determining and fixing premium rates of employers.

SUMMARY--Provides for allowance of reasonable attorney fees for services performed representing any workman or beneficiary under Nevada Industrial Insurance Act. Fiscal Note: No. (BDR 53-14)

AN ACT to provide for attorney fees for services before the Nevada industrial commission or before a court on appeal from a decision of the Nevada industrial commission; prescribing how such fees shall be fixed; and providing other matters properly relating thereto.

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

Section 1. Chapter 616 of NRS is hereby amended by adding thereto a new section which shall read as follows:

1. It shall be unlawful for an attorney engaged in the representation of any workman or beneficiary under the provisions of this chapter or chapter 617 of NRS to charge for services before the commission any fee in excess of a reasonable fee of not more than 33 1/3 percent of the increase in the award secured by the attorney's services. Such reasonable fee shall be fixed by the commission and payable from the funds of the commission. Any attorney's fee set by the commission may be reviewed by a court upon application by such attorney. The commission shall implement these provisions by appropriate rules and regulations.

2. If on appeal to the court from the decision on compensation of the commission, such decision is reversed or modified and additional relief is granted to a workman or beneficiary, a reasonable fee for the services of the workman's or beneficiary's attorney shall be fixed by the court not to exceed 33 1/3 percent of the increase in the award secured by the attorney's services. In addition, upon proper application, the court may review and adjust, if necessary, the fee set by the commission, but any adjustment by the court shall not exceed 33 1/3 percent of the increase in the award.

3. Where the commission or court, pursuant to this section, fixes the attorney's fee, it shall be unlawful for an attorney to charge or receive any fee for services before the commission or court in excess of the fee so fixed.

4. Any person who violates any provision of this section shall be guilty of a misdemeanor.

Sec. 2. NRS 616.550 is hereby amended to read as follows:

616.550 [Compensation] Except as otherwise provided in this chapter, compensation payable under this chapter, whether determined or due, or not, shall not, prior to the issuance and delivery of the warrant thereof, be assignable, shall be exempt from

attachment, garnishment and execution, and shall not pass to any other person by operation of law; but in any case of the death of an injured employee covered by this chapter from causes independent from the injury for which compensation is payable, any compensation due such employee which was awarded or accrued but for which the warrant or warrants were not issued or delivered at the date of death of such employee shall be payable to his dependents as defined in NRS 616.615.

F. BRITTON McCONNELL
ATTORNEY AT LAW

Carson City, Nevada
August 14, 1972.

BEFORE THE

LEGISLATIVE COMMISSION'S SUBCOMMITTEE
FOR STUDY OF THE NEVADA INDUSTRIAL COMMISSION

Statement of F. Britton McConnell*

My name is F. Britton McConnell and I am and have been an attorney-at-law since admitted to practice in California and Federal Courts in 1925. At present, I am in private practice in Los Angeles.

At the request of insurance clients, I attended a meeting of the Nevada Commerce Committee in Las Vegas on February 26, 1971, and conferred informally with the members of that Committee and with some of the witnesses regarding the Nevada workmen's compensation system and functioning of the Nevada Industrial Commission; I also discussed these matters with representatives of private insurance companies and insurance agents in Reno who transact substantial business in other lines than workmen's compensation.

In the proceedings of the Commerce Committee, the NIC was only one of a number of important subjects assigned to that Committee. The Commerce Committee concluded that a more thorough study of NIC should be undertaken by another Committee assigned to survey the past and current affairs and financial condition of NIC. Your present Subcommittee was therefore established and after

informal consultations and commencing on August 4, 1971, I was employed as a special consultant with respect to the administrative structure of NIC and related matters. Since attending the meeting on August 4, 1971, I have attended meetings of your Committee in Carson City, in Reno and in Las Vegas, have read the exhibits that have been filed and have conferred extensively with Peat, Marwick, Mitchell & Company during the course of their study of NIC and preparation of their report filed with your Committee in February 1972.

* A concise biography of experience in workmen's compensation insurance is attached--Exhibit 1.

I am appearing before you to-day to make a report to you and to make myself available for discussion of matters that have been brought before your Committee in the course of your extensive proceedings. I feel that your Committee has functioned with exceptionally good efficiency because of strong executive planning and also because of having established and maintained good relations with and resulting full co-operation from the organizations, agencies and individuals who have furnished the testimony and prepared the exhibits.

Senator Carl F. Dodge, your Chairman, and the other members of your Committee have kept in the forefront explicitly and throughout your proceedings, that the Nevada Industrial Insurance Act, the Nevada Occupational Diseases Act and the Industrial Safety Act were enacted and exist for the benefit and safety of employees.

The Nevada System of Workmen's Compensation Laws.

Nevada was one of the first states to enact workmen's compensation laws. Since original enactment in 1913, your Legislature has studied the system and adopted amendments where

shown by legislative hearings and debates to be appropriate. This is a proper and orderly system of procedure and it is worth remembering and preserving in order to avoid political devices whereby some State Legislatures have been bypassed through "Governors' Commissions" and similarly Congress has been bypassed in like manner through "Presidents' Commissions."

Following is the legislative history of the Nevada workmen's compensation system.

The Nevada Industrial Insurance Act was passed in 1913 (NCL 616). The Act has been amended by the Legislature in 1915, 1917, 1919, 1921, 1923, 1925, 1927, 1931, 1935, 1937, 1939, 1941, 1943, 1945, 1947, 1949, 1951, 1953, 1955, 1957, 1959, 1961, 1963, 1965, 1966, 1967, 1969 and 1971.

The Nevada Occupational Diseases Act was passed in 1947 (NCL 617). Amendments were passed in 1949, 1951, 1953, 1955, 1957, 1959, 1961, 1963, 1965, 1966, 1967, 1969 and 1971.

The Industrial Safety Act was passed by the 1955 Legislature (NCL 618). It has been amended in 1967 and 1971.

The above legislative history covers a span of 58 years. At 29 of its Sessions, your Legislature adopted amendments and those actions, of necessity, took into account, among other relevant matters, the population and the economic conditions of their times. The following facts as to the population and distribution of the population must be causally related to this legislative history.

The population of Nevada as shown by census data:

1910 - 81,875
1920 - 77,407
1930 - 91,058
1940 - 110,247
1950 - 160,083
1960 - 285,278
1970 - 488,738.

The population of Washoe and Clark County:

	Washoe	Clark
1910	17,434	3,321
1920	18,627	4,859
1930	27,158	8,532
1940	32,476	16,414
1950	50,205	48,289
1960	84,743	127,016
1970	121,068	273,288

It is estimated that at this time, 1971-1972, Nevada has a total of approximately 240,000 employees in all occupations of which number 200,000 are covered under the workmen's compensation law. Employees of the State of Nevada and political subdivisions are covered.

In recent years, NIC has not been in compliance with basic principles of insurance. These principles and the substance of the Nevada Statutes are summarized as follows in the report of Peat, Marwick, Mitchell & Co. filed with your Committee in February, 1972:

"The Nevada Industrial Commission, like all insurers, operates not on a pay-as-you-go system, but on the basis of charging to a year for which premiums are paid the ultimate and total costs of all accidents occurring in that year. Thus, for most claimants, the benefits provided by law can be effectively guaranteed only if the Commission sets aside from premiums each year the amounts needed to pay the costs which will accrue in the future for accidents of that year. The amounts so set aside are very real liabilities of the Commission. To the extent the amounts set up are insufficient, current accident victims could suffer the loss of future benefits to

which they are entitled by law. The significance of this liability is recognized in other jurisdictions where State regulators of commercial insurers manifest constant concern over the adequacy of the amounts set up."

A recent test of claim reserves set up as of June 30, 1968, and reappraised as of June 30, 1971, showed a deficiency of $4,696,000.

At this point, a concise statement of customary and, in fact, necessary administrative procedures of workmen's compensation will be of interest. When a claim is first recorded, a reserve must be set up as a liability, generally called "incurred but not paid." The amount of the reserve is the total amount estimated to be required to fully pay the claim regardless of whether the times and amounts of payment terminate within a short period or extend over a period of many years. In insurance accounting, the amount of the reserve includes the amounts paid on the claim. Inevitably, the first reserve established is not the precise amount required. Claim files must be reviewed systematically and frequently so that the reserve can be adjusted as the facts as to disability, medical expense, and death are taken into account. The individual reserves are thus required to be increased or decreased but each should be redundant, that is, a little more than is considered safely adequate and so that as claims are closed, there will not be a drain upon surplus but rather a planned, reasonable increase of surplus. Such an increase is required on good actuarial principles to maintain a proper relation between annual premium volume and surplus. The closing of a claim with what is presumably a final adjustment of the reserve to the actual final cost is an important administrative decision that requires skill and experience. At June 30, 1972, NIC had 12,318 open claims.

The following tabulation shows for the years 1960 - 1972 the numbers of insured employers, total premiums and changes of surplus in the operation of NIC:

	Number of Employer Accounts	Premium	Surplus
1960	8,015	5,653,631	6,074,926
1961		6,301,659	6,811,543
1962	9,016	6,960,125	6,871,191
1963	9,936	8,614,832	7,608,463
1964	10,819	9,212,803	8,514,852
1965	11,316	9,422,673	9,952,128
1966	11,615	9,039,804	10,837,136
1967	11,547	8,910,113	8,886,201
1968	11,869	10,081,858	9,241,736
1969	12,430	11,829,519	7,084,817
1970	12,923	14,049,509	6,239,125
1971	13,223	16,889,310	1,606,067

It will be noted that there were slight decreases of surplus in 1963 and in 1967 with small but not very significant decreases in 1969 and 1970. A dramatic loss of surplus occurred in 1971 and this drain of surplus may have continued into 1972.

Claim Volume - Medical Facilities:

As shown above, the population of Nevada tripled in the past two decades and is now more than 540,000. The number of workmen's compensation claims also tripled. In 1952, NIC recorded 10,699 claim files; in 1962, the number had increased to 19,057; and the estimate for 1972 is 29,382.

Almost half of workmen's compensation claims involve only medical expense. This is true in Nevada and in other jurisdictions. The report of PMM&Co shows that NIC has or is in the course of installing good systems and plans for levels of administration and of responsibility and authority in the personnel of NIC according to the nature and potentials of change in the course of the history of individual claim cases.

An essential of an efficient workmen's compensation system is prompt and first-class medical treatment for injured employees. Your Committee has received testimony and exhibits covering that subject and it has been shown that there is good communication and a spirit of co-operation between NIC and the medical associations. A report furnished by Mr. Nelson B. Neff, Executive Secretary of the Nevada State Medical Association, dated July 27, 1972, supplies the following summary as to present numbers and places of practice of physicians:

"On July 5, 1955 Nevada had a total of 227 physicians licensed and practicing in Nevada. As of July 1, 1972 there were 582 doctors licensed in Nevada and in practice in the state. This supplies some indication of the growth of medical practitioners in the state, which has been accelerated as the population has grown. There were 81 doctors licensed between September 7, 1971 and June 10, 1972.

"With reference to the physician population, Clark and Washoe Counties, Clark County has 5 physicians in service in Boulder City, 12 in Henderson, 240 in Las Vegas and 10 in North Las Vegas, for a total as of August 1, 1971, according to the listing of the Nevada State Board of Medical Examiners, of 267.

"Washoe County as of the same date had 3 physicians in practice in Incline Village, 210 in Reno and 12 in Sparks for a total of 225. Both counts, for Washoe County and for Clark County, include specialists of every branch of medicine. ".

"Taking the 1970 census figure of 489,000 persons living in Nevada, and adding conservatively 51,000 growth factor since the 1970 census, you get an estimated state population of 540,000, and dividing this figure by the 582 doctors who practice in Nevada as of this date we get a rough average of 940 persons per physician."

Your Nevada State Division of Health has furnished a list of licensed hospitals as of March 1972 showing their locations, ownership, size and facilities. The total in the State is 24.

The distribution of physicians and of hospitals is a natural process that is governed by need and this can be discerned from the above population statistics and from consideration of the locations of the operations of the large employers. NIC states that the twelve largest employers employ approximately 18.5% of all employees covered by workmen's compensation in Nevada.

General Discussion:

Under this heading, I will only briefly discuss a number of subjects which are under consideration and which will require decisions either of action in the 1973 Session of your Legislature or decisions to postpone and perhaps schedule for further study. I anticipate that it may be appropriate for me to file a supplement to the report I am submitting to you to-day and this will be governed by our discussions. I previously mentioned the facts which showed that NIC had departed from basic principles of insurance in recent years and I discussed one of the causes which apparently was inadequate review and revisions to assure maintenance of adequate claim reserves. There was another important departure from basic principles of insurance and this arose from one or more acts of the Legislature which increased disability benefits retroactively. This put your workmen's compensation system into the political arena and if the precedent is continued, the pretense that NIC is an insurance operation will have to be abandoned because there will be no standards but only political pressures. The history of social security is sufficient to illustrate this point. If additional payments are to be made to workmen's compensation claimants to supplement the benefits payable because of the rate of compensation payable under the Statute at the time of injury, this should be done as a welfare action by the State and its taxpayers and explicitly so identified because the funds come from the general funds supplied by all taxpayers and not from premiums paid

by employers. Facing the difficult and almost unique situation, the report of PMM&Co recommended that for a period of future years, the rates be increased enough to repair the dangerous invasion of NIC's surplus. This is contrary to all principles of insurance and actuarial science. Rates must be adequate to pay the claims that arise during the period of their use and must be adjusted upward or downward by actuarial treatment of statistics. Whether adjustments are politically wise should never be a consideration.

Nevada premium and loss statistics are not of sufficient volume, considered alone, to meet actuarial standards of credibility for rate-making. For this reason, Nevada must continue its reliance upon statistics accumulated in other jurisdictions and applied by analogy to Nevada conditions. The essential and unchangeable standard for insurance rates is and must continue to be that they shall not be excessive nor inadequate nor unfairly discriminatory and subject to experience rating plans with debits and credits to encourage safety activities and capital expenditures for safety installations by employers.

Your Committee heard many witnesses on the subject of whether or not NIC should continue as a state monopoly. Understandably, the staff of NIC produced testimony and exhibits in defense of their past activities and present status. The witnesses in favor of relaxing the monopoly and allowing private insurance and self-insurance by large employers who would post security bonds, presented valuable testimony but on the whole, not as comprehensive and persuasive as would, in my opinion, be required to justify a recommendation that the present monopoly be terminated. I think a period of several years will have to elapse before there can exist the essential conditions that would justify such a basic change in the historically necessary and now existing state monopoly. If private insurance and self-insurance were to be authorized by legislation, there would have to be a whole new complex of Statutes. Rates would have to be regulated; policyholder dividends would also have to be regulated; the Anti-Rebate Statutes would have to be revised and amended; a system of test audits would

have to be instituted through the office of the Insurance Commissioner and the Insurance Commissioner would have to develop a staff of experienced examiners in workmen's compensation and a whole new set of periodical verified reports and Manual governing examinations to assure protection of the public interest.

It may be significant that although witnesses favored private insurance and a right to self-insurance, no insurer or association of insurers or agents came forward with specific proposals. As a statutory monopoly, NIC is in constant danger of drifting into the inefficiencies inherent in monopoly and which are guarded against and corrected by competition. Unquestionably, competition is the greatest regulator as to prices and services and the best protection of the public interest. Lacking it, I think that the Nevada Legislature should continue its excellent practice of consideration of its workmen's compensation system by one or more of its Committees at every Session.

I have enjoyed the personal associations which have developed in the course of this employment by your Committee. To make sure that my critical comments will not be misinterpreted, I will repeat my assurances of esteem for all of the people in NIC, the Members of your Subcommittee and the witnesses I have met and heard.

Respectfully submitted.

F. Britton McConnell.

August 14, 1972

EXHIBIT 1

BIOGRAPHY
OF F. BRITTON McCONNELL's
EXPERIENCE IN WORKMEN'S COMPENSATION INSURANCE

1914 - 1925	Employed by California State Compensation Insurance Fund (interrupted by service in U. S. Army 1917-1919). This employment included office, field and branch office experience in every phase of workmen's compensation insurance administration and at conclusion, Assistant Secretary, resigned to enter practice of law.
1925 - 1940	In private practice, principally trial work of thousands of state and federal workmen's compensation cases and hundreds of trials of other kinds of cases, and close association with executives of numerous workmen's compensation insurers.
1940 - 1955	General Counsel, Pacific Employers Insurance Group.
1947 - 1952	Member of Insurance Committee as City Councilman and a period as Mayor of the City of Beverly Hills.
1955 - 1963	Insurance Commissioner of California including personal participation and supervision of the administration of workmen's compensation laws and administrative procedures, including participation in functions of California Inspection Rating Bureau.
1963 - Present	In private practice in Los Angeles and San Francisco dealing principally with casualty insurance carrier executive matters.