

## MINUTES OF MEETING

MONDAY, APRIL 21, 1975

The nineteenth meeting of the Senate Transportation Committee was held on Monday, April 21, 1975 at 1:00 p.m. in Room #345 of the Legislative Building.

Senator Helen Herr was in the Chair.

PRESENT WERE: Chairman Helen Herr  
 Senator Jack Schofield  
 Senator Joe Neal  
~~Senator William Raggio~~

ABSENT WERE: Senator Warren Monroe  
 Senator Mary Gojack  
 Senator Richard Blakemore \*

ALSO PRESENT WERE: Blaine Sullivan-Rose, Rehab  
 William Engel, Highway Department  
 Howard Hill, DMV  
 Freddie Little, DMV  
 Vern Fletcher, DMV  
 James Lambert, DMV  
 John Ciardella, DMV  
 John Borda, Office of Highway Safety  
 Noel Clark, PSC  
 Virgil Anderson, AAA  
 Richard Garrod, Farmer's Ins.

## ACTION WAS THEN TAKEN ON THE FOLLOWING MEASURES:

Chairman Herr distributed copies of a written legal opinion from Perry Burnett, Legislative Counsel pertaining to the constitutionality of SB 488 (See attached.)

SB 120     REQUIRES INSTALLATION OF CURB RAMPS ON PUBLIC HIGHWAYS, ROADS, STREETS AND ALLEYS.

Blaine Sullivan Rose reiterated the purpose of the bill and discussed the amendments which had been made. (See attached.)

William Engel, Highway Department Counsel stated that the Highway Department was satisfied with the measure and its amendments.

Senator Raggio moved "AMEND AND DO PASS."  
 Senator Schofield seconded the motion.  
 Motion carried unanimously.

SB 496     CLARIFIES COMMON OR CONTRACT MOTOR CARRIER PENALTIES.

Noel Clark of the PSC testified as to the purpose of the measure. There was one small amendment which removed the bracket on line 2 of page 1 and the line would then read....706.771 1. Any common or contract motor carrier, broker or .....and the bracket would then be placed before "which:" on line 3.

\*(Senator Blakemore was present the last 15 minutes of the meeting.)

Senate Transportation Committee  
 Minutes of Meeting  
 Monday, April 21, 1975

Page two Senator Blakemore entered the meeting.

There being none in opposition of the measure:

Senator Schofield moved "AMEND AND DO PASS."

Senator Raggio seconded the motion.

Motion carried unanimously.

SB 504      REQUIRES PERSONS REGISTERING MOTOR VEHICLES TO HAVE CERTAIN NO-FAULT INSURANCE COVERAGE: PROHIBITS OPERATION OF MOTOR VEHICLES WITHOUT SUCH COVERAGE.

After discussion and testimony from Virgil Anderson of the AAA, Howard Hill of DMV, John Ciardella of DMV and Richard Garrod of Farmer's Insurance Exchange, it was decided that there were still some needed amendments needed to this measure.

Senator Raggio suggested that we use SB 504 as the vehicle; amend as far as penalties and self certification.

He then moved that we hold the measure until Wednesday, April 23, and asked that all amendments be presented in writing at that time.

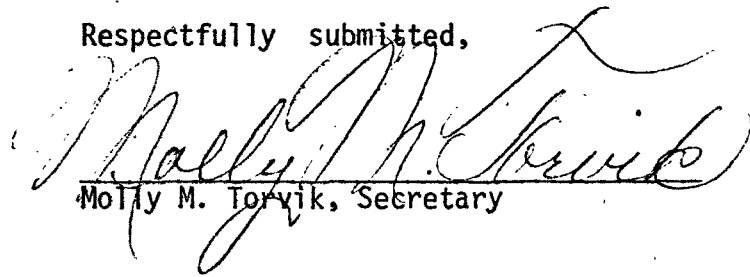
Senator Blakemore seconded the motion.

Motion carried unanimously.

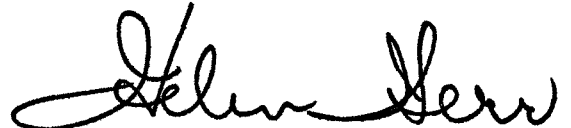
Senator Herr asked the Committee what the disposition of the Committee was regarding BDR 43-143 - see attached. It was the feeling of the Committee that there was need for further study of the proposed measure and because it was so late in the Session it should not be introduced at this time.

There being no further business, the meeting was adjourned until Wednesday, April 23, 1975 at 12:00 Noon.

Respectfully submitted,

  
 Molly M. Torvik, Secretary

APPROVED BY:

  
 Senator Helen Herr, Chairman

STATE OF NEVADA  
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING  
CARSON CITY, NEVADA 89701



LEGISLATIVE COMMISSION  
LAWRENCE E. JACOBSEN, Assemblyman, Chairman  
INTERIM FINANCE COMMITTEE  
FLOYD R. LAMB, Senator, Chairman 232

ARTHUR J. PALMER, Director

PERRY P. BURNETT, Legislative Counsel  
EARL T. OLIVER, Legislative Auditor  
ARTHUR J. PALMER, Research Director

April 21, 1975

LCO 11

Constitutionality of S.B. 488

Senator Helen Herr, Chairman  
Senate Standing Committee on Transportation  
Legislative Building  
Carson City, Nevada 89701

Dear Senator Herr:

Your committee currently has under examination S.B. 488, which proposes to empower the Board of Directors of the Department of Highways to establish a statewide maximum speed limit on Nevada highways.

In response to your request, I appeared before the committee on April 16, at which time I advised you that S.B. 488 was constitutionally sound, in my opinion, but that the standards provided with the delegation of legislative authority contained in subsection 4 of section 1 of the bill might be made more explicit. This confirms my verbal opinion.

The constitutional principle of nondelegation of legislative power is not construed by the courts as an absolute doctrine. It is an adjunct of the separation of powers doctrine.

The principle was expounded in Ex rel. Ginocchio v. Shaughnessy, 47 Nev. 129 217 Pac. 581 (1931). There, the Supreme Court in examining a statute granting county commissioners the power to license and regulate the use of motor vehicles for hire, it was said that the legislature cannot delegate legislative power but may delegate the power to determine some fact and state of things on which the law makes its own operation depend.

In Sutherland, Statutes and Statutory Construction, § 4.16, it is stated that the most widely used test for determining the

Senator Helen Herr, Chairman  
April 21, 1975  
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validity of a delegation of rulemaking power is the adequacy of the standards declared by the legislature to guide the delegate's decisions about what rules to issue. In the field of public health, safety and morals, general and indeterminate policy directives have usually been sustained and wide discretion has been left to administration.

In the same authority, at § 4.05, we are instructed that whatever the language of the decision may be, the validity of a statute delegating power depends apparently upon (1) the agency to which the power is delegated, (2) the subject matter of the regulation and (3) the character of the delegated power.

In this proposed legislation an administrative board uniquely suited for the responsibility has been given a very narrowly focused authority to carry out the legislature's expressed will, i.e., to set a statewide maximum speed limit.

The health, welfare and safety standards expressed are, in my view, suitable and adequate for the legislative purpose to be accomplished. A somewhat more explicit statement might be desirable. I would recommend, therefore, that subsection 4 of section 1 be amended to allow for such an expression as needed for conservation of energy and observance of policies adopted by the Federal Government.


No serious question can be raised about the delegation of a penalty provision in this measure. The violation of the speed limit to be set is declared unlawful, i.e., in the absence of any contrary expression, a misdemeanor. No further action is required of the administrative body.

In Sutherland, Statutes and Statutory Construction, § 4.26, the statement is made that where statutes provide that the violation of a rule or regulation of an administrative agency shall be a misdemeanor, if the rule is reasonable, the enforcement of the penalty for its violation is sustained by the courts, for the legislature and not the administrative agency made the action penal.

Senator Helen Herr, Chairman  
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It is our opinion that S.B. 488 is, in all material respects,  
free of any constitutional imperfection.

Very truly yours,



Perry P. Burnett  
Legislative Counsel

PPB:jll

STATE OF NEVADA  
DEPARTMENT OF HUMAN RESOURCES

ROGER S. TROUNDAY, DIRECTOR

MIKE O'CALLAGHAN, GOVERNOR



DEL FROST, ADMINISTRATOR

REHABILITATION DIVISION  
ADMINISTRATIVE OFFICE  
UNION FEDERAL BUILDING, ROOM 200  
308 NORTH CURRY STREET  
STATE CAPITOL COMPLEX  
CARSON CITY, NEVADA 89701

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April 18, 1975

The Honorable Helen Herr  
Nevada State Senate  
Legislative Building  
Carson City, NV 89701

SB 1203

PROPOSED AMENDMENTS TO SB 120 (FIRST REPRINT)

Lines 3 through 7, page 1

1. Plans and specifications for the construction or repair and reconstruction of all public highways, public roads, and public streets and alleys which provide access to any public building which is owned by a public agency or leased by it for a period in excess of one year shall provide for installation of curb ramps for use by handicapped persons in wheelchairs and other persons who may have difficulty in making the step between street and curb levels. Such ramps shall be paid for by the public agency which originally commissions such construction or repair and reconstruction as part of the total cost of the works project.

Lines 11 through 13, page 1

3. Curb ramps are not required if the public body responsible for the construction or repair and reconstruction of public highways, public roads and public streets and alleys which provide access to any public building which is owned by a public agency or leased by it for a period in excess of one year, determines that:

BLAINE SULLIVAN ROSE  
LEGISLATIVE LIAISON

BSR:jam

## UTAH STATE INSURANCE DEPARTMENT

## REGULATION 73-1

**TO:** ALL AUTOMOBILE INSURANCE COMPANIES LICENSED TO DO BUSINESS IN THE STATE OF UTAH

**FROM:** C. N. OTTOSEN  
COMMISSIONER OF INSURANCE

**SUBJECT:** REGULATIONS SUPPLEMENTING AND IMPLEMENTING THE PROVISIONS OF THE UTAH AUTOMOBILE NO-FAULT INSURANCE ACT.

Pursuant to Section 31-41-12 of the Utah Automobile No-Fault Insurance Act authorizing the Utah State Commissioner of Insurance to adopt rules and regulations, and after due notice thereof and a public hearing having been held on the 27th day of September, 1973 at the State Capitol, Salt Lake City, Utah, and after due consideration of the proposed rules and regulations and all objections and suggestions submitted in relation thereto

## IT IS HEREBY ORDERED:

That Regulation 73-1 consisting of Articles One (1) to Six (6) inclusive, with attached Exhibit A, relating to the regulation of the Utah Automobile No-Fault Insurance Act is hereby adopted.

Copies of said rules and regulations to be known as Regulation 73-1 hereby adopted are attached and made a part hereof.

DONE AND ORDERED at Salt Lake City, Utah this 1st day of October, 1973.

  
C. N. Ottosen, Commissioner of Insurance

## RULES AND REGULATIONS

Relating to

## THE UTAH AUTOMOBILE NO-FAULT INSURANCE ACT

EFFECTIVE DATE: October 1, 1973

## ARTICLES

1. Self-Certification. Upon registration of any motor vehicle encompassed by Sections 31-41-4 and 31-41-13 of the Utah Automobile No-Fault Insurance Act, the owner of such motor vehicle shall certify as evidence of the required security that the vehicle being registered is, and will be, continuously insured while operated throughout the period of registration. False certification shall by law subject the registrant to the penalty for a felony.
2. Insurance Identification Card. Supplementary to the statement of self-certification by the insured registrant as evidence of the required security, further evidence of such security shall be carried with the registration in the vehicle by any person operating it. Such security may be evidence by an insurance identification card issued by the company to the registrant. Although the evidence of insurance is not prescribed to be uniform for all companies, it shall contain the following minimum information to facilitate possible future verification of the insurance indicated:
  - a. Company name. The company's group name may be shown, provided this will not delay any future verification by the company of the insurance indicated.
  - b. Policy number.
  - c. Effective date of coverage, by month, day and year.
  - d. Name of insured. It is optional for the insured's address to be shown also.



- e. Vehicle description, by year and make or model. Vehicle identification number may also be shown optionally.

When fleets, dealerships or leasing companies are involved, "all owned vehicles", "fleets", or some other appropriate designation may be shown in lieu of specific vehicle description.

The color, size and weight of the insurance identification card is optional with the individual companies.

It is also optional for a company to display its logo on the card or other pertinent data.

Insurance identification cards are not required to be issued for trailers or for motor vehicles which are subject to the requirements of the public service law or interstate commerce act.

3. Warning Notice. Every insurance company shall provide its insureds with a warning notice that evidence of insurance must be carried in the vehicle at all times upon:
  - a. registration of the vehicle,
  - b. inspection of the vehicle,
  - c. involvement in an automobile accident,
  - d. committing a moving traffic violation, or
  - e. being stopped for a road spot check.

A suggested sample of the warning notice is as follows:

**WARNING:** Effective January 1, 1974, Utah law provides that any person who presents or uses an insurance identification card as evidence of insurance, when in fact there is no insurance in force, is subject to conviction for a misdemeanor and, in addition to a heavy fine and/or imprisonment, shall have his operator's or chauffeur's license and registration revoked.

This warning notice may be included as part of the insurance identification card or as a separate stuffer, and shall be provided with the issuance of every new and renewal policy.

4. If the insured cannot be immediately provided with an insurance identification card, until such card is provided the insured may instead use as evidence of insurance his:
- a. copy of the insurance application,
  - b. premium receipt, or
  - c. insurance policy.

Sufficient evidence of insurance must be carried in the vehicle whenever it is operated so that such evidence may be verified as part of any enforcement program which the State may adopt through random or specific verification with the company involved.

5. Proposed interpretive provisions relative to the following sections:
- a. Section 31-41-4(2). "Physically present" refers to the physical presence of the motor vehicle in Utah. Calculation of the 90 days commences with the effective date of the Act (January 1, 1974); the 90 days need not be consecutive.
  - b. Section 31-41-6(1)(a). The phrase "reasonable value of all expense" shall be interpreted to mean the reasonable cost actually incurred for medical benefits.
  - c. Section 31-41-6(1)(b). Benefits provided under this section are terminated at the time of death of an injured person.
  - d. Section 31-41-6(1)(b)(ii). This subsection provides a \$12 per day benefit for substitute services, whether or not expenses for such services are actually incurred, payable for the period of time the injured person is unable to perform services for his household.

To determine the eligibility for payment and the amount to be paid, it is necessary to verify that:

- (1) the injured person customarily performed the service, and
- (2) the injured person is now unable to perform the service.

The benefit commences not later than three days after the date of injury and continues for a maximum of 365 consecutive days after the date of injury. However, if a person's inability to perform these services continues for in excess of a total of 14 consecutive days after the date of injury, the three-day elimination period is not applicable.

- e. Section 31-41-6(1)(c). Expenses for funeral benefits must actually be incurred in order to be reimbursable.
- f. Section 31-41-6(1)(d). Survivor benefits shall be payable only to a natural person.
- g. Section 31-41-6(2). The "reasonable value of medical expenses" shall be used solely for determining the value of medical expenses under Section 9(1)(e).
- h. Section 31-41-6(4). ~~Personal Injury Protection deductibles~~, if afforded, shall be applicable only to the named insured and resident relatives.
- i. Section 31-41-7. It is the intent of the Act to provide a package of minimum Personal Injury Protection (PIP) benefits to each person injured in a motor vehicle accident occurring in Utah. The minimum PIP benefits are to be provided by the insurer of the motor vehicle which the person was occupying at the time of accident or by which he was struck as a pedestrian. The maximum amount of minimum PIP benefits an injured person may receive pursuant to involvement in a motor vehicle accident shall be those amounts specified under Section 31-41-6. There shall be no stacking or duplication of such benefits.
- j. Section 31-41-7(3)(a). The phrase "any similar statutory plan" shall include but not be limited to such plans as the Federal Employees Compensation Act and the U.S. Longshoremen's and Harbor Worker's Act.
- k. Section 7(3)(b). The term "amounts" shall be interpreted to mean "benefits" and the phrase "entitled to receive" shall mean benefits actually received by the injured person.
- l. Section 31-41-9. This section provides for limited tort immunity. The negligent party retains his tort liability; however, an injured person is prohibited from bringing a cause of action to recover "general damages" except as otherwise provided in the Utah Automobile No-Fault Insurance Act.
- m. Section 9(1)(e). "Medical expenses to a person" shall mean the reasonable value of medical expenses as determined in accordance with Sections 31-41-6(2) and 31-41-6(3).
- n. Section 10. The required coverages may be subject to standard policy provisions typical to the field of Automobile Insurance.
- o. Section 11. This section provides that the liability insurer of the negligent party retains liability to pay special damages, but the duty to provide payment is now owed to the PIP insurer who has provided the PIP benefits.

- p. Section 31-41-11(1)(b). Arbitration performed in accordance with the procedures of the Uniform Arbitration Act or any other arbitration procedure, provided that the procedure is agreed to by insurers, shall be deemed to satisfy the requirement of this provision. However, in the absence of such an agreement, insurers shall arbitrate in accordance with Utah Statutes.
- q. The Utah No-Fault Insurance Act takes effect on January 1, 1974 and applies to accidents occurring in the State of Utah on and after January 1, 1974.

6. Proposed Regulation to Govern Transition Period.

On or before December 1, 1973, all insureds affected by the Utah No-Fault Automobile Insurance Law shall be sent an endorsement form providing the new Personal Injury Protection benefits.

An approved and suggested No-Fault endorsement form is hereto attached marked Exhibit A. Companies who wish to use this form may do so without securing further approval from the Insurance Department. Companies who wish to use their own No-Fault endorsement form may do so provided the form is approved by the Insurance Department.

On or before December 1, 1973, all insured affected by the No-Fault Law shall be sent an explanatory letter or brochure which shall include, but not be limited to, information on the following points:

- a. A general explanation of the law, including the tort limitation, and the required Liability and Personal Injury Protection coverages.
- b. The effect of the law on existing coverages (Medical Payments and Uninsured Motorists Insurance.)
- c. The availability of optional deductible and additional No-Fault coverages, should the company choose to make them available.

PERSONAL INJURY PROTECTION ENDORSEMENT  
(UTAH)

The Company agrees with the named insured, subject to all of the provisions in this endorsement and to all of the provisions of the policy except as modified herein, as follows:

## SECTION I

## PERSONAL INJURY PROTECTION COVERAGE

The Company will pay personal injury protection benefits for

- (a) medical expenses,
- (b) work loss,
- (c) funeral expenses, and
- (d) survivor loss

with respect to bodily injury sustained by an eligible injured person caused by an accident involving the use of a motor vehicle as a motor vehicle.

## Exclusions

This coverage does not apply:

- (a) to bodily injury sustained by any person while occupying a motor vehicle which is owned by the named insured and which is not an insured motor vehicle;
- (b) to bodily injury sustained by the named insured or any relative while occupying a motor vehicle which is owned by a relative and for which the security required by the Utah Automobile No-Fault Insurance Act is not in effect;
- (c) to bodily injury sustained by any person while operating the insured motor vehicle without the express or implied consent of the named insured or while not in lawful possession of the insured motor vehicle;
- (d) to bodily injury sustained by any person injured while occupying or, while a pedestrian through the use of any motor vehicle, other than the insured motor vehicle, for which the security required under the Utah Automobile No-Fault Insurance Act is in effect;

- (e) to bodily injury sustained by any person, if such person's conduct contributed to his injury under either of the following circumstances:
  - (1) causing injury to himself intentionally, or
  - (2) while committing a felony;
- (f) to bodily injury sustained by any person arising out of the use of any motor vehicle while located for use as a residence or premises;
- (g) to bodily injury due to war, whether or not declared, civil war, insurrection, rebellion or revolution, or to any act or condition incident to any of the foregoing;
- (h) to bodily injury resulting from the radioactive, toxic, explosive or other hazardous properties of nuclear material.

Definitions

When used in reference to this coverage:

"bodily injury" means bodily injury, sickness or disease, including death resulting therefrom;

"eligible injured person" means

- (a) the named insured or any relative who sustains bodily injury caused by an accident involving the use of any motor vehicle;
- (b) any other person who sustains bodily injury caused by an accident while
  - (1) occupying the insured motor vehicle with the consent of the named insured, or
  - (2) a pedestrian if the accident involves the use of the insured motor vehicle;

"funeral expenses" means funeral, burial or cremation expenses incurred;

"insured motor vehicle" means a motor vehicle with respect to which

- (a) the bodily injury liability insurance of the policy applies and for which a specific premium is charged, and
- (b) the named insured is required to maintain security under the provisions of the Utah Automobile No-Fault Insurance Act;

"medical expenses" means the reasonable expenses incurred for necessary medical, surgical, x-ray, dental and rehabilitation services, including prosthetic devices, necessary ambulance, hospital, and nursing services, and any nonmedical remedial care and treatment rendered in accordance with a recognized religious method of healing;

"motor vehicle" means any vehicle of a kind required to be registered with the Division of Motor Vehicles of the Utah State Tax Commission under Title 41-1-19, Utah Code Annotated 1953 but excluding motorcycles;

"named insured" means the person or organization named (in the declarations)<sup>1</sup>;

"occupying" means being in or upon a motor vehicle as a passenger or operator or engaged in the immediate acts of entering, boarding or alighting from a motor vehicle;

"pedestrian" means any person not occupying or riding upon a motor vehicle;

"relative" means a spouse or any other person related to the named insured by blood, marriage or adoption (including a ward or foster child) who is a resident of the same household as the named insured, or who usually makes his home in the same household but temporarily lives elsewhere;

"survivor loss" means compensation on account of the death of the eligible injured person;

"work loss" means (a) loss of income and loss of earning capacity by the eligible injured person during his lifetime, from inability to work during a period commencing three days after the date of the bodily injury and continuing for a maximum of 52 consecutive weeks thereafter, provided that if such eligible injured person's inability to work shall so continue for in excess of a total of two consecutive weeks after the date of the bodily injury, this three day elimination period shall not be applicable; and (b) an allowance for services that, but for the bodily injury, the eligible injured person would have performed during his lifetime for his household commencing three days after the date of the bodily injury and continuing for a maximum of 365 consecutive days thereafter, provided that if such eligible injured person's inability to perform such services shall continue for in excess of 14 consecutive days after the date of the bodily injury, this three day elimination period shall not be applicable;

#### Policy Period; Territory

This coverage applies only to accidents which occur (on or after January 1, 1974)<sup>2</sup> during the policy period and within the state of Utah.

#### Limits of Liability

Regardless of the number of persons insured, policies or bonds applicable, claims made, or insured motor vehicles to which this coverage applies, the Company's liability for personal injury protection benefits with respect to bodily injury sustained by any one eligible injured person in any one motor vehicle accident, is limited as follows:

1. the maximum amount payable for medical expenses shall not exceed \$2,000;

2. the maximum amount payable for work loss is
  - (a) eighty five per cent of any loss of gross income and earning capacity, not to exceed the total of \$150 per week;
  - (b) \$12 per day for inability to perform services for his household;
3. the maximum amount payable for funeral expenses shall not exceed \$1,000;
4. the amount payable for survivor loss is \$2,000 and is payable only to natural persons who are the eligible injured person's heirs;
5. ~~any amount payable by the Company~~ under the terms of this coverage shall be reduced by the amount paid, payable, or required to be provided on account of such bodily injury
  - (a) under any workmen's compensation plan or any similar statutory plan,
  - (b) by the United States or any of its agencies because of military enlistment, duty or service, or
  - (c) under any applicable deductible (set forth in this endorsement or in the policy to which it is attached)<sup>1</sup>.

Conditions

- A. Action Against Company. No action shall lie against the Company unless as a condition precedent thereto, there shall have been full compliance with all the terms of this coverage.
- B. Notice. In the event of an accident, written notice containing particulars sufficient to identify the eligible injured person, and also reasonably obtainable information respecting the time, place and circumstances of the accident shall be given by or on behalf of each eligible injured person to the Company or any of its authorized agents as soon as practicable. If any eligible injured person, his legal representative or his survivors shall institute legal action to recover damages for bodily injury against a person or organization who is or may be liable in tort therefor, a copy of the summons and complaint or other process served in connection with such legal action shall be forwarded as soon as practicable to the Company by such eligible injured person, his legal representative, or his survivors.



- C. Medical Reports; Proof of Claim. As soon as practicable the eligible injured person or someone on his behalf shall give to the Company written proof of claim, under oath if required, including full particulars of the nature and extent of the injuries and treatment received and contemplated, and such other information as may assist the Company in determining the amount due and payable. The eligible injured person shall submit to physical and mental examinations by physicians selected by the Company when and as often as the Company may reasonably require.
- D. Subrogation. In the event of any payment under this coverage, the Company is subrogated to the rights of the person to whom or for whose benefit such payments were made, to the extent of such payments, and such person ~~must execute and deliver~~ instruments and papers and do whatever else is necessary to secure such rights. Such person shall do nothing after loss to prejudice such rights.
- E. Reimbursement and Trust Agreement. In the event of any payment to any person under this coverage:
1. the Company shall be entitled to the extent of such payment to the proceeds of any settlement or judgment that may result from the exercise of any rights of recovery of such person against any person or organization legally responsible for the bodily injury because of which such payment is made; and the Company shall have a lien to the extent of such payment, notice of which may be given to the person or organization causing such bodily injury, his agent, his insurer or a court having jurisdiction in the matter;
  2. such person shall hold in trust for the benefit of the Company all rights of recovery which he shall have against such other person or organization because of such bodily injury;
  3. such person shall do whatever is proper to secure and shall do nothing after loss to prejudice such rights;
  4. such person shall execute and deliver to the Company instruments and papers as may be appropriate to secure the rights and obligations of such person and the Company established by this provision.
- F. Non-Duplication of Benefits; Other Insurance. No eligible injured person shall recover duplicate benefits for the same elements of loss under this or any similar insurance. In the event the eligible injured person has other similar insurance available and applicable to the accident, the maximum recovery under all such insurance shall not exceed the amount which would have been payable under the provisions of the insurance providing the highest dollar limit, and the Company shall not be liable for a greater proportion of any loss to which this coverage applies than the limit of liability hereunder bears to the sum of the applicable limits of liability of this coverage and such other insurance.

SECTION II

In consideration of the coverage afforded under Section 1 and the adjustment of applicable rates:

- (a) any amount payable under the (Protection Against Uninsured Motorists Coverage)<sup>1</sup> shall be reduced by the amount of any personal injury protection benefits paid or payable under this or any other automobile insurance policy because of bodily injury sustained by an eligible injured person:
- (b) any (Automobile Medical Payments Coverage)<sup>1</sup> afforded under this policy shall be excess insurance over any personal injury protection benefits paid or payable under ~~this or any other automobile insurance policy~~ because of bodily injury sustained by an eligible injured person.

- Notes: 1. Companies may substitute the appropriate term, reference or language for matter in brackets.
2. Companies may omit matter in brackets.

SECTION III

Premium Recomputation.

The premium for the policy is based on rates which have been established in reliance upon the limitations on the right to recover for damages by the provisions of the Utah Automobile No-Fault Insurance Act. In the event a court of competent jurisdiction declares, or enters a judgement the effect of which is to render the provisions of such act invalid or unenforceable in whole or in part, the Company shall have the right to recompute the premium payable for the policy and the provisions of this endorsement shall be voidable or subject to amendment at the option of the Company.

## ABOUT

## THE NEW UTAH NO-FAULT LAW

(Prepared as a public service by the Utah No-Fault Insurance Information Committee.)

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- Q. When does the new Utah no-fault automobile insurance law go into effect?
- A. January 1, 1974.
- Q. Who must purchase the new no-fault insurance coverages?
- A. If you own and register an auto, bus, or truck in Utah, you will have to purchase the new no-fault insurance protection. The law applies to all motor vehicles with the exception of motorcycles and vehicles belonging to the federal government.
- Q. What if I live out of state?
- A. A non-resident vehicle owner must obtain the necessary compulsory coverage if the vehicle is present in the state for 90 days during the previous 365 days.
- Q. I have an automobile policy now. Is there anything I must do before the new law takes effect?
- A. No. If you already have an auto policy it will be automatically changed by your insurance company to include newly acquired basic no-fault insurance.
- Q. What will be required when I register my motor vehicle after January 1, 1974?
- A. The owner of a motor vehicle will be required to certify that he possesses the security required under the Act. In order to help, your insurance company will send you an identification card (prior to registration) which will let you know your policy number; the effective date of coverage by month, date and year; and your vehicle description by year, make and model.
- Q. What will be required after I register my motor vehicle?

A. Every person while driving a motor vehicle is required to have in his possession evidence of security required by the No-Fault Act. This evidence may be in the form of an identification card, approved by the Department of Insurance, for issuance by an insurer. This is the card that was just discussed.

Q. What benefits will the new no-fault law provide?

A. On or after January 1, the following basic benefits will be paid regardless of fault:

- . Up to \$2,000 per person, per accident for all reasonable and necessary expenses for medical, hospital, nursing, X-ray, dental, surgical, ambulance and prosthetic services. Also, you are entitled to payment for non-medical remedial care and treatment rendered in accordance with your recognized religious method of healing.
- . 85% of your income loss up to \$7,800 (subject to a maximum of \$150 per week, and a 3-day waiting period retroactive after two weeks for a maximum of 52 consecutive weeks). Because insurance benefits are tax free, the 85% approximate your take home pay.
- . Up to \$4,380 of loss of service benefits (based on an allowance of \$12 per day and subject to a 3-day waiting period, retroactive after two weeks). This benefit is paid to cover the cost of services the injured person would have performed if he or she had not been injured. For example, if a housewife were disabled in an accident, loss of services coverage would pay to hire someone to do the laundry, cleaning, cooking, etc.
- . \$1,000 of funeral and burial expenses.
- . \$2,000 of survivors benefits for dependents of the deceased.

Q. Can a person buy no-fault protection above the required minimum limits just described?

A. Yes, in most cases your company will offer you several options above the required basic limits. You don't have to take them, of course.

Q. Specifically, what is meant by the term no-fault insurance?

- A. It means that if you are injured in an automobile accident on 250 or after January 1 you will receive prompt payment of your out-of-pocket losses from the company insuring the car in which you were riding. Benefits will be paid regardless of who is to blame for the accident. There will no longer be any need for lengthy investigations to determine fault before such benefits are paid.
- Q. What do you mean when you say that basic no-fault benefits will be paid "promptly?"
- A. Under the law, an insurance company has 35 days to reimburse you after you submit proof of loss, usually bills.
- Q. What happens if the insurance company doesn't pay?
- A. The company will be subject to penalties such as 1½% per month interest. Also, it will be required to pay reasonable attorney's fees for a claimant, if necessary.
- Q. Will the new law allow me to recover additional damages from a driver whose negligence caused my injury.
- A. Yes, the law preserves your right in certain cases to recover from a negligent motorist for pain and suffering damages, and for special damages.
- Q. What are these certain cases?
- A. You will be allowed to recover for cases involving death, dismemberment or fracture, permanent disability, permanent disfigurement, and medical expenses exceeding \$500 per person.
- Q. What is the purpose of limitation on court action for the less serious cases?
- A. The purpose of limitation in the minor case, often called "the threshold," is to provide a reasonable and fair means to take the vast number of minor claims out of the court system, a system which has resulted in grossly overpaying minor claims. These claims are often called "nuisance claims."
- Q. If Workmen's Compensation benefits are available, as well as no-fault personal injury protection benefits, who pays?
- A. The Workmen's Compensation benefits become primary over no-fault benefits. Benefits received from Workmen's Compensation shall be credited against the benefits due under no-fault coverage.

Q. Are there any other plans that work similar to Workmen's Compensation?

A. Yes, any similar statutory plan and any benefits provided by the federal government because of military enlistment, duty or service also become primary over no-fault benefits. And, just as with Workmen's Compensation, benefits received from these plans shall be credited against the benefits due under no-fault coverage. 251

Q. What about hospital benefits such as my group coverage? How are these treated?

A. If you have a group policy, as well as no-fault benefits, you will collect from both your no-fault and group benefits.

Q. Are there exceptions?

A. There will be some exceptions. For example, you can elect to take a deductible with your no-fault coverage. A deductible is a provision in your no-fault contract that states that your insurance company, for a reduced premium, will only pay that amount of loss that is in excess of a specified amount. The specified amount is your deductible.

In this example, if you have applicable group coverage, you would collect from your group benefits only, up to the amount of the deductible.

Q. Who, other than myself as an insured automobile owner, is protected by my no-fault insurance policy?

A. Your insurance policy covers you, your spouse, and other relatives permanently living in your household as well as other guest passengers.

Q. What if I am injured as a pedestrian, or I am hit by an out-of-state driver or a hit-and-run driver?

A. First, a car hitting a pedestrian is primary if it is insured. This means that the insurance covering the car hitting the pedestrian will pay. Second, in the case of the out-of-state driver, the out-of-state endorsement carried by all companies makes the insured car of the out-of-state driver primary for the pedestrian. In the case of the hit-and-run driver or an uninsured motorist, your own policy will protect you.

Q. If I have my own policy and I am riding in another person's car and am injured in an automobile accident, who pays?

A. You collect from the policy of the owner of the car that you are riding in.

Q. Am I protected while driving in states other than Utah?

A. While your no-fault coverages (by law) apply only to injuries sustained in the State of Utah, all companies that sell auto insurance in Utah will provide an endorsement to your policy which will automatically meet the legal requirements of any other state. Thus, if you are driving in the State of Colorado, and their benefits are greater than those of Utah, you will be covered to meet their no-fault requirements. In most cases this endorsement will automatically be given to you as a policyholder by your insurance company. If you have questions, check with your insurance representative.

Q. Who pays for damage to my car?

A. Crash damages to vehicles will be handled in exactly the same manner as they are handled today. If your car is hit by someone else, you collect under the other driver's property damage liability coverage. If you hit another car or damage your car in a single-vehicle accident, you collect from your own collision insurance which is a form of no-fault protection.

Q. How much will this new protection cost me in comparison with what I am paying now for automobile insurance?

A. It is expected that the basic package of no-fault benefits will be delivered to Utah policyholders without an increase in premium costs. This is because lawsuits will be permitted only in the most serious cases described earlier. The removal of minor claims from the courts is expected to produce a cost savings that companies will pass on to you in the form of broader benefits.

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(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

S. B. 120

SENATE BILL NO. 120—COMMITTEE ON  
TRANSPORTATION

JANUARY 30, 1975

Referred to Committee on Transportation

SUMMARY—Requires installation of curb ramps on public highways, roads,  
streets and alleys. Fiscal Note: No. (BDR 28-105)EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is  
material to be omitted.

AN ACT relating to public works projects; requiring that new plans for construction or repair of public highways, roads, streets and alleys provide for the installation of curb ramps for use by handicapped persons; establishing specifications; providing exemptions; and providing other matters properly relating thereto.

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

- 1 SECTION 1. Chapter 338 of NRS is hereby amended by adding  
2 thereto a new section which shall read as follows:  
3 1. *Plans and specifications for the construction or repair and recon-*  
4 *struction of all public highways, public roads and public streets and alleys*  
5 *shall provide for installation of curb ramps for use by handicapped*  
6 *persons in wheelchairs and other persons who may have difficulty in*  
7 *making the step between street and curb levels.*  
8 2. *Curb ramps that are installed pursuant to this section shall be*  
9 *located at such places as will give wheelchair users easy access to cross-*  
10 *walks at intersections.*  
11 3. *Curb ramps are not required if the public body responsible for*  
12 *the construction or repair and reconstruction of public highways, public*  
13 *roads and public streets and alleys determines that:*  
14 (a) *The installation of curb ramps would be contrary to public safety;*  
15 (b) *The cost of installing the curb ramps would be excessively dis-*  
16 *proportionate to the need or probable use thereof;*  
17 (c) *An existing driveway approach is located within 10 feet of the*  
18 *crosswalks; or*  
19 (d) *The sparsity of population, the existence of other available means*

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**S. B. 496****SENATE BILL NO. 496—SENATOR DODGE**

APRIL 8, 1975

Referred to Committee on Transportation

SUMMARY—Clarifies common or contract motor carrier penalties.  
Fiscal Note: No. (BDR 58-1403)EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

AN ACT relating to motor vehicle carriers; clarifying penalties for certain violations; and providing other matters properly relating thereto.

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

- 1 SECTION 1. NRS 706.771 is hereby amended to read as follows:  
 2 706.771 1. Any common or contract motor carrier or [broker  
 3 which:  
 4 1. Violates any provision of law for which a penalty has not been  
 5 provided; or  
 6 2. Fails or refuses to obey any lawful requirement or order made by  
 7 the commission, department or any court,  
 8 for every such violation, failure or refusal shall be subject to the penalty  
 9 prescribed in NRS 706.761.] *any agent or employee thereof who vio-*  
 10 *lates any provision of this chapter, any regulation of the commission or*  
 11 *any lawful tariff on file with the commission or who fails, neglects or*  
 12 *refuses to obey any commission order or any court order for whose vio-*  
 13 *lation a civil penalty is not otherwise prescribed is liable to a penalty of*  
 14 *not more than \$500 per day, but not more than \$10,000 for any related*  
 15 *series of offenses. The penalty shall be recovered in a civil action upon*  
 16 *the complaint of the commission in any court of competent jurisdiction.*  
 17 2. *A penalty recovered pursuant to this section is not a cost of serv-*  
 18 *ice for purposes of ratemaking.*