

MEETING  
OF THE  
SENATE STANDING COMMITTEE  
ON  
COMMERCE

Date: March 18, 1971

Members Present: Senator Close  
Senator Hecht  
Senator Drakulich

Members Absent: Senator Lamb  
Senator Swobe

Assemblymen Present: Mr. McKissick  
Mr. Lingenfelter  
Mr. Capurro  
Mr. Dini  
Mr. Branch  
Mr. Ashworth  
Mr. Hilbrecht

Witnesses: Senator Dodge  
W. Victor Slaven, Western Regional Manager,  
American Insurance Association  
Mr. Loose, representing Christian Science  
Church  
Carl Holbert, NAI  
Eugene Wait, Reno Attorney  
William Morris, Las Vegas Attorney  
Tom Steffen, Las Vegas Attorney  
Toy Gregory, Las Vegas Attorney  
Neil Galatz, Las Vegas Attorney  
Dick Horton, Reno Attorney

Chairman Close called the meeting to order at 3:40 P.M.

SB 301 - Creates scheme of automotive insurance  
permitting recovery without regard to  
fault.

Senator Dodge read his statement on the bill he sponsored and said that this bill has been in the mill for many months.

Mr. Slaven: This bill would eliminate the tort liability system as it relates to most automobile accidents and would replace it with compulsory first party insurance which would pay benefits without regard to fault. The benefits would be without limit as to time and amount, except for two rather limited areas.

Mr. Slaven: The system outlined would pay all economic loss to the insured owner of a registered motor vehicle and all relatives residing with him which they sustain as a result of an automobile accident anywhere in the United States or Canada. Economic loss means all medical costs without limit including rehabilitation expense, except that the expense for a hospital room is limited to semi-private accommodations unless the physician prescribes a private room. Wages would be reimbursed for those wages a person would have earned had he not been injured. The bill requires compulsory limits of \$750 per month wage benefits after taxes. (See Exhibit B for Mr. Slaven's presentation and charts.)

Mr. Loose was concerned that the bill makes no mention that a person may obtain any remedial non-medical treatment recognized and permitted by the State who relies on spiritual means alone. Other than that, he is in favor of the bill.

Mr. McKissick read a telegram from Carl Holbert of the NAI:

"Mr. Chairman: Because of a previous commitment, I am unable to appear before the committee today. As Western Counsel for the National Association of Independent Insurers and Insurance Trade Association representing auto insurance companies that insure over 55% of all private passenger autos in the United State, I would like to inform the committee that we oppose SB 301 and wish to retain driver responsibility for auto accidents on the highway. We have a dual protection program which is in bill form and provides more first party benefits to auto accident victim and has catastrophic coverage up to \$100,000 for every person in the car, still retaining our auto reparation system. A copy of our dual protection bill is being mailed to you this day for your study and review. I would appreciate the opportunity at your convenience to appear and answer questions about SB 301 and our proposed system of keeping negligent drivers' responsible for accidents off Nevada highways."

Mr. Wait: Having practiced insurance law for 17 year, I am not at all in favor of this bill. They say that the present system is wasteful. But about 95% of all cases are settled before they get to court and of the 5% that get to court, about 1 out of 10 get to see the courtroom.

Mr. Morris: We are divesting ourselves of rights and liberties if we adopt such a no fault system. The first study of this bill should be made as to where you are going constitutionally before we start saying "throw out our present system".

Mr. Steffen: This term "no fault" or non fault is a misnomer. What we're really talking about is a scheme for rewarding the irresponsible driver. We are talking about a system which achieves half-justice for innocent victims and no justice for the poor victims. Now the wrongdoer is to be absolved from guilt and is to receive the same financial treatment and benefits as the innocent victim.

Mr. Gregory: No fault insurance is actually compulsory health and accident insurance. In most cases this is a duplication as 85% of the public today have medical and hospital benefits. If we have a no fault system, the system itself would encourage fraudulent claims especially in unwitnessed accidents. You'll not be getting a bargain, because you have to give up too much.

Mr. Galatz: This act is a farce in regard to safety legislation and consumer protection. It is an absolute encouragement of carelessness, to sloppy behavior, to irresponsibility. I would suggest that the no fault plan is a compulsory medical and disability income policy, which I certainly don't need. I have it. The people who come into my office have it. What they need is safer traffic control laws. They do need a system that promotes responsibility and safety.

Mr. Horton: This bill is a no responsibility, no recovery plan. I see no reason why we should be forced to buy this plan if we don't need or want it. Someone said the courts are full of personal injury cases. What they're clogged with is criminal cases.

Mr. Slaven: While this plan would eliminate liability, we still cover property damage, but not to the liability system. The property damage is covered to one million dollars in any one accident on a no fault basis. The exclusion is vehicles. Anyone who wants his vehicle insured, insures it himself.

The meeting adjourned at 5:05 P.M.

STATEMENT OF SENATOR CARL F. DODGE BEFORE  
A JOINT HEARING OF THE COMMITTEES ON COMMERCE  
ON S.B. 301, THE NO-FAULT AUTO INSURANCE BILL

March 18, 1971

The concept of insurance is based on the good social principle of the community pooling of risks so that a loss that could not be borne by any single member alone can be borne easily by the community as a whole. Fire, health, and auto collision insurance are examples of such so-called first party protection.

Automobile public liability and property damage, so-called third party insurance, is a different breed of cat. Here the community joins together, not to ease the victim's loss, but to protect the negligent wrongdoer. Any money paid to the victim is incidental. The forces at work in this situation, with all the defense mechanisms of the present system, are in fundamental conflict with the social good. Less than half of those killed or seriously injured receive any benefits from auto insurance, and 10% of this class of victims receive nothing from any system of reparations.

The fault system fails because it is the product of a time which bears no relationship to the motorized age we inhabit. It is based on the seemingly fair premise that a person ought to be financially responsible for the consequences of his negligence. This principle was useful and defensible under the common law in England at a time when there were no motorized vehicles. But this

system was not intended to serve a nation in which there are 10,000 automobile injuries daily, 55,000 fatalities, and \$16 billion of economic losses annually, and three out of four drivers will be involved in an auto accident in the next five years.

To be humane and fair in its results a system of handling auto accident costs should: (1) Compensate all victims, (2) pay generous benefits, (3) have low administrative costs, (4) have reasonable premiums, (5) pay benefits fast, (6) pay benefits periodically rather than lump sum, and (7) minimize the burden on an overcrowded court system.

I submit that the present system meets none of these criteria. It is inequitable and untimely in its limited relief and its costs, which have increased 75% nationwide in the last 10 years, are becoming too burdensome for all of us.

Most of us are premium payers, we are all probable accident victims, and all drivers are potential wrongdoers. In this context we are presented with a social value judgment--is it worth giving up our right to sue for economic loss plus pain and suffering in return for the assurance of protection against all economic loss and of less cost?

S.B. 301 answers the query in the affirmative. It provides a mandatory first party primary coverage system offering protection against economic loss without regard to fault and does away with exposure for negligence in any no-fault state. I am

confident a substantial majority of Nevadans support the approach, and they deserve the adoption of this consumer legislation.

D  
75

NO-FAULT AUTOMOBILE INSURANCE  
(Senate Bill 301)

This bill would eliminate the tort liability system as it relates to most automobile accidents and would replace it with a compulsory system of first-party insurance, which would pay benefits outlined in the bill without regard to fault.

BENEFITS

The benefits payable under the bill would be without limit as to either time or amount except for two areas. The system established by the bill would pay all economic loss to the insured owner of a registered motor vehicle and of all relatives residing with him which they sustain as the result of an automobile accident anywhere in the United States or Canada. Economic loss means all medical expenses without limit, including rehabilitation expense, except that the expense for a hospital room is limited to semiprivate accommodations unless the physician prescribes a private room.

Wage benefits would reimburse for wages a person would have earned had he not been injured. The bill requires compulsory limits of \$750 per month wage benefits after taxes but provides that the insured may purchase additional wage benefits. Economic loss also includes the cost of replacing services of injured members of the family. In the event of death, wage benefits would be paid to survivors for the life expectancy of the deceased wage earner. The bill also requires the companies to sell, at the option of the insured, a reasonable schedule of insurance for disability or loss of bodily function.

All residents of Nevada are protected by some provision of this bill whether or not they are owners or registrants of a motor vehicle, except for the uninsured motorist while he is in his own car and the driver who has illegally converted a car to his own use.

The bill provides a system of residual liability insurance to protect the owner of the vehicle while it is being operated in a nonenacting state.

EXCLUSIONS

The only benefit recoverable today under the present system, which is excluded under the proposed system, is payment for pain and suffering. Such payment is theoretically recoverable today, but it is certainly not guaranteed. The proposed system would, in fact, pay more on the average to the seriously injured person than he receives today, whether or not he collects for pain and suffering.

COSTS

Actuarial studies indicate the new plan can be sold for less than the present insurance.

COMPARISON OF LOSSES AND NET TORT RECOVERY  
OF CLAIMANTS IN AUTO ACCIDENTS

Amount of economic loss (1)	Average total loss per person (2)	Reparations per person receiving reparations		Ratio of aggregate reparations to aggregate losses (5)
		Average (3)	% receiving (4)	
\$ 1-499	\$ 330	\$ 829	70	1.8
500-999	764	1,270	77	1.3
1,000-1,499	1,254	1,747	86	1.2
1,500-2,499	1,947	2,234	88	1.0
2,500-4,999	3,496	3,502	90	0.9
5,000-9,999	6,632	5,521	95	0.8
10,000-24,999	16,482	9,681	91	0.5
25,000 & over	71,371	12,718	94	0.2
All loss classes	8,290	4,055	88	0.4

SOURCE:  
U.S. Department of Transportation Study  
April 1970



COMPARISON OF ACTUAL PREMIUM COSTS IN U.S.  
AND THOSE ESTIMATED UNDER NO-FAULT, 1968

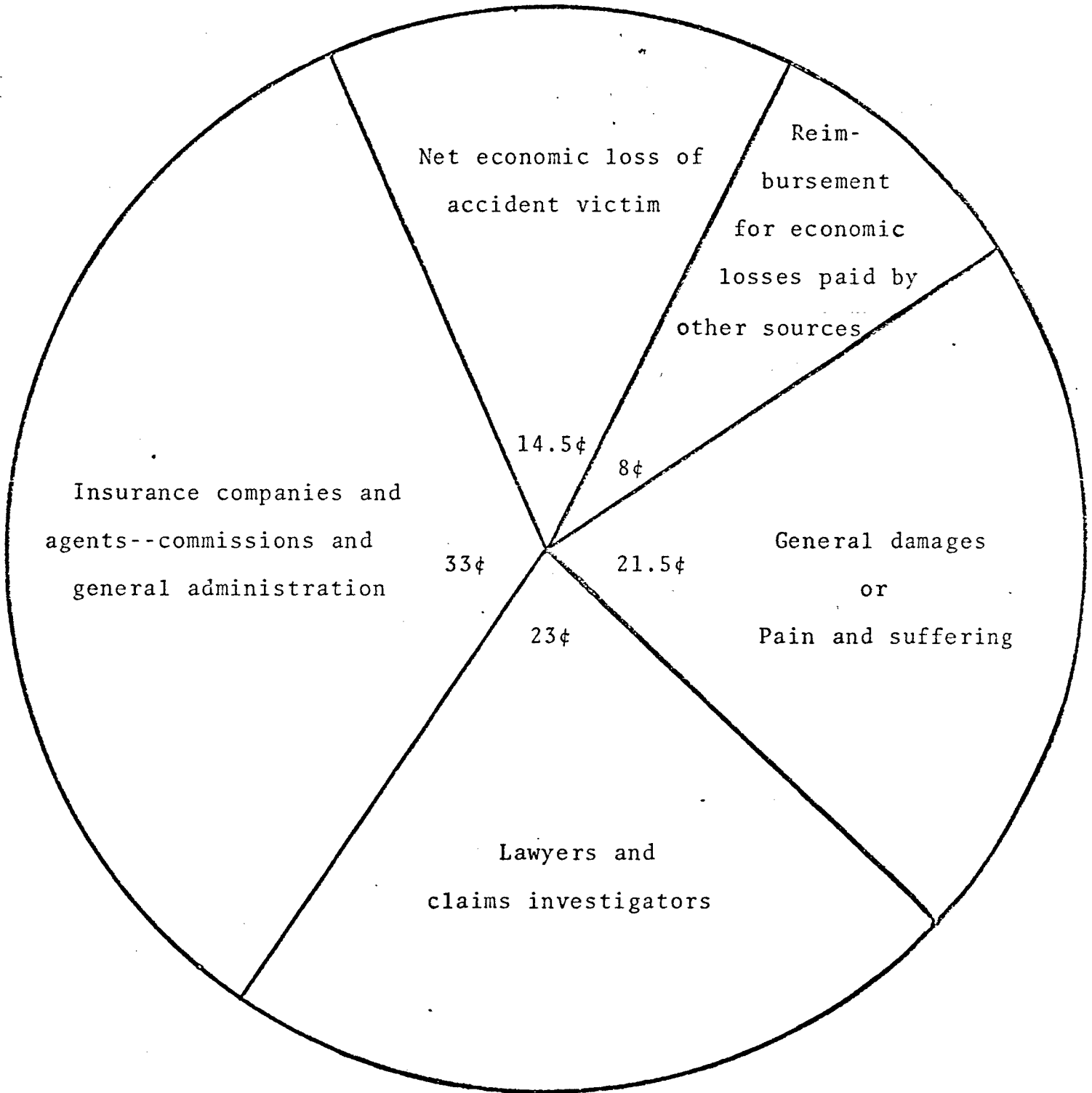
	<u>Present System</u>	<u>No-Fault Estimated</u>
Liability for bodily injury	\$ 4,457,000,000	
Liability for property damage	2,150,000,000	
Comprehensive	1,250,000,000	\$1,250,000,000
Collision	2,550,000,000	4,042,000,000
Medical payments	377,000,000	
Death and disability	15,000,000	
Uninsured motorist	176,000,000	
Total economic loss		2,814,000,000
	<u>\$10,975,000,000</u>	<u>\$8,106,000,000</u>

Reduction in premium cost--\$2,869,000,000

Percentage of reduction--26%

SOURCE:  
American Insurance Association

DISTRIBUTION OF PERSONAL INJURY LIABILITY  
INSURANCE PREMIUM DOLLAR



SOURCE:  
New York Insurance Department Study  
1970

HOW AUTO INSURANCE WOULD BE RESTRUCTURED  
UNDER NO-FAULT AUTOMOBILE INSURANCE

TODAY'S COVERAGES

- 1. LIABILITY FOR BODILY INJURY OF OTHERS
- 2. LIABILITY FOR PROPERTY DAMAGE OF OTHERS
- 3. COMPREHENSIVE
- 4. COLLISION
- 5. MEDICAL PAYMENTS
- 6. DEATH AND DISABILITY
- 7. UNINSURED MOTORIST

HOW CHANGED

- ELIMINATED
- ELIMINATED
- RETAINED
- RETAINED
- EXPANDED TO
- ELIMINATED

"PURE" AUTO INSURANCE POLICY

- 1. ECONOMIC LOSS--
  - \*MEDICAL AND HOSPITAL EXPENSES
  - \*LOSS OF INCOME
- 2. COMPREHENSIVE
- 3. COLLISION

