

# MOTOR VEHICLE INSURANCE RATES AND RATING PRACTICES



*Bulletin No. 81-3*

LEGISLATIVE COMMISSION  
OF THE  
LEGISLATIVE COUNSEL BUREAU  
STATE OF NEVADA

*August 1980*



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**Assembly Concurrent Resolution No. 29**—Assemblymen Price, Mann, Mello, Hickey, Malone, Rusk, Bremner, Polish, Marvel, Bergevin, Horn, Chaney, Sena, Bennett, Prengaman, Bedrosian, Dini, Coulter, Banner, Barengo, Hayes, Wagner, Weise, Cavnar, Jeffrey, Brady, Fielding, Craddock, Stewart, Tanner, Westall, Rhoads, Vergiels, Getto and May

FILE NUMBER.....124

**ASSEMBLY CONCURRENT RESOLUTION**—Directing the legislative commission to study motor vehicle insurance rates and rating practices, the increased cost of motor vehicle repair and medical care, possible statutory changes affecting recovery under the tort liability system and related matters.

**WHEREAS**, Motor vehicles are expensive, often representing a family's largest or second largest capital investment, and are exposed to a high risk of damage or destruction while being operated on the highway or while left unattended; and

**WHEREAS**, Accidents involving motor vehicles often result in death or severe injury to the persons involved, which in turn results in a severe economic burden on those involved and their families; and

**WHEREAS**, Motor vehicle insurance represents the only practical protection for the owner and operator of a motor vehicle against large loss of property, expense of costly injuries, liability for damage to property of another or liability for the injury or death of another; and

**WHEREAS**, Motor vehicle insurance has become so expensive and the use of motor vehicles so necessary that many Nevadans are forced to violate the law by operating their motor vehicles without the required insurance coverage or other security; and

**WHEREAS**, The protection of the lives, safety and property of the people of Nevada is of immediate concern to the legislature; now, therefore, be it

*Resolved by the Assembly of the State of Nevada, the Senate concurring*, That the legislative commission is hereby directed to study the rates charged by motor vehicle insurance carriers, the rating practices of those carriers, inflationary changes in the cost of motor vehicle repair and the cost of medical care, possible changes in laws affecting recovery under the tort liability system and other related matters; and be it further

*Resolved*, That the legislative commission submit a report of its findings and recommendations to the 61st session of the Nevada legislature.





## REPORT OF THE LEGISLATIVE COMMISSION

TO THE MEMBERS OF THE 61ST SESSION OF THE NEVADA LEGISLATURE:

This report is submitted in compliance with Assembly Concurrent Resolution No. 29 of the 60th session of the Nevada legislature, which directs the legislative commission to study the rates charged by motor vehicle insurance carriers, the rating practices of those carriers, inflationary changes in the cost of motor vehicle repair and the cost of medical care, possible changes in laws affecting recovery under the tort liability system and other related matters.

The legislative commission appointed a subcommittee to make the study and recommend appropriate legislation to the next session of the legislature. Assemblyman Robert E. Price was designated as chairman of the subcommittee with Senator William H. Hernstadt as vice chairman. The following legislators were named as members: Assemblymen Robert R. Barengo, Roger Bremner, Michael T. FitzPatrick, John M. Polish and Peggy Westall.

The subcommittee has attempted, in this report, to present its findings and recommendations briefly and concisely. A great deal of data was gathered in the course of the study. The data which bear directly upon recommendations in this report are included. The report is intended as a useful guide to busy legislators. All supporting documents and minutes are on file with the legislative counsel bureau and available to any member.

The report is transmitted to the members of the 1981 legislature for their consideration and appropriate action.

Respectfully submitted,

Legislative Commission  
Legislative Counsel Bureau  
State of Nevada

Carson City, Nevada  
August 1980

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	Assemblyman Darrell D. Tanner

## SUMMARY OF RECOMMENDATIONS

This summary represents the major conclusions reached by the subcommittee. These conclusions are based upon suggestions which came from public hearings, written communications to the subcommittee, surveys of other states' insurance regulatory agencies, surveys of motor vehicle insurance companies, information from the National Association of Insurance Commissioners,\* insurance industry trade associations, staff research and the experience of the subcommittee's members.

The subcommittee recommends that:

1. The rate standard presumption that rates are not excessive if price competition exists be removed from NRS 686B.050. (BDR 57-9)
2. The insurance commissioner consider investment income from unearned premium and loss reserves in determining whether motor vehicle insurance rates are excessive. (BDR 57-9)
3. The insurance commissioner establish a fraud unit to enforce the provisions of NRS 683A.400 and NRS 686A.290 and other applicable statutes.
4. The statutes be amended to clarify that insurance companies are required to pay the difference between the uninsured motorist coverage the insured has purchased and the limits of the bodily injury

\*The membership of the National Association of Insurance commissioners consists of the commissioners, directors, superintendents or other officials in the states who are charged by law with the responsibility of supervising the business of insurance. The object of the association is to promote uniformity in legislation affecting insurance; to encourage uniformity in departmental rulings under the insurance laws of the several states; to disseminate information of value to insurance supervisory officials in the performance of their duties; to establish ways and means of fully protecting the interests of insurance policyholders of the various states, territories and insular possessions of the United States; and to preserve to the several states the regulation of the business of insurance.

coverage carried by the owner or operator of the other vehicle with whom he is involved in a motor vehicle accident. (BDR 57-10)

5. The insurance division periodically publish:
  - a. A brief motor vehicle insurance consumers' guide to be distributed with motor vehicle registration forms. The subcommittee recommends further that such guide contain (1) premium cost comparisons for the five least expensive and five most expensive companies doing business in Nevada using the most common coverages as a basis for comparison; (2) comparative data relating to consumer complaints and coverages in which such complaints occur; (3) a rating of the manner in which insurance companies settle claims; (4) information on premium cost saving techniques such as using deductibles and taking advantage of various discounts; and (5) other information deemed appropriate by the insurance commissioner. The subcommittee recommends further that the consumers' guide be distributed at no cost to the general public.
  - b. A detailed automobile insurance buyers' guide containing comprehensive information about motor vehicle insurance including coverages available, motor vehicle insurance company rating and underwriting criteria, the use of deductibles, and other information deemed appropriate by the insurance commissioner. The subcommittee recommends further that the buyers' guide be distributed at no cost to the general public and be made available at government offices and other appropriate locations. (BDR 57-9)
6. The insurance commissioner encourage motor vehicle insurers to submit rate filings containing decreased rates in recognition of premium pricing factors which consider repairability, damageability and theft potential between makes and models of motor vehicles.

7. The insurance commissioner encourage motor vehicle insurers to offer higher deductible limits for comprehensive, collision and liability insurance coverages.
8. The insurance commissioner encourage motor vehicle insurers to give premium discounts to insured households where the number of insured vehicles exceeds the number of eligible drivers.
9. The insurance commissioner promote the development of low cost automobile insurance coverages by encouraging insurers to institute group motor vehicle insurance plans and by providing assistance to those persons wishing to establish insurance companies in Nevada which charge low premiums for motor vehicle insurance coverage.
10. The insurance commissioner report back to an appropriate committee of the 1981 legislature on the status of the proposals being considered by the Automobile Insurance (D3) Subcommittee of the National Association of Insurance Commissioners relating to (a) preinsurance inspection and post crash inspection of motor vehicles and (b) the settlement of claims for automobile physical damage for less than the cost to repair where the decrease in value to the damaged vehicle is substantially less than the cost to repair and where the vehicle is not repaired.
11. No motor vehicle insurer refuse to insure, refuse to continue to insure, or limit coverage available an eligible person on the basis of occupation, residence, length of residence, marital status, age, sex, the applicant not having motor vehicle insurance in force at the time the application is made, average miles driven or commuting mileage, amount of insurance, principal operator, or number of vehicles or number of licensed operators in the household. (BDR 57-10)
12. The insurance commissioner adopt regulations requiring that on or after July 1, 1981, motor vehicle insurers file and explain underwriting criteria with each change in such criteria. (BDR 57-10)

13. The insurance commissioner keep apprised of issues, court rulings and legislation associated with motor vehicle insurance classification and rating plans and of the status and outcome of the National Association of Insurance Commissioners' study and findings on the subject. The subcommittee recommends further that the commissioner report to an appropriate committee of the 1983 legislature the findings of the National Association of Insurance Commissioners' motor vehicle premium rating classification study along with any recommendations he may have for changes in the Nevada Revised Statutes, insurance division regulations, or the need for a state-level study.
14. The insurance commissioner deny any motor vehicle insurance rate increases if the rates are not based on a reasonable classification system, sound actuarial principles, and relevant and credible loss statistics, including reasonably related external data or anticipated trends. (BDR 57-9)
15. The insurance commissioner establish uniform rating territories for motor vehicle insurance. (BDR 57-9)
16. The statutes be amended to increase the penalties for driving under the influence of intoxicating liquor. The subcommittee recommends specifically that NRS 484.379 be amended to provide for, in addition to other existing penalties, (a) a \$500 mandatory fine for the first conviction of driving under the influence of intoxicating liquor, and (b) a mandatory jail sentence of from 2 days to 6 months, in addition to a mandatory \$500 fine, for a subsequent conviction. (BDR 43-13)
17. The 1981 legislature adopt a concurrent resolution urging the Nevada state court system to mete out suitable punishments under the law for all traffic violations and that it refrain to the fullest extent possible from the practice of permitting plea bargaining to reduce charges or penalties for traffic violations. (BDR 8)
18. The 1981 legislature adopt the provisions of the National Association of Insurance Commissioners Insurance Information and Privacy Protection Model Act. (BDR 57-11)
19. The limit of prejudgment interest specified in NRS 17.130 be increased from eight percent to 12 percent. (BDR 2-14)

REPORT OF THE LEGISLATIVE COMMISSION  
FROM THE SUBCOMMITTEE TO STUDY  
MOTOR VEHICLE INSURANCE RATES  
AND RATING PRACTICES

I. INTRODUCTION AND BACKGROUND

Motor vehicle insurance has been an ongoing concern to the Nevada legislature. During the 1970's, interest in motor vehicle insurance rates became pronounced with the advent of so-called no-fault motor vehicle insurance. In 1973 the Nevada legislature passed senate bill 611 (chapter 530, Statutes of Nevada 1973), the Nevada Motor Vehicle Insurance Act, which compelled certain first party\* basic reparation benefits for disability, funeral and medical expenses and for replacement services and survivors' benefits. It also limited tort action unless medical expenses exceeded \$750 and provided for mandatory motor vehicle insurance unless a person qualified as a self-insurer by having more than 10 vehicles registered in his name.

The 1975 legislature, through senate bill 504 (chapter 757, Statutes of Nevada 1975) made it specifically unlawful to operate a motor vehicle without carrying the mandatory motor vehicle insurance or qualifying as a self-insurer. In 1979 the legislature repealed the no-fault law but kept the provision for mandatory motor vehicle insurance or self-insurance. It also added new penalties for not carrying motor vehicle insurance.

Concomitant with the 1979 legislature's intent that persons who operate vehicles in Nevada maintain security, which for most drivers is in the form of motor vehicle liability insurance, was its concern about the rising cost of such insurance.

\*A liability insurance policy is a legal contract between two parties, the policyholder (called the party of the first part) and the insurer (called the party of the second part). No-fault insurance is called first party insurance because its benefits are paid to the policyholder himself, the first party. On the other hand, liability insurance pays the benefits to a third party - a person injured through the negligence of the policyholder. Certain forms of first party coverage have been available since the beginning of motor vehicle insurance and most drivers carry some form of it. For example, medical payments insurance pays the policyholder for the medical costs of his own injuries without regard to who is at fault in the accident. Collision and comprehensive insurance also provide for payment without regard to fault.

The legislature also demonstrated concern with the availability of automobile insurance, and the statistical and actuarial accuracy, social acceptability, and discriminatory effects of rating and underwriting criteria used by motor vehicle insurance companies.

The outcome of these concerns was the passage of assembly concurrent resolution no. 29 (file no. 124) which directs the legislative commission to study motor vehicle insurance rates and rating practices and to submit a report of its findings and recommendations to the 61st session of the Nevada legislature. Specifically, the resolution directs the study of (1) rates charged by motor vehicle insurance carriers, (2) the rating practices of those carriers, (3) inflationary changes in the cost of motor vehicle repair, (4) the cost of medical care, (5) possible changes in laws affecting recovery under the tort liability system, and (6) other related matters.

In line with the charges in A.C.R. 29, the subcommittee studied a broad range of topics relating to motor vehicle insurance. Among those topics, besides those listed in A.C.R. 29, were:

1. The methods of reviewing and approving motor vehicle insurance company premium rate increases.
2. Standards and criteria used to evaluate motor vehicle insurance rates.
3. Premium pricing classification variables such as age, sex, marital status, rating territories, and scholastic achievement.
4. Underwriting standards and criteria.
5. No-fault motor vehicle insurance including the use of so-called monetary, verbal and psychological thresholds.\*

\*Verbal thresholds have been defined to permit damages only if the party suffers a specified injury that consists of (1) significant and permanent loss of an important bodily function; (2) permanent injury with a reasonable degree of medical probability, other than scarring or disfigurement; (3) significant and permanent scarring or disfigurement; or (4) death.

A psychological threshold is defined as to require first party coverage such as personal injury protection but not to restrict the right to sue. If a person does sue, however, a psychological threshold requires him to pay back everything he has received from personal injury protection in order to avoid double recovery.



6. Tort reform.
7. Containment of health costs.
8. Subrogation.
9. Highway safety and traffic law enforcement including modification of the penalties for conviction of certain traffic laws.
10. The equitable distribution of company and agency expenses among policyholders.
11. The creation of a fraud unit within the insurance division.
12. So-called plain language insurance policies.
13. Options to mandatory motor vehicle insurance including bonding and self-insurance.
14. The containment of motor vehicle repair costs.
15. The use of air bags and other passive restraint systems as a means of reducing fatalities and injuries related to automobile accidents.
16. Modification of the collateral source rule to deny double recovery.
17. The establishment of group motor vehicle insurance and other low cost motor vehicle insurance plans.
18. Modification of the legal prejudgment interest rate.
19. Expanded use of premium discounts and deductibles.
20. Privacy of insurance records.
21. The substandard market including the assigned risk pool.
22. Insurance company investment income data, including expense categories assessed against such income data to arrive at net investment income figures.
23. Automobile insurance premium charges in Nevada compared with such charges in other states.

Subcommittee meetings were held in Carson City (on September 7, 1979, March 7, 1980, April 15, 1980, and May 21, 1980); Reno (on March 8, 1980); Las Vegas (on December 8, 1979); Ely (on October 16, 1979); Elko (on October 16, 1979); and Winnemucca (on October 17, 1979). Each meeting was tailored to focus on different subject areas and to elicit presentations from different interested parties.

In addition to private citizens, representatives of the Federal Government, consumers' groups, national associations, other states' insurance regulatory agencies, the insurance division of the department of commerce, the department of motor vehicles, city and county governments in Nevada and California, motor vehicle insurance companies and motor vehicle insurance company trade associations, and attorneys' groups appeared before the subcommittee. A listing of the persons who appeared before the subcommittee is contained in the "credits" section of this report.

In addition to the hearing process, the subcommittee's study included (1) the review of a substantial number of publications and reports\*, most of which are contained in the subcommittee's minutes or can be obtained from the research library of the legislative counsel bureau; (2) communications with organizations concerned with motor vehicle insurance cost containment and reform; (3) a review of other states and model legislation; (4) a review of court cases dealing with motor vehicle insurance rate reform and underwriting criteria; (5) tours of the insurance division; (6) ongoing communications and requests for information from the National Association of Insurance Commissioners; (7) a survey of all 50 states inquiring about motor vehicle insurance price classification factors and cost containment,\*\* and (8) a survey of many of the insurers doing business in Nevada.\*\*\* The subcommittee also put several questions to the insurance division. The responses to those questions are contained with the subcommittee's minutes.

It should be noted that the National Association of Insurance Commissioners (NAIC) is currently engaged in several studies related to the subcommittee's activities. Results of certain of these studies may be available during the 1981 session of the legislature. Four of the studies which the NAIC is currently engaged in deal with (1) shoppers' guides for motor vehicle insurance, (2) motor vehicle insurance pricing classification factors, (3) the methods of allocating motor vehicle insurance company and agency expenses to insurance premiums, and (4) motor vehicle insurance cost containment.

To better appreciate the context of this report and the situation as the subcommittee began its work, it may be useful to recount the legislation of the 60th session concerning motor vehicle insurance and to understand the definition of the kinds of insurers doing business in Nevada. Appendix C provides a summary of five bills from the 1979 legislative session which affect motor vehicle insurance. (See A.B. 108, A.B. 255, A.B. 333, A.B. 617 and S.B. 313.) Appendix D contains definitions taken from the Nevada Revised Statutes (NRS) of mutual, stock and reciprocal insurance companies.

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\*See the footnote and bibliography section of this report.

\*\*Appendix A contains responses to staff's survey letter to other states' insurance departments inquiring about motor vehicle insurance price classification factors and cost containment.

\*\*\*Appendix B contains motor vehicle insurance company responses to staff letters inquiring about cost containment and other areas of interest to the subcommittee.

Motor vehicle insurance in Nevada is regulated by the insurance division of the department of commerce which operates under title 57 of NRS. Most of the subcommittee's area of interest lay in chapter 686B of NRS which pertains to rates and rate service organizations.

A short background on the regulation of the insurance industry may be helpful:

The regulation of the insurance business by the states was well established by the late 1800's and continues today as the predominant form of regulation. The practice is based upon a series of court decisions and has been continued in the face of some contention that because of the number of jurisdictions, insurance might better be regulated by the Federal Government. The classic case is Paul v. Virginia, \* \* \* (2.31 U.S. 495) \* \* \* in which the United States Supreme Court decided in 1868 that insurance "is not a transaction of commerce" and thus can be neither interstate commerce nor subject to federal regulation. Until 1944, a period of 75 years, the Paul decision was upheld by the Supreme Court.

In 1941 complaints were made to the Department of Justice that certain insurance company practices were in violation of the Sherman Antitrust Act. As a result a momentous four to three decision was handed down in 1944 by the United States Supreme Court before one of its largest audiences in history. This case, United States v. South-Eastern Underwriters Association et al, \* \* \* (64 U.S. 1162) \* \* \* now known to the legal profession and to the insurance business as the S.E.U.A. case, held that insurance is commerce. Thus, because of its interstate nature, it would often be subject to federal regulation. As a matter of practice, because of delegation of authority by Congress, the regulation of the business of insurance remains a state function.

The specific delegation to the states of the power to regulate insurance occurred with passage of Public Law 15 in 1945, \* \* \* (the McCarran-Ferguson Law) \* \* \*. Congress made the Sherman Act, the Clayton Act, and the Federal Trade Commission Act applicable to the business of insurance after January 1, 1948 "to the extent that such business is not regulated by state law." In other words, jurisdiction for regulating interstate insurance was left with the individual states as it had been for many years, but the important proviso was added that would permit the Federal Government to take over insurance regulation whenever the state regulation became inadequate.

The specific nature of this rather general requirement has not been fully settled, though the most recent cases indicate that federal jurisdiction will not usurp the states' powers as long as legislative action to provide insurance supervision has been taken. Most states increased heavily their insurance regulation in laws passed between 1944 and 1948 as a result of the S.E.U.A. decision and Public Law 15, and they have continued their efforts to retain the power to supervise insurance for the states. (1:201-202)\*

The motor vehicle insurance premium rate review laws used by the states are characterized as prior-approval, file-and-use, use-and-file, modified file-and-use, and no file.

The following excerpt from volume 2 of Insurance Companies Operations (3) describes these rating laws:

#### Prior-Approval Laws

The prior approval laws were once the predominant form of rate regulatory law. They are still enforced in many states, though the more liberal rating laws have been adopted in almost as many states. \* \* \* (under these laws) \* \* \* all rates must be filed with the insurance commissioner prior to use and must be either approved or disapproved by the commissioner. If the commissioner does not approve or disapprove the rates within \* \* \* (a specified period of time) \* \* \* after filings, the rates are deemed to be approved. Rates may be filed either by the insurer or on his behalf by a rating bureau of which it is a member or subscriber.

#### File-and-Use Laws

The file-and-use laws require insurers to file rates and rating plans with the regulatory authorities before such rates or rating plans become effective. However, the insurers are not required to obtain approval of regulatory authorities before the rates are used. Regulatory authorities can disapprove the rates and the rating plans if they find them in violation of statutory requirements.

\*These and other numbers in parentheses at the end of quotations refer to entries in the bibliography and footnote section of this report. The number before the colon refers to the entry. The number(s) after the colon refer to the page number(s).

Nevada has a file-and-use law where insurers must file all rates and supplementary rate information with the insurance division before the rates become effective. (See NRS 686B.070.)

#### Use-and-File Laws

A variation of the file-and-use law, sometimes called the use-and-file law, does not require filing prior to use but does require the rates to be filed within a specified time after they become effective. (One such law suggested to the subcommittee contained a 30-day provision.)

#### Modified File-And-Use Laws

Another variation is sometimes called a modified file-and-use law. Under this variation a rate change need not be approved in advance by the insurance commissioner if the change is due to loss experience. However, prior approval is required if the rate change involves a change in the expense loading or a change in rating classifications.

#### No Filing Laws

The most liberal of the rating laws is the no filing law. Under such laws the insurers are not required to file rates or rating plans with state regulatory authorities. However, regulatory authorities can require the furnishing of rate schedules and supporting information as the need arises. (3:49-51)

Several insurance industry representatives appearing before the subcommittee stated their belief that the insurance division administers its "file-and-use" rating law in a "prior-approval" fashion. The division discounts this but advises that negotiation does take place on the amount and distribution of rate increases in a number of situations. It says this is done in an attempt to minimize the expense and inconvenience of requiring rate revisions by insurers after improper rates have been put into effect.

## II. FINDINGS AND RECOMMENDATIONS

The following sections of the report represent the subcommittee's recommendations and legislative proposals.

### A. COST CONTAINMENT

Inflation is one of the major problems facing the American people. Inflation becomes especially onerous when price increases occur in what are considered necessities. In Nevada, with its broad expanses and lack of public transportation, the motor vehicle has become a prime necessity. Motor vehicle insurance has also become a necessity in Nevada for most drivers, except for a few who can qualify as self-insurers because they own more than 10 vehicles, because of various legislative enactments requiring proof of financial responsibility to operate a motor vehicle. NRS 485.105 defines such "proof" as:

"Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of such proof, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of \$15,000 because of bodily injury to or death of one person in any one accident, and, subject to such limit for one person, in the amount of \$30,000 because of bodily injury to or death of two or more persons in any one accident, and in the amount of \$5,000 because of injury to or destruction of property of others in any one accident.

Any person who is convicted of operating a motor vehicle registered or required to be registered in Nevada without having security to cover accidents is required, by NRS 484.263, to be fined from \$100 to \$500. Nevada law (see subsection 2 of NRS 485.190) also provides for the revocation of drivers' licenses and motor vehicle registrations of those persons involved in motor vehicle accidents who do not have liability insurance or financial security to cover the costs of such accidents charged to them.

From the foregoing, it can be seen that the Nevada legislature has invoked its inherent police powers to provide for the general welfare by enacting legislation to ensure that victims of automobile accidents are promptly and adequately compensated. It has, concomitantly, expressed its concern about the rising cost of motor vehicle insurance and through assembly concurrent resolution number 29 of the 1979 legislative session, directed (1) a review of the costs

associated with motor vehicle insurance, and (2) that recommendations pertaining to what can be done to slow the increases in such costs be made to the 1981 legislature.

This section of the report addresses motor vehicle insurance costs and contains recommendations which the subcommittee believes may be helpful to slow the increases in those costs.

Before discussing specific recommendations, it should be helpful to review the factors which contribute to increases in the cost of automobile insurance.

Various presentations to the subcommittee indicated that the cost of crash parts, automobile repair costs, physicians' costs, hospital room costs, accident frequency, accident severity, the cost of litigation and other factors have a direct correlation to the cost of motor vehicle insurance. Table I compares the growth in the Consumer Price Index (CPI), and the price growth in certain factors which affect motor vehicle insurance costs, to the price increase in automobile insurance from January 1970 through December 1979. A certain degree of caution should be exercised in reviewing the table because all factors affecting motor vehicle insurance have been given equal weight in averaging the "items in table relating to increases in motor vehicle insurance costs." Moreover, significant but unavailable data showing how automobile insurance costs have risen because of litigation and court settlements are not included in the chart. Another item not included in the chart is the increased cost of so-called crash parts. According to George O. Burt, assistant vice president, State Farm Mutual Insurance Company, the State Farm Crash Parts Index, widely regarded as the best available indicator of rising claims costs attributable to changes in crash parts prices, has increased by 176.2 percent during the 1970's.

TABLE I.

Increases in the Consumer Price Index,  
Automotive Repair, Physicians' Costs,  
Hospital Room Costs, and New Car  
Costs Compared to Motor Vehicle  
Insurance Costs During the  
1970's\*

Item	Jan. 1970 Index	Dec. 1979 Index	Numerical Increase	Percentage Increase
Automotive Repair	116.8	252.6	135.8	116.3
Physicians' Costs	116.8	252.5	135.7	116.2
Hospital Room Costs	135.7	389.4	253.7	187
New Car Costs	106.7	171.7	65	61
Tire Costs	111.6	163.8	52.2	47
<u>Items in table</u> <u>relating to</u> <u>increases in motor</u> <u>vehicle insurance</u> <u>costs</u>				
	117.52	246	128.48	109.3
Motor Vehicle Insurance				
Premium Costs	120.6	235.3	114.7	95.1
Consumer Price Index	113.3	229.9	116.6	103

\*Data taken from the March 1970 and March 1980 Monthly Labor Report, U.S. Department of Labor, Bureau of Labor Statistics.

As table I indicates, the cost of motor vehicle insurance, on a national basis, appears to have increased at a lesser rate than either the Consumer Price Index or certain items relating to increases in automobile insurance costs.

A review of Nevada data is also important to understand the rising cost of motor vehicle insurance. At the request of the subcommittee, the insurance division submitted certain data comparing increases in the Consumer Price Index to premium increases of the five major motor vehicle insurers in Nevada that collectively comprise approximately 70 percent of the automobile insurance market based on premiums written. Table II shows these comparisons.



TABLE II.

Comparison of Increases in Consumer Price Index from January 1970 through February 1980 With Increases in the Premiums of Allstate Insurance Company, State Farm Mutual Insurance Company, Farmers Insurance, Mid-Century Insurance and California State Automobile Association (AAA)

Statewide Average Increase of Large Motor Vehicle Insurers in Nevada

<u>Date</u>	<u>CPI</u>	<u>All-state Ins.</u>	<u>State Farm Ins.</u>	<u>Farmers Ins. Exchange</u>	<u>Mid-Century Ins.</u>	<u>Ca.State Auto. Assn. (AAA)</u>
1/1/70	113.3	100	100	100	100	100
2/1/74	141.5	97	113	117	111	121
8/1/79	221.1	188	205	193	211	182
2/1/80	233.2	206	222	211	240	195

Increase in Consumer Price Index.....119.9 (106 percent).

Of those companies shown in table II, State Farm Mutual Insurance Company, which has 25 percent of the motor vehicle insurance market in Nevada, Mid-Century (part of the Farmers Insurance Group), which has 12 percent of the motor vehicle insurance market in Nevada, and Farmers Insurance Exchange, which has 13 percent of the motor vehicle insurance market in Nevada, had premium rate increases exceeding the Consumer Price Index. For the time period shown in table I, the Consumer Price Index rose 106 percent. State Farm's composite premium rates increased 122 percent, Mid-Century's composite premium rates increased by 140 percent and Farmers Insurance Exchange's composite premium rates increased by 111 percent.

As table II shows, there has been significant rate activity in Nevada since 1974. Table III, which also contains data supplied by the insurance division, compares automobile insurance rate increases for comprehensive, collision and liability coverages for Allstate and State Farm Insurance Companies with the Consumer Price Index.

TABLE III.

Comparison of Comprehensive, Collision  
and Certain Liability Rate Increases  
of State Farm Mutual Insurance  
Company and Allstate Insurance  
Company with the Consumer  
Price Index

CPI All Items	State Farm		Allstate	
	Las Vegas	Reno	Las Vegas	Reno
	Area (BI/PD)	Area (BI)	Area (BI)	Area (BI)
(141.5) 2/74 = 100	100	100	100	100
(221.5) 8/79 = 155	332	233	303	238
(233.2) 2/1/80 = 165	369	240	340	245
	<u>Comprehensive</u>		<u>Comprehensive</u>	
2/74	100	100	100	100
8/79	85	76	91	84
2/80	90	81	93	79
	<u>Collision</u>		<u>Collision</u>	
2/74	100	100	100	100
8/79	151	126	212	181
2/80	184	154	254	216

The data in table III illustrates that comprehensive rates for both insurers have trended slightly downward, while collision and liability rates have increased, except for State Farm's collision rate in Reno, at a rate higher than that of inflation. The liability rates for both insurers, especially in Las Vegas, have increased at a rate much in excess of the Consumer Price Index.

An irony that became apparent during the study is that the insurance industry, which has so much data, claims it has little data comparing automobile insurance rates between the states. The basic reason for this lack of comparative data, according to certain of the trade associations which appeared before the subcommittee, is that it is deceptive to try and compare automobile insurance rates because there are so many different factors affecting rates in each state that comparisons would be misleading and inaccurate. This may well be the case. The subcommittee believes, however, that consumers need accurate and reliable data relating to costs to make informed decisions. Later, this report discusses a subcommittee recommendation concerning the accumulation and dissemination of information relating to the automobile insurance product and its cost to consumers.

At the subcommittee's initial meeting on September 7, 1979, the insurance commissioner stated that Nevada's motor vehicle insurance rates are approximately 6th highest in the nation. During later meetings of the subcommittee, other witnesses gave different estimates which ran in the range of 10th highest in the nation.

A review of recent literature shows that a Kansas insurance department report which addresses Automobile Insurance Rating, Costs and Availability (33) contains data comparing automobile insurance costs among the states. The comparison, which is taken from data supplied by the Insurance Services Office,\* is based upon a 1 year old Chevrolet Nova or Ford Granada and is for what would be a full coverage contract. Such a contract includes basic liability, bodily injury, property damage, comprehensive, deductible collision and uninsured motorist coverage. All states are not shown in the chart because premium data were apparently not available from Texas, Massachusetts, Hawaii and North Carolina.

TABLE IV.

Comparison of the Average Cost  
of Full Coverage Automobile  
Insurance in the  
United States

<u>State</u>	<u>Average Full Coverage Premium</u>
Alaska	477.77
New York	354.05
California	352.32
Rhode Island	347.25
Michigan	331.86
Connecticut	331.62
District of Columbia	330.00
Oregon	326.79
Illinois	316.45
New Jersey	331.34
Montana	300.25
Washington	290.26
Louisiana	287.97
Ohio	284.78
Florida	283.22
(continued on next page)	

\*Insurance Services Office is a voluntary, not for profit, unincorporated association of insurers which provides a range of technical services involving property-liability lines of insurance. As part of its service, Insurance Services Office provides its affiliates with rating information based on statistics it has gathered and the application of actuarial techniques.

<u>State</u>	<u>Average Full Coverage Premium</u>
Nevada	279.16
Missouri	277.58
Minnesota	275.37
Mississippi	272.66
New Mexico	268.74
Arizona	268.62
Pennsylvania	259.55
West Virginia	255.72
Indiana	254.27
Wisconsin	253.40
Idaho	251.50
Delaware	249.50
Maryland	246.33
Colorado	241.38
Tennessee	237.70
Wyoming	236.44
New Hampshire	235.84
Vermont	233.50
Georgia	231.84
South Dakota	228.58
Oklahoma	227.41
South Carolina	226.91
Utah	225.09
Arkansas	221.66
Maine	219.83
Kentucky	219.13
Alabama	219.05
Virginia	218.52
Iowa	214.21
Kansas	205.29
Nebraska	203.05
North Dakota	175.27 (33:75)

As can be seen in table IV, Nevada ranks 16th in the nation in the level of its motor vehicle insurance premium cost. This ranking, however, may have changed since the table was prepared in late 1977.

The subcommittee found that many of the factors causing or affecting increases in automobile insurance premiums are a national problem. The increase in automobile insurance costs specifically reflects the rising costs of repairing or replacing cars. It has been said, by the American Alliance of Insurers, that the cost of rebuilding a wrecked 1979 automobile priced at \$5,741 from separately purchased parts would be \$26,418 or more than 4-1/2 times as much as the original cost of the vehicle.

The Alliance also advises that damage to less than one-fourth of the vehicle would be more expensive to repair than the car is worth. The sharply rising costs of medical care have also had a strong impact on automobile insurance costs by increasing the liability and medical components of premiums. Other factors cited as causes for increases in motor vehicle insurance premiums include the high propensity for persons to sue and attorneys' contingency fees. The criticism of the fees, especially for cases with high awards, is that an attorney benefits not necessarily from the amount or quality of work he does but from the extent of the injuries of the plaintiff. Large contingency fees, it is argued, drive up the cost of insurance.

Double recovery, where a person collects insurance benefits from two or more sources for the same injury, improper subrogation (insurance companies failing to pursue and collect payments from other insurance companies for the cost of accidents which are assignable to the other insurers) and poor investment records have also been cited as reasons for rising insurance costs.

What can be done? National and state efforts are being made to combat rising health costs. The problem with crash parts has been addressed through Congress (35) and the Federal Trade Commission (59).

The subcommittee believes that certain state level actions can also be carried out to slow the rising cost of automobile insurance. The next sections of this report discuss the subcommittee's recommendations for those actions.

#### 1. Modification of Rate Standard Presumption Concerning Price Competition

As mentioned in the introduction, Nevada has a "file-and-use" law which contains a provision concerning the presumption that rates are not excessive if a reasonable degree of price competition exists at the consumer level. This presumption is specified in subsection 2 of NRS 686B.050, "Rate standards," which says:

\* \* \* Rates are presumed not to be excessive if a reasonable degree of price competition exists at the consumer level with respect to the class of business to which they apply. In determining whether a reasonable degree of price competition exists, the commissioner shall consider all relevant tests, including:

- (a) The number of insurers actively engaged in the class of business and their market shares;
- (b) The existence of rate differentials in that class of business;

(c) Whether long-run profitability for insurers generally of the class of business is unreasonably high in relation to its riskiness; and

(d) Consumer knowledge in regard to the market in question.

If such competition does not exist, rates are excessive if they are likely to produce a long-run profit that is unreasonably high in relation to the riskiness of the class of business, or if expenses are unreasonably high in relation to the services rendered. \* \* \*

Based on insurance division testimony, the subcommittee feels that it is extremely difficult for the division to accurately determine if price competition exists when considering automobile insurance rate filing increases. No company in Nevada, with the possible exception of State Farm Insurance Company, has sufficient experience or volume to provide highly credible statistics for ratemaking purposes. Moreover, the insurance division has no existing proper mechanism to determine if rates are competitive.

The subcommittee believes that removal of the price competition presumption would give the insurance division the opportunity and ability to consider other factors such as profitability, nature of business, loss experience and investment income when analyzing motor vehicle insurance company rate increase requests. Now, in order for the insurance commissioner to disapprove a rate increase, the commissioner must make a two-step determination. First, he must find that competition is lacking, and then he must consider whether the long-run profitability of the insurer is unreasonably high in relation to the riskiness of the business or whether the expenses are unreasonably high in relation to the service rendered. The subcommittee thinks the competition presumption requirement is an unnecessary burden and therefore recommends:

The rate standard presumption that rates are not excessive if price competition exists be removed from NRS 686B.050. (BDR 57-9)

## 2. Use of Investment Income to Evaluate Motor Vehicle Insurance Rates

Investment income constitutes a substantial part of the income of automobile insurers. Investment income consists of dividends, interest, rents, and capital gains derived from the investments of the assets related to

unearned premium reserves, loss and loss expense reserves and the company's capital and surplus. (3:56)\*, \*\*

Under existing law (see subsection 3 of NRS 686B.050, "Rate standards") the insurance commissioner can determine that automobile insurance rates are inadequate if they are clearly insufficient, together with the investment income attributable to them, to sustain projected losses and expenses in the class of business to which they apply. Persons appearing before the subcommittee suggested that investment income be used to determine if rates are excessive. The subcommittee felt these suggestions have merit and believes investment income should be used to determine if rates are excessive as well as inadequate.

It therefore recommends that:

The insurance commissioner consider investment income from unearned premium and loss reserves in determining whether motor vehicle insurance rates are excessive.  
(BDR 57-9)

### 3. Insurance Fraud Unit Within the Insurance Division

Representatives of the insurance division and other persons appearing before the subcommittee discussed the operation and benefits of so-called insurance fraud units operating within insurance regulatory agencies.

\* Subsection 1 of NRS 681B.050 says:

\* \* \* As to casualty insurance transacted by it, each insurer shall maintain at all times reserves in an amount estimated in the aggregate to provide for payment of all losses and claims incurred, whether reported or unreported, which are unpaid and for which the insurer may be liable and to provide for the expenses of adjustment or settlement of losses and claims. The reserves shall be computed in accordance with regulations from time to time made by the commissioner, after due notice and hearing, upon reasonable consideration of the ascertained experience and the character of such kind of business for the purpose of adequately protecting the insured and the solvency of the insurer. \* \* \*

\*\*Concerning unearned premium reserves, subsection 1 of NRS 681B.060 says:

\* \* \* As to property, casualty and surety insurance the insurer shall maintain as a liability an unearned premium reserve on all policies in force. \* \* \*

Insurance fraud problems identified to the subcommittee include (1) theft and burning of motor vehicles, (2) improper, unnecessary or fraudulent automobile repairs and maintenance practices and (3) malingering and false injury claims relating to injuries resulting from automobile accidents.\*

Increases in medical and automotive repair costs have been discussed earlier in this report. According to Mr. Guy Cottino, investigator for the insurance division, a significant portion of those costs may relate to fraudulent practices. Cottino also addressed the effect of theft on automobile insurance rates. He stated that the incidents of automobile theft have increased in Nevada and cited figures, provided by the Las Vegas metropolitan police department for the City of Las Vegas and the unincorporated areas of Clark County to demonstrate the increases. The figures, shown in table V, compare automobile thefts and recoveries for the years 1977, 1978 and 1979.

TABLE V.

Automobile Thefts and Recoveries  
in the Clark County Area for  
1977, 1978 and 1979

<u>Item</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>
Stolen vehicles	2,843	3,321	3,904
Recovered vehicles	2,433	2,706	2,850
Percentage of Recoveries	85%	81%	73%

The insurance division advises that insurance fraud is given low priority because of the lack of manpower within the division to conduct proper investigations. Certain states, such as Florida, North Carolina and California have dealt with the lack of staff problem by creating fraud units with funds obtained by a special assessment against companies licensed to write insurance in the state. This assessment is in addition to the premium tax. The insurance division says insurers in those states have expressed support for the concept and method of financing.

The subcommittee is of the opinion that a fraud unit can have a positive effect on insurance rates by helping to reduce the incidents of fraud. A 1978 report by the director of the insurance fraud unit in Florida notes that as a result of several indictments and convictions, the following results have been experienced in Florida.

\*See Exhibit C of the subcommittee's September 7, 1979, minutes.

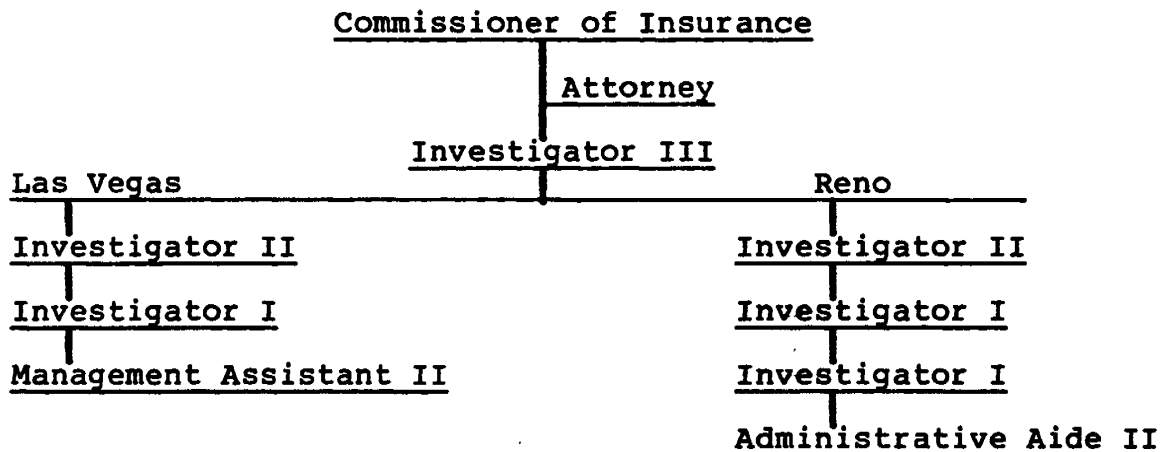


1. There were 2,200 fewer automobile negligence cases filed in Dade County \* \* \* (in 1 year) \* \* \*.
2. Jury awards in personal injury law suits involving intangibles such as "pain and suffering" are down.
3. More than \$37 million in premium refunds, rate reductions and dividend credits were returned to about two million Florida drivers by 25 companies and another 25 companies are negotiating rebates.

The subcommittee believes that a fraud unit operating within the insurance division would help to slow the increasing costs of automobile insurance. It therefore recommends:

The insurance commissioner establish a fraud unit to enforce the provisions of NRS 683A.400 and NRS 686A.290 and other applicable statutes.

The insurance division's proposal for a fraud unit during the first 2 years of operation consists of one attorney (salary grade 40), one investigator III (proposed salary grade 36), two investigator II's (salary grade 32), two investigator I's (salary grade 30), one management assistant II (salary grade 25), and an administrative aide II (B) (salary grade 21). The proposed table of organization for the unit is:



The total cost of the unit for each of the first 2 years' operation is proposed at \$300,000, composed of \$250,000 for salaries and employee benefits and \$50,000 for operating and equipment expenses.

The fraud unit would deal with all insurance fraud activities, not just those pertaining to automobile insurance.

4. Clarification of the Amount Motor Vehicle Insurance Companies Are Required to Pay For Uninsured and Underinsured Motor Vehicle Insurance

Subsection 2 of NRS 687B.145, "Provisions in casualty insurance policies; Proration of recovery, benefits between policies; uninsured motorist coverage," added to NRS by section 2 of A.B. 616 (chapter 544, Statutes of Nevada 1979) provides, among other things, for the proration of benefits of underinsured motorist coverage. It says:

\* \* \* Insurance companies doing business in this state must offer uninsured motorist coverage equal to the limits of bodily injury coverage sold to the individual policyholder. Uninsured motorist coverage must include a provision which enables the insured to recover any amount of damages for bodily injury from his insurer to which he is legally entitled but which exceeds the limits of the bodily injury coverage carried by the owner or operator of the other vehicle.

According to presentations by the insurance division, the phrase "exceeds the limits of bodily injury carried by the owner or operator of the other vehicle" has been interpreted by insurers as a requirement that a payment, equal to any amount of damages for bodily injury from his insurer to which he is legally entitled, plus the limits of the bodily injury coverage carried by the owner or operator of the other vehicle, must be made to the injured insured. The insurance division maintains that the intent of subsection 2 of NRS 687B.145 is that the insurer only pay the difference, up to the level of compensation for which the insured is legally entitled, between the insured's coverage and other driver's limits of bodily injury coverage.

The insurance division advises that an amendment clarifying the intent of subsection 2 of NRS 687B.145 would cause insurers to modify favorably their rates for uninsured/underinsured motorist coverage. The subcommittee therefore recommends:

The statutes be amended to clarify that insurance companies are required to pay the difference between the uninsured motorist coverage the insured has purchased and the limits of the bodily injury coverage carried by the owner or operator of the other vehicle with whom he is involved in a motor vehicle accident. (BDR 57-10)

5. Shoppers' Guide

During each of the subcommittee's meetings, discussion was had concerning the extent to which automobile insurance

buyers are uninformed about price differences between automobile insurance companies for similar coverage and about the types of coverages available. It was pointed out on several occasions that for competition to truly affect rates, buyers must know the product and shop around for the best insurance deal. This takes time, effort and a certain level of motivation. It also requires at least some knowledge that motor vehicle insurance rates differ between insurance companies. The end result of shopping around, however, can produce dramatic savings as was illustrated to the subcommittee by a witness from Carson City who had kept detailed records of recent cost estimates he had been given for insuring his two vehicles for a 1 year period. Those estimates ranged from \$447 to \$1,060, a difference of \$613.

Several persons appearing before the subcommittee suggested that so-called automobile insurance shoppers' guides, which contain price comparisons among insurers and other information comparing and explaining coverages, can serve as useful tools to the insurance buying public. According to Robert Bailey, actuary for the National Association of Insurance Commissioners, approximately one-half of the states have printed some form of automobile insurance shoppers' guide. The guides vary from simple one page price comparison sheets showing the cost of coverage for an adult driving a standard American vehicle for pleasure use only to ambitious and costly documents providing comprehensive information about automobile insurance prices, underwriting criteria and types of product.

The subcommittee believes a properly prepared shoppers' guide would serve an important function in Nevada by providing consumers with certain basic price comparisons and data about the complicated subject of motor vehicle insurance. A shoppers' guide would also serve as an incentive for automobile insurance buyers to shop for insurance by illustrating that price differences do exist. The subcommittee feels that a shoppers' guide can be prepared in such a manner to caution automobile insurance buyers about both qualitative and quantitative differences between automobile insurance coverages and companies. The guide should also advise automobile insurance buyers about differences between companies' underwriting standards and rating criteria so that consumers understand why certain low cost coverages may not be available to them.

The subcommittee feels that two different documents should be prepared by the insurance division. The first is a one or two-page document which focuses primarily on price comparisons. The second is a comprehensive document containing detailed explanations of the insurance product.

Each of the publications, the subcommittee believes, should be made available at no cost to the general public. Concerning the short "shoppers' guide" the subcommittee recommends:

The insurance division periodically publish a brief motor vehicle insurance consumers' guide to be distributed with motor vehicle registration forms. The subcommittee recommends further that such guide contain (1) premium cost comparisons for the five least expensive and five most expensive companies doing business in Nevada using the most common coverages as a basis for comparison; (2) comparative data relating to consumer complaints and coverage in which such complaints occur; (3) a rating of the manner in which insurance companies settle claims; (4) information on premium cost saving techniques such as using deductibles and taking advantage of various discounts; and (5) other information deemed appropriate by the insurance commissioner. The subcommittee recommends further that the consumers' guide be distributed at no cost to the general public. (BDR 57-9)

Concerning the more detailed document, which the subcommittee has coined a "buyers' guide" the subcommittee recommends:

The insurance division periodically publish a detailed automobile insurance buyers' guide containing comprehensive information about motor vehicle insurance including coverages available, motor vehicle insurance company rating and underwriting criteria, the use of deductibles, and other information deemed appropriate by the insurance commissioner. The subcommittee recommends further that the buyers' guide be distributed at no cost to the general public and be made available at government offices and other appropriate locations. (BDR 57-9)

6. Decreased Rates in Recognition of Motor Vehicle Repairability, Damageability and Theft Potential

During the course of the subcommittee's hearings, material was obtained describing the practice of certain motor vehicle insurers to reduce or increase collision and comprehensive coverage premiums based on (1) the theft potential of vehicles, (2) the degree to which vehicles are better or worse than average when it comes to being damaged in accidents, and (3) the relative cost of repairing vehicles.

According to insurers, the purpose of such premium adjustments is not to change overall premium revenues but to more equitably distribute premium costs to individual policyholders based on the characteristics of their automobiles.

Under Aetna's plan, which has been approved in 32 states and the District of Columbia, a motorist who insures a 1980 Chevrolet Corvette pays higher rates because the car has "significantly higher than average" loss history. The Corvette owner and owners of Pontiac Grand Prix pay more because those cars head the list of most frequently stolen American cars. Owners of Volkswagen Scirocco pay more because its "damageability" is higher than the average, according to Aetna. On the other hand, physical damage insurance rates are lower under Aetna's plan for Buick Electra, Chevrolet Impala, and Malibu, Dodge, Aspen, Ford LTD, Pontiac LeMans, Oldsmobile 98 and Toronado and Plymouth Volare which have shown a "favorable" loss experience in comparison with other cars in their price group.

Allstate Insurance Company also has a similar plan to Aetna's in effect.

Although the actual number of vehicles affected by the new rating techniques is relatively small, the subcommittee believes that rating plans which take into account the loss potential of vehicles is a step in the right direction. It has incentive value for those persons who want to take positive action to reduce their automobile insurance premiums and it also provides for an equitable distribution of insurance company costs in relationship to premium revenue. The subcommittee therefore recommends:

The insurance commissioner encourage motor vehicle insurers to submit rate filings containing decreased rates in recognition of premium pricing factors which consider repairability, damageability and theft potential between makes and models of motor vehicles.

#### 7. Higher Deductibles for Comprehensive, Collision and Liability Coverages

Under existing practice, automobile insurers offer deductibles for comprehensive and collision insurance. According to the insurance division, deductibles are not offered in Nevada for liability coverages.

The subcommittee was made aware of the significant savings automobile insurance purchasers can obtain in the cost of premiums by taking advantage of higher deductibles. For example, under State Farm Insurance Company's collision premiums, a young male, under the age of 21 who lives at home in Reno and drives a 1978 Chevrolet Nova, can save approximately \$137 in the cost of his collision insurance alone each year if he uses a \$200 deductible instead of a \$50 deductible for his collision insurance.

Various witnesses told the subcommittee that one positive step that could be taken in Nevada to lower automobile insurance costs would be for the insurance commissioner to encourage insurers to offer and promote the use of higher deductible limits. Certain insurers, such as State Farm Insurance Company, now offer collision deductible limits of up to \$1,000. Approximately 95 percent of the company's collision policies sold in Nevada, however, contain deductible limits of \$50 to \$100. Admittedly, many persons buy collision policies with low deductible limits because of requirements placed on them by lending or leasing institutions. Others, however, could take advantage of higher deductibles and save on insurance costs.

The subcommittee believes insurers should promote the use of the lower deductibles. This, it appears, may not be the current situation. According to a March 1979 Changing Times article entitled "Auto Insurance, How They Set Your Rates,":

Posing as ordinary buyers, investigators of the Pennsylvania insurance department last year visited 186 insurance agencies in three cities. Of the 92 Philadelphia agents contacted, fewer than 30 percent volunteered information on discounts and deductibles that could have reduced premiums 20-40 percent. (5:9)

Most insurers' deductible limits for comprehensive insurance are low, the average being under \$100. The subcommittee believes these deductible limits could be increased.

As noted earlier, no company doing business in Nevada now offers deductibles on liability insurance. The subcommittee was advised that insurance companies have demonstrated a hesitancy to offer deductibles on liability insurance because of perceived difficulty in getting the insureds to pay the deductibles in the event of an accident. There are innovative ways this problem could be handled. For example, insureds could deposit the amount of their deductibles with the insurers and receive interest and rate reduction in return for such deposits. If this kind of a system were to be put into effect, insureds would also need assurance that insurance companies would use the same conservative approaches in settling claims with the insureds' deposit funds as they would with their own premium revenues.

The subcommittee believes that the premium cost saving benefits of high deductible limits have been well demonstrated. It therefore recommends:

The insurance commissioner encourage motor vehicle insurers to offer higher deductible limits for comprehensive, collision and liability insurance coverages.

#### 8. Premium Discounts for Persons Who Own and Drive More Than One Vehicle

Lifestyles are changing. People are waiting longer to get married, more people are deciding not to get married at all, and there is a rising degree of affluence among young single people. The offshoot of these changes has been the development of a plethora of consumer products aimed at the single person. Another outcome of these changes has included the tendency of single people to own more than one vehicle. For example, a person might own a sedan, light truck and a recreational vehicle of some sort. Each of these vehicles must be insured if it is to be operated on the public highways.

During the course of the subcommittee's study, several persons expressed the view that automobile insurers should offer discounts, beyond the normal multicar discounts, to persons who own and are the sole driver of more than one vehicle. They expressed the view that full cost liability insurance should not be paid on each vehicle because the owner can only operate one vehicle at a time. This seems logical, but, the subcommittee understands automobile insurers' concerns about "permissive users" other than the principal operator. This may be a problem and at some point changes in insurance contracts or the statutes may become necessary. The subcommittee believes, however, that insurers should immediately begin giving premium consideration to persons who own and are the sole driver of more than one vehicle. It therefore recommends:

The insurance commissioner encourage motor vehicle insurers to give premium discounts to insured households where the number of insured vehicles exceeds the number of eligible drivers.

#### 9. Group Motor Vehicle Insurance Plans

Persons appearing before the subcommittee expressed the cost saving benefits of group insurance plans and noted that insurers in other states have instituted group motor vehicle insurance plans with success.

Discussion was also had during the course of the subcommittee's meetings about the formation of insurance companies in Nevada which could provide low cost automobile insurance to policyholders. The subcommittee believes that the insurance commissioner should encourage insurers to pursue innovative approaches and techniques to keep down the cost of automobile insurance and therefore recommends:

The insurance commissioner promote the development of low cost automobile insurance coverages by encouraging insurers to institute group motor vehicle insurance plans and by providing assistance to those persons wishing to establish insurance companies in Nevada which charge low premiums for motor vehicle insurance coverage.

10. Insurance Commissioner to Report Back on National Association of Insurance Commissioners Motor Vehicle Insurance Cost Containment Study

An automobile insurance containment task force of the National Association of Insurance Commissioners Automobile Insurance Subcommittee (part of the property and casualty committee) is currently in the process of developing model legislation for preinsurance inspection and post crash inspection of motor vehicles by insurers and for the settlement of claims for automobile physical damage for less than the cost to repair where the decrease in value to the damaged vehicle is substantially less than the cost to repair and where the vehicle is not repaired.\*

According to the task force:

The intent of the \* \* \* preinsurance inspection proposal \* \* \* is to assure that a motor vehicle actually exists and \* \* \* to determine \* \* \* the condition of the unit prior to the issuance of physical damage coverage. Additionally, the post crash inspection proposal should assist in preventing the accumulation of prior damage, if not repaired, and if repaired, the quality of the repairs and actual use of the kind of parts (new or used) quoted in the estimate.

The subcommittee feels that the task force's model bills may prove to have merit in helping to slow the growing cost of automobile insurance premiums. It believes, therefore, that the task force's activities should be closely monitored by the insurance commissioner so that he will be able to report to the next legislature on the National Association of Insurance Commissioners' automobile insurance cost containment proposals and model legislation. The subcommittee therefore recommends:

The insurance commissioner report back to an appropriate committee of the 1981 legislature on the status of the proposals being considered by the

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\*Copies of initial drafts of these model bills are contained in Exhibit A-1 of the subcommittee's December 8, 1979, minutes.



Automobile Insurance (D3) Subcommittee of the National Association of Insurance Commissioners relating to (a) preinsurance inspection and post crash inspection of motor vehicles, and (b) the settlement of claims for automobile physical damage for less than the cost to repair where the decrease in value to the damaged vehicle is substantially less than the cost to repair and where the vehicle is not repaired.

#### B. UNDERWRITING CRITERIA

As discussed in the introduction, except for a very few persons who qualify as self-insurers, Nevada drivers are compelled to carry automobile insurance. Drivers must show proof of insurance to register or reregister their vehicles. Moreover, failure to maintain mandatory insurance can result in fines and revocation of the driver's license and vehicle registration.

The subcommittee believes that because motor vehicle insurance is mandatory in Nevada, the standards which Nevada automobile insurance writers use in deciding whether to accept and retain risks must be fair, equitable and non-discriminatory.

The subcommittee received testimony indicating that such is not the current situation in Nevada (69). Motor vehicle insurance applicants, the subcommittee was told, are turned down for insurance because of all kinds of arbitrary and discriminatory reasons not related to their accident histories, driving ability or traffic violation records. Factors which insurers consider in underwriting include place of residence, occupation, character, marital status, previous insurance status, underwriter's subjective judgment and others. Concerning occupation, one insurer's underwriting manual says:

Occupation is an extremely important underwriting consideration for private passenger automobile insurance. We cannot statistically support our views on occupation \* \* \* nevertheless, observation, judgment and experience have shown that as a group, persons engaged in certain occupations have a higher than average automobile accident frequency. (68:12)

That manual lists numerous suspect occupations, including:

- employees in cabarets, cocktail lounges, dance halls, night clubs, and taverns;
- employees at establishments offering music, vending and slot machines;
- race track and sports promotion employees;

- migratory farm workers;
- professional athletes, entertainers, and musicians;
- beauticians and manicurists;
- bell-hops;
- busboys and other kitchen helpers;
- liquor store employees;
- oil field employees engaged in drilling operations;
- painters and paper-hangers;
- parking lot and garage attendants;
- delivery boys;
- taxicab drivers;
- waiters, waitresses and cooks;
- military personnel (68:12-13)

It is clear the implication that this list of suspect occupations has for Nevada residents, so many of whom work in the gaming and entertainment industries.

As noted earlier, certain companies also require underwriters to consider an applicant's character. Again, one company's manual (68) provides an example of companies' use of this factor and how it can affect Nevada drivers. Not acceptable for any form of insurance are "professional gamblers" and those frequenting "gambling establishments, taverns, saloons, or night clubs." Companies tell their underwriters to reject persons who are not dependable, at odds with their family, living beyond their means, and who do not "conform to normal patterns of social behavior." Of course, any company underwriter's analysis of an applicant's "character" is also based on that underwriter's own personal standards and prejudices.

Drivers who for some reason are not accepted in the standard market (those companies which accept "good risks") are forced into the so-called residual market which consists of the assigned risk plan and nonstandard companies. A certain percentage of drivers (in past years estimated at as high as 30-40 percent in Nevada) remain uninsured.

Drivers in the residual market pay higher premiums. Those insured with nonstandard companies must also deal with firms which are more likely to become insolvent, more likely to produce consumer complaints, and more likely to engage in deceptive and fraudulent practices (69:8).

Certain states' legislatures, such as Hawaii (47), Florida (49) and Michigan (48) have shown concern about automobile insurers' underwriting practices and have enacted legislation limiting the criteria insurers can use to turn down customers.

Michigan's concern was focused by a Supreme Court decision in the case of Shavers v. Michigan (62) which addresses the

state's compulsory motor vehicle insurance law. The Michigan Supreme Court held that the no-fault law was constitutionally defective in failing to provide due process of law to individual Michigan motorists, who were required by the law to purchase no-fault insurance. The court reasoned that the Michigan statutory scheme did not assure that compulsory no-fault insurance would be available to the state's motorists at fair and equitable rates. --

Based on the court's decision, Michigan passed a new law (48) containing requirements for new rating and underwriting criteria. Excerpts from the court's decision should be of interest to the reader:

In Michigan the independent mobility provided by an automobile is a crucial, practical necessity; it is undeniable that whether or not a person can obtain a driver's license or register and operate his motor vehicle profoundly affects important aspects of his day-to-day life. (62:87)

In choosing to make no-fault insurance compulsory for all motorists, the Legislature has made the registration and operation of a motor vehicle inexorably dependent on whether no-fault insurance is available at fair and equitable rates. (62:87)

We are also concerned with the availability of insurance. Individuals must have the knowledge necessary to protect themselves against erroneous or discriminatory underwriting and rate-making decisions. See Fuentes v. Shevin, 407 U.S. 67, 92 S.Ct. 1983, 32 L.Ed.2d 556 (1972). There must be available adequate means of redress for such errors and discrimination. See Dixon v. Love, 431 U.S. 105, 97 S.Ct. 1723, 52 L.Ed.2d 172 (1977). There must also be available adequate means of redress for insurance refusal, discriminatory insurance cancellation, or assignment to the "Automobile Placement Facility" with its presumptively higher rates (62:90-91).

The subcommittee feels the rationale in the Shavers decision is sound. A state which requires motor vehicle insurance as a condition of operating a vehicle on its highways and public streets should assure that motor vehicle insurance companies do not deny or cancel coverage based on discriminatory, arbitrary or capricious decisions. The subcommittee believes the existing mechanisms for guaranteeing motor vehicle insurance are seriously deficient. It recommends the following two remedies.

## 1. Discrimination in Underwriting Criteria

The subcommittee believes that factors not related to driving record or vehicle characteristics should not be included in motor vehicle insurance company underwriting considerations. It therefore recommends:

No motor vehicle insurer refuse to insure, refuse to continue to insure, or limit coverage available an eligible person on the basis of occupation, residence, length of residence, marital status, age, sex, the applicant not having motor vehicle insurance in force at the time the application is made, insurance status, average miles driven or commuting mileage, amount of insurance, principal operator, or number of vehicles or number of licensed operators in the household. (BDR 57-10)

## 2. Insurers to File and Explain Changes in Underwriting Criteria

The subcommittee also believes that the insurance division should be aware of each insurer's underwriting criteria and be apprised when changes occur in such criteria. The subcommittee was advised that such is not the current practice. To be effective in its regulation of motor vehicle insurers, the division must be cognizant of each insurer's underwriting practices. The subcommittee therefore recommends:

The insurance commissioner adopt regulations requiring that on or after July 1, 1980, motor vehicle insurers file and explain underwriting criteria with each change in such criteria. (BDR 57-10)

## C. MOTOR VEHICLE INSURANCE COMPANY RATING PRACTICES

Much of the subcommittee's time was spent reviewing the methods by which automobile insurers set their rates. Automobile insurers determine the level of premiums by a series of stages including the occurrence of accidents, the assignment of losses to individuals, the assumption of some losses by the insurers for insureds, the assessment of future losses for each insured, the loading of administrative and distribution expenses of insurance contracts, consideration of competition, and consideration of the posture of regulatory agencies.

The primary focus of the subcommittee's review of premium setting practices lay in the area of "risk classification" or "class plans" - methods used to determine how much different groups of drivers are charged for their premiums.

The amount a person pays for motor vehicle insurance is the product of a complex process that begins when he applies for a policy. At that point, he is screened for a company's underwriting considerations. (These considerations were discussed earlier in section B of this report under the heading "underwriting criteria.") Based on these considerations, he may be placed into a preferred, standard or sub-standard company. For example, in the Farmers Group a low risk person is placed under Farmers Insurance. A slightly higher risk person is placed in the standard company called "Mid-Century." Rates can vary appreciably depending upon the initial underwriting decision.

After a person is accepted by a company, a determination is then made as to how much he will pay relative to other policyholders for the same amount and type of insurance coverage. In effect, he is assigned to a group which the insurance company feels is defined according to the characteristics that are believed to predict the group's chances of creating insurance losses.

Factors which come into play here include where a person lives, age, sex, marital status, accident history, traffic violation history, number of cars insured, models, makes and types of vehicles, use of vehicles (pleasure, commuting, business, farm use), mileage driven and in some cases, whether the person is entitled to discounts for being a good student, a nonsmoker or because he has taken driver training. Each characteristic is given a numerical weight, called a relativity factor, based on the probability of loss. All factors that apply to a person are combined to fix the person's position on the company's rating scale. Many companies follow a plan developed by the Insurance Services Office that applies the same relative factor to all parts of the policy - bodily injury, liability and property damage liability. Other companies, such as Allstate, employ separate relativity factors for different parts of the policy (5:7). Whatever the system used, a high relativity factor can result in a person paying a much higher insurance premium.

For example, compare the difference in premium cost based solely on an age relative factor. Under State Farm Insurance Company's premium classification system a young male, under the age of 21 who lives at home in Reno and drives a 1978 Chevrolet Nova for pleasure use, pays approximately \$914 a year for a standard insurance policy (bodily injury coverages of \$15,000 and \$30,000, property damage liability coverage of \$10,000, \$100 deductible collision insurance coverage, full comprehensive and a \$5,000 medical payment coverage). His 42-year old father, who owns an identical car, pays approximately \$250 a year for the same

coverage. This is an annual difference of approximately \$664. This difference is based on the insurer's age classification factor which requires the son to pay 3.65 times more for insurance than his father, just because of his age factor - not his driving record.

Several states including Florida, Hawaii, Louisiana, Massachusetts, Michigan, North Carolina, Pennsylvania and Wyoming have shown concern with risk classification criteria which are not based on vehicle characteristics or driving record.\*

Public concern has focused on the predictive accuracy, statistical reliability, social public policy implications and incentive value of many of the risk classification factors including age, sex, marital status and territory used by insurers. State regulatory agencies' attempts to change automobile insurers' rating classification systems have met stiff resistance from the companies who argue that their rating systems may be partially flawed but that they are the best available. The companies express the view that any government adjustments in their rating schemes represent undue government intrusion into the market place, disrupt the normal effects of competition and cause higher premiums for other insureds not in the adjusted class.

Those in favor of changing rate classification criteria offer impressive statistics and public policy reasons for such changes. A November 22, 1978, report of the National Association of Insurance Commissioners Rates and Rating Procedures (D3) Task Force says:

To summarize this first section of the task force report, it has been suggested that recent classification studies raise important questions about the effectiveness of existing rating plans and about the validity of class comparisons based solely on average loss statistics. Sex and marital status classifications are evaluated from a public policy perspective and are judged to be seriously deficient; the use of these factors is also found to be strongly opposed by the public. Age, too, is judged to be contrary to some public policy criteria, but it is shown to retain moderate support from the public. Finally, the analysis indicates that although significant competitive, underwriting, and

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\*See "responses to staff survey letter to other states' insurance departments inquiring about motor vehicle insurance price classification factors and cost containment" included as appendix A to this report.

pricing effects could be expected to result from action to eliminate any of these rating characteristics, the magnitude of these effects can be minimized through appropriate legislation and transition procedures.

Based on this analysis, the Rates and Rating Procedures Task Force concludes that the continued use of sex and marital status for purposes of classifying automobile insurance risks violates public policy standards regarding discrimination and social acceptability; for that reason, the task force recommends that amendments to the NAIC model rating laws be adopted to prohibit the use of classifications based on these factors. (71:913)

It should be noted here that other studies have found that, although the public is concerned about the use of certain factors such as sex, marital status and age to set motor vehicle insurance premium rates, it does not seem willing to subsidize the insurance costs of those persons whose premiums are higher because of the use of such factors. (70)

As discussed earlier, the Michigan Supreme Court found in the Shavers case that the Michigan mandatory no fault law was constitutionally defective because it did not assure that motor vehicle insurance would be available to the state's motorists at fair and equitable rates (62). The court set out certain standards for a new law including the requirement that:

The Legislature and/or the Commissioner of Insurance  
\* \* \* give substantial meaning to the statutory standards "Rates shall not be excessive, inadequate or unfairly discriminatory." (62:91)

In response to this mandate, the Michigan legislature prohibited the use of sex and marital status as rating criteria (48).

1. Insurance Commissioner to Study Automobile Insurance Rating Plans

The subcommittee is well aware of the public policy concerns about the use of age, sex, territory or marital status as rating criteria. It believes, however, that prohibiting the use of these factors at this time would be premature because of the potential disruptive effect such denial could have on Nevada's insurance market.

Fortunately, this issue is being studied by the National Association of Insurance Commissioners, which decided further study was warranted as opposed to acceptance of the task force's recommendation cited earlier. The NAIC's automobile classification study will be conducted using a

"census survey" technique. Two random samples of about 10,000 persons will be drawn, one from a population of those filing property damage claims and one from the general policyholder population. The policyholders in each sample will be surveyed to determine their status or responses to various classification variables. By comparing distributions of characteristics in each of the samples, the study will be able to develop conclusions about the effectiveness of different variables as accident predictors. A preliminary project outline and a copy of the proposed survey questionnaire are included with this report as appendix E.

The major survey project will be conducted in Connecticut, California, Florida and Illinois. Several companies have agreed to participate in the study and to offer technical assistance.

The subcommittee therefore recommends:

The insurance commissioner keep apprised of issues, court rulings and legislation associated with motor vehicle insurance classification and rating plans and of the status and outcome of the National Association of Insurance Commissioners' study and findings on this subject. The subcommittee recommends further that the commissioner report to an appropriate committee of the 1983 legislature the findings of the National Association of Insurance Commissioners' motor vehicle premium rating classification study along with any recommendations he may have for changes in the Nevada Revised Statutes, insurance division regulations, or the need for a state-level study.

In regard to the recommendation, areas of concern to the subcommittee include:

- . Measurement standards for the effectiveness of rating plans, based on the impact of such rating plans or the unexplained differences in loss within and between classified groupings of insureds.
- . Procedures for the evaluation of alternative classification criteria, including the use of statistical methods for the comparison of alternative factors, and the use of standards of causality.
- . Credibility standards.
- . Standards for the measurement and control of intergroup subsidies.
- . Standards and procedures for the evaluation of additive versus multiplicative rate relatives.



- . Analysis of the potential effects of any proposed changes in the automobile class system and necessary action to avoid any undesirable secondary effects of those changes including (1) the impact on insurance availability and the effectiveness of alternative residual market mechanisms for serving the market and (2) the impact of any changes in classes on the functioning of the competitive market.

## 2. Denial of Rates If Not Based on Reasonable Classification System and Relevant Statistics

While the subcommittee does not believe the denial of any specific rating criteria is the proper course of action at this time, it does, however, have concern that rating criteria meet basic standards of fairness, actuarial soundness and predictive accuracy. These should be minimum requirements in a state that requires its drivers to carry motor vehicle insurance. The subcommittee therefore recommends:

The insurance commissioner deny any motor vehicle insurance rate increases if the rates are not based on a reasonable classification system, sound actuarial principles, and relevant and credible loss statistics, including reasonably related external data or anticipated trends. (BDR 57-9)

## 3. Uniform Rating Territories

Motor vehicle insurance companies doing business in Nevada use territories to establish rates. The rationale for establishing rate variations by territory is that this provides a more adequate assessment of premiums charged based on severity and frequency of loss. Automobile insurers' territorial boundaries in Nevada vary from company to company and, depending upon where a person lives, his rates can be increased or decreased significantly. For example, under State Farm's plan, a person may pay as much as 80 percent more for bodily injury and property damage protection if he lives in certain parts of Las Vegas as opposed to rural areas of Nevada. Depending upon the insurer, there are between one and five rating territories in Nevada.

The subcommittee heard testimony and reviewed material criticizing the use of territories to establish rates. Some witnesses also questioned the use of arbitrary dividing lines when drivers on either side of the lines often cross over for work or pleasure. Some witnesses suggested the use of a statewide territorial rate based on an average for the entire state. This scheme would probably result in the rates of those residing in rural areas being increased and rates of those residing in urban areas being lowered.

Based on a review of the literature and recent court findings (33, 34, 36, 60), the subcommittee believes the use of rating territories are legitimate tools to establish motor vehicle insurance premium levels. The subcommittee questions, however, the practice of each company or group of companies establishing and using their own definition of territorial boundaries. It feels that uniform territories would be more feasible and could be useful in developing meaningful loss statistics. Such uniform rating territories would also be more defensible against challenges that they are arbitrary or not related to growth, work and residential patterns, which have been demonstrated to have bearing on loss experience. The subcommittee therefore recommends:

The insurance commissioner establish uniform rating territories for motor vehicle insurance. (BDR 57-9)

#### D. TRAFFIC LAW PENALTIES AND ENFORCEMENT

Although traffic safety is not directly related to automobile insurance, the subcommittee thought that certain aspects of traffic safety fell within its purview. Witnesses appearing before the subcommittee stressed the importance of traffic laws and traffic law enforcement on reducing accident frequency and the relative severity of motor vehicle accidents. It was pointed out that a reduction in accident rates would result in a reduction in the cost of insurance premiums, not to mention savings in property and human life.

##### 1. Increased Penalties for Driving Under the Influence of Alcohol

The hazards of the drinking driver have been well publicized. Yet, the problem goes on. During 1979, 148 or 41 percent of the 358 people who were killed in traffic accidents in Nevada died in accidents where a person driving under the influence of alcohol (DUI) was a contributing factor. During 1978, the picture was almost as bleak. There were 312 traffic fatalities in Nevada. Of these, a person driving under the influence of alcohol was a cause in 117 or 37.5 percent of the deaths.

During the last few years there have been approximately 8,500 to 9,000 DUI arrests each year. The exact figure is difficult to determine because the reporting of traffic violations is imprecise in Nevada and the only way to obtain exact figures is to communicate with each law enforcement agency in the state.

The subcommittee believes that some form of increased penalty must be provided in the law as a disincentive against drinking and driving. Changes the subcommittee considered were:

- a. Including a mandatory fine in the law for first time offenders.
- b. Providing for a mandatory jail sentence for repeat offenders.
- c. Lowering the alcohol blood rate which defines certain presumptions regarding driving under the influence of alcohol.
- d. Redefining and increasing the reporting requirements for the disposition of alcohol related offenses.\*
- e. Providing for stronger referral requirements to "driving under the influence" training programs for persons convicted of driving under the influence of intoxicating liquor.

\*This would help provide information about what happens to DUI arrests and could possibly shed light on plea bargaining activities. Item 11, "Report Of All Alcohol Case Dispositions," from the March 6, 1978, agenda for the Subcommittee on Drivers of the National Committee on Uniform Traffic Laws and Ordinances has suggested language for the reporting of dispositions. It says, in part:

\* \* \* Report of Alcohol Related Dispositional Information to the Department of Motor Vehicles

(a) The clerk of every court of record and the judge of every court not of record shall file with the Department of Motor Vehicles an abstract of all dispositions of the charge, other than convictions, of driving while having an unlawful blood alcohol level or driving while under the influence of alcohol or drugs. Such abstracts shall be filed within thirty days from date of disposition of said offense.

(b) Driver data derived from such abstracts shall be made available on a request basis to the Department of Motor Vehicles' Medical Advisory Board and to the judicial system by order of the court. Such data shall also be made available to others without reference to name or address or any identifying information of the licensee upon approval by the Commissioner of Motor Vehicles.

\* \* \*

Disposition

Prosecutorial and/or judicial action on any violation of a State statute or local ordinance which shall include convictions, deferred sentencing, pre-trial diversions, court referrals and plea bargaining agreements.

It has been suggested that the administrative office of the courts be the agency to whom the report is made in Nevada.

Under existing Nevada law, a person convicted for the first time for driving under the influence of intoxicating liquor is guilty of a misdemeanor\* and such person's license to operate a vehicle may, by a decision of the court, be suspended by the department of motor vehicles (DMV) for a period of not less than 30 days nor more than 1 year. (See subsection 3 of NRS 484.379.)

Upon subsequent conviction within 3 years, a person convicted of driving under the influence of intoxicating liquor is required to be punished by confinement in the county or municipal jail for not less than 10 days, nor more than 6 months, and/or a fine of not more than \$500. Note that neither the fine nor jail sentence is mandatory. Once a sentence is imposed, however, it cannot be suspended. (See subsection 5 of NRS 484.379.)

During 1979, there were 2,865 driving while intoxicated (DUI) convictions in Nevada. The subcommittee was advised that in most cases a jail sentence was not imposed and that in 1978 the average fine for a DUI conviction was \$250.

During 1979, 1,705 person's licenses were revoked for DUI convictions. The department of motor vehicles is required to revoke a person's license for 1 year for a second or subsequent DUI conviction if it is 3 years after but within 7 years of the prior conviction. (See paragraph (f) of subsection 1 of NRS 483.460.) If the conviction occurs within 3 years of the prior conviction, a person's license must be revoked for 2 years (see subsection 2 of NRS 483.460). Furthermore, a person who is convicted of killing or doing substantial bodily harm to another while driving under the influence of alcohol is required to be punished by imprisonment in the state prison for not less than 1 year nor more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment. (See NRS 484.3795.) For information on other states' DUI penalties see appendix F.

The subcommittee feels the best deterrent to driving under the influence of alcohol would be a substantial mandatory fine for first conviction. The subcommittee also believes there should be a mandatory jail sentence for subsequent

\*NRS 193.150, "Punishment of misdemeanors," specifies the punishment of misdemeanors as:

Every person convicted of a misdemeanor shall be punished by imprisonment in the county jail for not more than 6 months, or by a fine of not more than \$500, or by both fine and imprisonment, unless the statute in force at the time of commission of such misdemeanor prescribed a different penalty.

convictions. The subcommittee is of the opinion that judges would be less apt to negotiate lesser charges if the jail time for a second conviction could be set for a short duration. Even a short time in jail for those not accustomed to the experience would have a high deterrent effect the subcommittee feels. The subcommittee therefore recommends:

The statutes be amended to increase the penalties for driving under the influence of intoxicating liquor. The subcommittee recommends specifically that NRS 484.379 be amended to provide for, in addition to other existing penalties, (a) a \$500 mandatory fine for the first conviction of driving under the influence of intoxicating liquor, and (b) a mandatory jail sentence of from 2 days to 6 months, in addition to a mandatory \$500 fine, for a subsequent conviction. (BDR 43-13)

2. Courts Urged to Mete Out Suitable Punishments and to Refrain from Plea Bargaining

In efforts to clear Nevada's court calendars, and in certain instances to provide for what appears to be swifter and more equitable forms of justice, courts have established a practice of so-called plea bargaining where defendants enter guilty pleas to obtain reduced charges or punishment for offenses.

The subcommittee believes that by reducing initial charges and by limiting penalties for convictions of traffic offenses, the courts are hindering any deterrent effect that traffic laws may have. If the average driver knows he has a good chance of getting charged for a lesser offense or receiving a small fine for a traffic offense, he may be less inclined to obey the law. This may be especially true of the driver who decides to have "just one more drink" before he "hits the road."

The subcommittee believes that the courts should follow both the spirit and letter of the law in meting out punishments for traffic violations. It therefore recommends:

The 1981 legislature adopt a concurrent resolution urging the Nevada state court system to mete out suitable punishments under the law for all traffic violations and that it refrain to the fullest extent possible from the practice of permitting plea bargaining to reduce charges or penalties for traffic violations.  
(BDR 8)

#### E. PRIVACY OF INSURANCE RECORDS

A tremendous technological expansion of the storage and retrieval capacities of data systems in recent years has led to a recognition by many that legislative action is necessary to establish a proper balance between individual privacy rights and institutional needs for information. Several recommendations have developed for action to govern the information practices of the insurance industry, which is probably the largest private sector collector and user of personally identifiable information in the nation today. There seems to be a general agreement that properly drafted legislative standards for the information practices of the insurance industry are both necessary and desirable.

With this knowledge, a National Association of Insurance Commissioners Privacy Protection Task Force was established in October of 1977, to review the recommendations of the President's Privacy Protection Study Commission and to develop appropriate model laws or regulations. To assist the task force in developing appropriate legislation, an advisory committee, which included representatives from the major insurance company trade associations, agents' associations, the National Association of Blue Cross-Blue Shield Plans and selected insurance companies, was appointed in July 1978.

Preliminary drafts of privacy protection legislation were produced by the advisory committee for consideration by the task force during 1978. The task force adopted an initial exposure draft in December 1978 and held a public hearing on it in April 1979. Following an extensive effort by the task force during the summer of 1979, a second exposure draft was adopted in August. A public hearing was held on this exposure draft in September 1979. Additional task force meetings were held in the fall of 1979 leading up to the adoption by the task force of the final version of the NAIC Insurance Information and Privacy Protection Model Act on December 2, 1979. The NAIC model privacy act was approved unanimously by the entire membership of the National Association of Insurance Commissioners on December 7, 1979. In addition, the National Association of Insurance Commissioners adopted a resolution on privacy protection on December 7 affirming the NAIC's position that the NAIC model privacy act is the most appropriate means to achieve uniformity in privacy protection standards for insurance information practices.

The NAIC Insurance Information and Privacy Protection Act represents the recommendations of the NAIC for legislation at state-level to implement privacy protection standards for insurance information practices. The preamble of the model act defines its purpose. It says:

The purpose of this Act is to establish standards for the collection, use and disclosure by insurance institutions, agents, or insurance-support organizations of information gathered in connection with insurance transactions; to maintain a balance between the need for information by those conducting the business of insurance and the public's need for fairness in insurance information practices, including the need to minimize intrusiveness; to establish a regulatory mechanism to enable natural persons to ascertain what information is being or has been collected about them in connection with insurance transactions and to have access to such information for the purpose of verifying or disputing its accuracy; to limit the disclosure of information collected in connection with insurance transactions; and to enable insurance applicants and policyholders to obtain the reasons for any adverse underwriting decision (54:1).

The subcommittee notes the existence of certain measures now pending before Congress which pertain to privacy of insurance records.\* The subcommittee suggests, in making the following recommendation, that the insurance commissioner keep apprised of the status of federal legislation relating to privacy of insurance records and inform an appropriate committee of the 1981 Nevada legislature of their status.

The NAIC does not support proposals to create substantive federal standards for the information practices of the insurance industry at this time. The NAIC believes that individual states are best able to address the complex issues surrounding insurance information practices and the protection of privacy rights of consumers. The subcommittee concurs. It also believes, with the rapidly increasing amounts of personal information being sought and maintained

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\*See S 1928, "Fair Financial Information Practices Act of 1979," and HR 5582, "Fair Insurance Information Practices."

by insurance companies, that the protections in the NAIC's model act are needed to limit abuses. It therefore recommends:

The 1981 legislature adopt the provisions of the  
National Association of Insurance Commissioners  
Insurance Information and Privacy Protection Model Act.  
(BDR 57-11)

#### F. PREJUDGMENT INTEREST

According to testimony by representatives of the Nevada Trial Lawyers Association, the cost of money and the rate set in law for prejudgment interest are very important factors in any situation where one person brings a legal action against another. The legal prejudgment interest rate can greatly affect the timing of any potential settlement. If the rate is low, there is an incentive for defendants to defer settlements. If the legal prejudgment interest rate is set too high, then the converse could occur where the plaintiff may not seek early settlement because it would be to his advantage to wait as long as possible to obtain interest on the settlement.

The subcommittee was advised that a prejudgment interest rate which approximates closely the true cost of money is most equitable for both parties. It was also told that establishing a proper legal prejudgment interest rate will encourage early settlement of automobile accident claims.

Chapter 17 of NRS covers judgments and decrees. Subsection 2 of NRS 17.130 addresses prejudgment interest. It says:

\* \* \* When no rate of interest is provided by contract or otherwise by law, or specified in the judgment, the judgment draws interest at the rate of 8 percent per annum from the time of service of the summons and complaint until satisfied, except for any amount representing future damages, which draws interest at that rate only from the time of the entry of the judgment until satisfied.

At the time this report was written, the prime interest rate was approximately 19.5 percent. With this in mind, the subcommittee believes the prejudgment interest rate should more closely approximate the legal contract rate of 18 percent specified in NRS 99.050. The subcommittee therefore recommends:

The limit of prejudgment interest specified in NRS 17.130 be increased from eight to 12 percent. (BDR 2-14)



It should be noted here that Congress passed HR 4986 (P.L. 96-221, "The Depository Institutions Deregulation and Monetary Control Act of 1980") which, among other things, removed the provisions of the Constitution or the laws of any state expressly limiting the rate or amount of interest or other specified finance charges which may be charged by various financial institutions. These limits were replaced with maximum rates tied to the rate of commercial paper. For example, under the new federal law, the rate for savings and loan associations, insured banks, credit unions and small business investment companies is set at one percent in excess of the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve District where each institution is located.

If, as in the case of mortgage loans, they do so prior to April 1, 1983, under P.L. 96-221 the states have the option of enacting legislation excluding themselves from the federal preemption of various aspects of the states' usury limits.

Prejudgment interest rates are not affected by P.L. 96-221.

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52. Model "Open Competiton Rating Law." Alliance of American Insurers.
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60. Findings and Recommendations of Wesley J. Kinder, California Insurance Commissioner, relating to motor vehicle insurance company territorial classifications. (See File No. RH 207.) San Francisco, California, Department of Insurance.
61. Regulation PC-21, "Underwriting Standards Relating to Automobile Insurance." State of Nevada, Department of Commerce, Insurance Division.
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F. UNPUBLISHED MATERIALS

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- 64. "Classifications In Auto Insurance: Are They Really Fair?" National Association of Independent Insurers.
- 65. Commercial Union Assurance Compares Private Passenger Automobile Insurance Rating Plans Research Auto Classification Plan Findings To Date. Commercial Union Assurance Companies, Boston, Mass. 1979.
- 66. "Critique of Commercial Union Classification Plan." Allstate Insurance Company, North Brook, Illinois.
- 67. "Development of Nevada Territorial Relatives." Allstate Insurance Company, North Brook, Illinois.
- 68. "Introduction to Personal Lines Underwriting Manual." Personal Lines Underwriting Manual. The Continental Insurance Companies.
- 69. "Written Testimony of The National Consumer Law Center Before The Nevada Legislative Commission's Subcommittee To Study Motor Vehicle Insurance Rates And Rating Practices." National Consumer Law Center, Inc., Boston, Mass.

#### G. OTHER SOURCES

- 70. Choice of a Regulatory Environment for Automobile Insurance. SRI International, Menlo Park, California, May, 1979.
- 71. Minutes of the Automobile Insurance (D3) Subcommittee Meeting on November 17, 1978, in Kansas City, Missouri. National Association of Insurance Commissioners, Milwaukee, Wisconsin.
- 72. Private Passenger Automobile Insurance Risk Classification. A Report of the (D3) Advisory Committee to the National Association of Insurance Commissioners.
- 73. Report of the Rates and Rating Procedures Task Force on June 12, 1978, in Washington, D.C. National Association of Insurance Commissioners, Milwaukee, Wisconsin.

74. Report of the (D3) Task Force on Containing Overall Automobile Insurance Costs on June 12, 1978, in Washington, D.C. National Association of Insurance Commissioners, Milwaukee, Wisconsin.
75. Report of the Rating Procedures (D3) Task Force on November 22, 1978. National Association of Insurance Commissioners, Milwaukee, Wisconsin.
76. Report of the Rates and Rating Procedures Task Force to the Automobile Insurance (D3) Subcommittee. National Association of Insurance Commissioners, Milwaukee, Wisconsin. June, 1979.
77. The Role of Risk Classifications in Property and Casualty Insurance: A Study of the Risk Assessment Process Prepared For: American Insurance Association, American Mutual Insurance Alliance, Insurance Services Office, National Association of Independent Insurers, State Farm Mutual Automobile Insurance Company. (Executive Summary Report) Stanford Research Institute, May, 1976.
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79. The Role of Risk Classifications in Property and Casualty Insurance: A Study of the Risk Assessment Process Prepared For: American Insurance Association, American Mutual Insurance Alliance, Insurance Services Office, National Association of Independent Insurers, State Farm Mutual Automobile Insurance Company. (Supplement) Stanford Research Institute, May, 1976.
80. Trends in Insurance Prices, Insurance Costs, Insurance Claim Frequencies and Related Economic Indices. Advisory Committee Report to the NAIC Statistical Data Compilation (B4) Subcommittee. National Association of Insurance Commissioners, Milwaukee, Wisconsin, 1979.



#### IV. CREDITS

The following is a listing of the names of persons who appeared before the subcommittee.

Acton, Wade, California State Automobile Association.

Alcamo, Sharon, chief, drivers license division, division of motor vehicles (DMV), Carson City, Nevada.

Anderson, Lloyd G., assistant vice president, Farmers Insurance Group, Los Angeles, California.

Bailey, Robert, actuary, National Association of Insurance Commissioners (NAIC), Milwaukee, Wisconsin.

Brown, Seymour, municipal court judge, Las Vegas, Nevada.

Buchan, John, manager of the Winnemucca Chamber of Commerce, Winnemucca, Nevada.

Burt, George O., assistant vice president, State Farm Mutual Insurance Company, Bloomington, Illinois.

Cameron, Mary, Las Vegas.

Conneely, Thomas F., Alliance of American Insurers, San Francisco, California.

Cottino, Guy, investigator for the insurance division, department of commerce, Las Vegas, Nevada.

Cutler, Wendell, Cutler Insurance Agency, Las Vegas, Nevada.

Dartland, Walter T., metropolitan Dade County consumer advocate, Miami, Florida.

Dineen, Robert E., consultant for the National Association of Insurance Commissioners (NAIC), Milwaukee, Wisconsin.

Earl, Allan R., Galatz Earl & Bigger, Las Vegas, Nevada, Nevada.

Feldman, Robert, All Risk Insurance, Las Vegas.

Flaim, Roy, Jackson & Farmer Auto Body Shop, Reno, Nevada.

Fukai, Mas, senior deputy to Supervisor Kenneth Hahn, Los Angeles County, California.

Gage, Robert G., manager, Insurance Services Office of Nevada (ISO), San Francisco, California.

Galiley, Bernard J., actuary, Insurance Services Office of Nevada (ISO), San Francisco, California.

Garrod, Richard, Farmers Insurance Group, Sacramento, California.

Goedart, Warren, Nevada Trial Lawyers Association, Reno, Nevada.

Goldstein, Thomas, assistant county attorney for metropolitan Dade County, Florida.

Gower, Jerry, vice president, regional manager, Farmers Insurance Group, Santa Ana, California.

Groot, Steven, automobile insurance actuary, Allstate Insurance Company, Northbrook, Illinois.

Heath, Donald W., Nevada insurance commissioner, department of commerce, Carson City, Nevada.

Higley, Lowell H., Local 1607 Firefighters, Boulder City, Nevada.

Hunter, Bob, deputy federal insurance administrator, Washington, D.C.

Ingram, C. A., State Farm Mutual Insurance Company.

Knaus, Charles, casualty actuary, insurance division, department of commerce, Carson City, Nevada.

Kyle, James, Las Vegas.

Leavitt, Bert J., president elect of the National Professional Insurance Agents Association, Las Vegas.

Leonard, David R., associate counsel, Allstate Insurance Company, Northbrook, Illinois.

Menke, Mark, Elko, Nevada.

Michaelis, Elmo, Las Vegas.

Muir, Grant J., Ruth, Nevada.

Myers, Rich, president of the Nevada Trial Lawyers Association, Las Vegas.

Norman, Helen, Las Vegas.

Novines, Mike, Las Vegas.

Phillips, Mrs. Lloyd, Ely, Nevada.

Reil, Orvis E., member of the Nevada Joint State Legislative Committee of the American Association of Retired Persons and the National Retired Teachers Association.

Rodhouse, Thomas, chief health care assistant for the insurance division, department of commerce, Carson City, NV

Sastalinik, Bill, Las Vegas.

Schiavo, Mike, manager of the actuarial department of the California State Automobile Association, San Francisco, California.

Schultz, Charles L., Farmers Insurance Group.

Sheeran, James J., New Jersey insurance commissioner.

Smed, Thelma, executive director of the Nevada Safety Council, Las Vegas, Nevada.

Starke, Leonard, P. O. Box 114, Overton, Nevada.

Willis, Mrs., Insurance Management Services, Winnemucca, Nevada.

Wysen, Joseph F. Wysen, Las Vegas.



## V. APPENDICES

- A. Responses to staff's survey letter to other states' insurance departments inquiring about motor vehicle insurance price classification factors and cost containment.
- B. Motor vehicle insurance company responses to staff letters inquiring about cost containment and other areas of interest to the subcommittee.
- C. Summary of legislation from the 1979 legislative session which affects motor vehicle insurance.
- D. Definitions, taken from the Nevada Revised Statutes, of mutual, stock and reciprocal insurance companies.
- E. Preliminary project outline and proposed survey questionnaire for the National Association of Insurance Commissioners Automobile Insurance Classification Study.
- F. Chart showing driving under the influence penalties in the states.
- G. Suggested legislation.



## APPENDIX A

Responses to staff's survey letter to other states' insurance departments inquiring about motor vehicle insurance price classification factors and cost containment.





February 7, 1980

M E M O R A N D U M

TO: Legislative Commission's Subcommittee to Study  
Motor Vehicle Insurance Rates and Rating  
Practices (A.C.R. 29)

FROM: Donald A. Rhodes, Chief Deputy Research Director

SUBJECT: Responses to staff survey letter to other  
states' insurance departments inquiring about  
motor vehicle insurance price classification  
factors and cost containment.

Enclosed is a chart illustrating the responses we have received to a survey letter we sent to other states' insurance departments inquiring about (1) motor vehicle insurance price classification factors permitted, and (2) motor vehicle insurance cost containment efforts and suggestions.

As you can see, Massachusetts and Hawaii do not allow the use of age, sex and marital status as pricing factors. Both these states also use merit type rating plans. Hawaii has a "take-all-comers" statute.

North Carolina prohibits the use of age and sex as pricing factors for automobile insurance and has a law placing caps on certain forms of auto insurance premium increases. This law, according to the response, may be challenged in court.

A new Michigan law, which will take effect on January 1, 1981, prohibits the use of marital status or sex as rating classifications and requires a form of merit rating. The Michigan law limits the number of territorial base rates an insurer can use to 20 and requires insurance companies to accept all eligible applicants.

Florida, Louisiana and Wyoming have adopted regulations restricting the use of certain rating criteria (sex, marital status and scholastic achievement in Florida; territory, sex, marital status and commuter categories in Wyoming; and age and sex in Louisiana). Florida's regulations have been enjoined temporarily until the matter can be heard in court or by administrative review. The Wyoming insurance commissioner withdrew his regulations because court action against the regulations was going too slowly. He is now seeking legislative action to ban the use of age, sex and marital status as pricing factors. The fate of the Louisiana regulations are now in the Louisiana Supreme Court. The opponents of the Louisiana rules won at the lower and appellate court levels.

Connecticut's insurance commissioner ruled that the territorial rating classifications used by motor vehicle insurance writers in Connecticut were discriminatory and ordered the companies to submit revised statistical data supporting their territories or establishing new ones.

Missouri has a cancellation law which forbids motor vehicle insurance companies from cancelling or refusing to insure anyone, who has had 2 years of driving experience, on the basis of age, sex or marital status.

Washington has a statute which prohibits the use of sex and marital status in rating unless the insurer has bona fide statistical data supporting those classifications.

Regulations to modify or prohibit the use of certain automobile insurance pricing factors are being considered in New Jersey, North Dakota and Rhode Island.

Certain Commercial Union Insurance Companies have voluntarily discontinued the use of age, sex and marital status as pricing factors in several states. According to Chuck Knaus, casualty actuary in the Nevada insurance division, Nevada is not one of those states.

The Arizona response indicates that "the \* \* \* rating criteria \* \* \* issue may become prominent within the next legislative year." The response from Maryland indicates

that bills which would restrict the use of certain rating criteria by motor vehicle insurance companies are being considered in that state's legislature. The Oregon response notes that similar bills were killed in committee during the 1979 legislative session.

As you can see in the Pennsylvania response, a 27 year old male has sued Hartford Insurance Company over the use of sex as a rating criteria.

DAR/llp

Enc.

cc: Don Heath, Insurance Commissioner



RESPONSES TO STAFF SURVEY LETTER TO OTHER STATES'  
INSURANCE DEPARTMENTS INQUIRING ABOUT MOTOR  
VEHICLE INSURANCE PRICE CLASSIFICATION  
FACTORS & COST CONTAINMENT

STATE

RESPONSE

Alabama

No state prohibition against using age, sex, marital status or territory as pricing factors. Commercial Union Assurance Group has a rating plan pending which partially eliminates the use of such criteria. An "expense fee program" has been introduced for those companies affiliated with the Insurance Services Office for private passenger automobile insurance. "This plan provides that certain expenses are assigned equally to each policy."

Alaska

No state prohibition against using age, sex, marital status or territory as pricing factors. The legislature passed a measure in 1978 which prohibits insurance companies from obtaining data on individual driving records. This measure has been enjoined by the court. New legislation is currently being considered.

Arizona

No state prohibition against using age, sex, marital status or territory as pricing factors. The department of insurance has approved two filings eliminating these factors and these companies will be monitored after the rating criteria go into effect on January 1, 1980. "The issue may become prominent within the next legislative year."

Arkansas

No state prohibition against using age, sex, marital status or territory as pricing factors.

California

No state prohibition against using age, sex, marital status or territory as pricing factors. The California insurance commissioner upheld the use of territories in a decision dated December 20, 1979. (See RH-207.)

## Colorado

No state prohibition against using age, sex, marital status or territory as pricing factors. Under no fault law insurance companies cannot refuse to insure based on such factors alone.

## Connecticut

The Connecticut insurance commissioner ruled, in December 1978, that the territorial rating system was "unfairly discriminatory" and ordered insurance companies to submit revised statistical data to support rates. The commissioner also said:

I. With respect to the rate classification system, the insurance industry is directed to undertake the following projects:

A. Re-evaluate existing classification of risk based on age, sex and marital status. It is apparent that these criteria are being subjected to increasingly intense scrutiny, both as to their statistical validity within a rating plan and to the social acceptability of using such criteria today. The insurance industry must seriously examine the factors for which these criteria serve as proxies and consider the practicality of improving the use of each of them.

B. Review the existing method of allocating expenses among rate classifications. This review can be undertaken concurrently with any examination of expenses begun as a result of the territorial decision.

II. The design of the product purchased by the consumer has a direct effect on the cost of such coverage.

A. Particular consideration should be given to the feasibility of some form of discount for elderly citizens who may not need additional protection from automobile insurance for lost income because they are retired. I plan to submit legislation next year to make Medicare primary over No-Fault. Consideration, therefore, should

also be given to discounts for Medicare recipients which reflect their reduced medical expense needs.

B. The insurance industry must display greater innovation in product design. Particular emphasis must be placed on the preparation of products with higher deductibles, especially for comprehensive and collision coverages, which usually account for approximately one-half an individual's premium dollar. Companies should develop a basic insurance package which provides adequate, bare bones, no-frills coverage.

C. Cost containment, thus far, seems to have meant a tougher claim handling policy which too often means increased consumer dissatisfaction and an attendant Insurance Department complaint increase. The industry must focus its attention more intensely on reduction of the incidence of claims through more effective loss prevention techniques. Efforts designed to:

1. Strengthen existing traffic safety programs;
2. Develop effective anti-theft devices;
3. Perfect and encourage the use of effective passive restraint systems; and
4. Review the present traffic violation sanctions and their validity in an insurance rating mechanism,

can be undertaken in conjunction with appropriate private and governmental agencies in an effort to reduce the occasion and severity of automobile accidents and injuries.

III. Finally, and perhaps most importantly, a program designed to assist and educate the consumer is needed.

A. Each company should establish a toll-free telephone number to permit ready access for its Connecticut policyholders and agents.

B. Increased efforts should be made to provide meaningful consumer educational material to policyholders. The Insurance Department has available a concise explanation of automobile insurance which each company should consider forwarding to all policyholders periodically with their billings.

With respect to the use of territory as a rating criteria, the commissioner stated:

The continued approval of any rates presently on file by your company is conditioned upon the filing by your company of such a correcting amendment to be effective not later than July 1, 1979. In the absence of such filing, review of your company's existing rates will be initiated under the applicable statutory procedures. Briefly, the major areas addressed in said Decision are:

1. The inappropriateness of relying entirely on each territory's loss costs to determine its rates.
2. The inappropriateness of allocating expenses (general, other acquisition and miscellaneous licenses, taxes and fees) by territory in proportion to loss experience.
3. The inappropriateness of allocating basic reparations benefits losses by territory.
4. The need to establish a statistical gathering system to test, on an ongoing basis, the validity of the territorial configurations.
5. The need to review the present method of allocating commission expenses.



Delaware	No state prohibition against using age, sex, marital status or territory as pricing factors. "I have not attempted to replace the classification system by a merit rating plan, but I am in the process of revising the surcharge plan for <u>assigned risks</u> from a percent of premium basis to flat dollar amount surcharge."
Florida	<p>The insurance commissioner ordered auto insurers to stop using sex, marital status and scholastic achievement as classifications for insurance rates by March 1, 1980. The commissioner also ordered that geographical rating territories not be arbitrary and that every insurance company licensed to sell automobile casualty insurance in Florida examine its territorial classifications and file with the department by March 1, 1980, either a new territorial plan or a statement with detailed exhibits affirming that territorial classifications in force are not unfairly discriminatory. The commissioner reluctantly upheld use of age in setting rates because no more equitable alternative was available. But he ordered insurers to collect additional data that could be used to either improve age classifications or find a substitute for them.</p> <p>At last count 348 insurance companies have sued to block the implementation of the commissioner's orders. A Florida circuit court has granted a temporary injunction against the regulations going into effect until the case is resolved. A spokesman for the commissioner says it is highly unlikely that the order will go into effect in 1980.</p>
Georgia	No state prohibition against using age, sex, marital status or territory as pricing factors. One commercial Union Assurance Company has voluntarily stopped using such criteria.
Hawaii	"Section 294-33 HRS prohibits the use of race, creed, ethnic extraction, age, sex, length of driving experience, credit reference bureau rating or marital status in the rating of any motor vehicle risk. Section 294-9 HRS and Sections 4-1

and 4-2 of our Rules and Regulations also provide this state with a 'take-all-comers' statute."

Idaho	No state prohibition against using age, sex, marital status or territory as pricing factors.
Illinois	No state prohibition against using age, sex, marital status or territory as pricing factors.
Indiana	No state prohibition against using age, sex, marital status or territory as pricing factors.
Iowa	No state prohibition against using age, sex, marital status or territory as pricing factors. "At this time the personal automobile market in Iowa is very competitive. From the latest Automobile Insurance Plan Service Office Report it will be seen that only about 2,300 vehicles out of nearly 2 million registrations are in the assigned risk plan."
Kansas	No state prohibition against using age, sex, marital status or territory as pricing factors. A March 23, 1978, report makes the following recommendations:

RATING

1. A statutory amendment permitting "reference filing" for rules and endorsements. This would allow staff to spend more time on market conduct examinations, monitoring competition, consumer inquiries and financial examinations.
2. A statutory amendment requiring that companies consider investment income and investment losses on unearned premium and loss reserves in developing their premiums.
3. A statutory amendment granting the Commissioner authority to establish uniform territorial divisions of the state for rating purposes.

4. A statutory amendment permitting the Commissioner to require companies to maintain statistics on a "study" basis to further assure fairness in rating classifications and territories.

5. A statutory amendment granting the Commissioner authority to prescribe a merit/demerit rating plan. The plan should include "additive" surcharges for specified "at fault" accidents and/or violations regardless of the rating class. Further, the plan should allow a "foregiveness clause" in order to avoid increasing a person's premium routinely following his or her first "at fault" accident, regardless of driving experience.

6. Consider a statutory amendment to permit "reference filing" for policy forms and rates in those instances where the company cannot support its proposals with its own experience.

#### COSTS

1. \* \* \* (Implement Kansas Department of Transportation recommendations to make roadways safer) \* \* \*

2. Establish a public educational program emphasizing the merits of utilizing used parts rather than new parts in the repair of automobiles.

3. Require insurance companies to submit rate decreases in recognition of vehicles equipped with airbags and other passive restraints.

4. Amend the Kansas No-Fault law to recognize a verbal tort threshold. This could create savings of up to 12 percent in the bodily injury and uninsured motorist premiums for Kansas policyholders.

5. Emphasize the premium savings for utilization of higher deductible collision and comprehensive coverages.

6. Deductible liability insurance should be encouraged as an available option for Kansas policyholders.

REFUSAL TO INSURE

1. The cancellation and non-renewal statutes applicable to private passenger automobile liability insurance should be extended to include commercial auto liability and private passenger physical damage risk.

2. A statutory amendment providing the Commissioner additional authority over some of the underwriting requirements of companies in order to avoid unfair discrimination in the issuance, cancellation or non-renewal of certain policies.

3. Repeal K.S.A. 40-296 and K.S.A. 40-297 to avoid discrimination solely because of age.

(NOTE: Staff has asked for information concerning which of these recommendations have been carried out.)

96.

Kentucky

No state prohibition against using age, sex, marital status or territory as pricing factors.

Louisiana

In February 1978 the insurance commissioner ordered that age and sex no longer be used as rating criteria. The appellate court upheld a decision by a Baton Rouge district court that said that the commissioner could not prohibit automobile insurers from using age and sex in setting insurance rates. The Louisiana Supreme Court is now deciding the matter.

Maine

No state prohibition against using age, sex, marital status or territory as pricing factors.

Maryland

No state prohibition against using age, sex, marital status or territory as pricing factors. Bills have been introduced in the Maryland legislature which would abolish use of age, sex, marital status and territory as rating criteria. "The chance of these bills passing appears slim."

Massachusetts	Merit rating was introduced in 1976 and age, sex and marital status were prohibited as classification variables in 1978. Both these actions were accomplished by insurance division regulations. Chapter 197 (approved May 21, 1979) prohibits the classification of risks on the basis of age, sex, or marital status.
Michigan	Public Act 145 of 1979, commonly referred to in Michigan as the Essential Insurance Act, takes effect on January 1, 1981. With respect to auto insurance, it limits the factors which auto insurers can use in making underwriting determinations (Sections 2118, 2119, and 2120). P.A. 145 also specifies that classes and territories to be used by insurers to establish auto rates must conform to the requirements of Section 2111, which limits the characteristics allowed to be considered for ratemaking purposes primarily to those within the control of the insured. In addition, Section 2111(4) specifically prohibits the use of sex or marital status as a rating classification for auto insurance, and requires a form of merit rating. The law limits the number of territorial base rates an insurer can use to 20 and requires insurance companies to accept all eligible applicants.
Minnesota	No state prohibition against using age, sex, marital status or territory as pricing factors.
Mississippi	No state prohibition against using age, sex, marital status or territory as pricing factors.
Missouri	Missouri has a cancellation law that forbids motor vehicle insurance companies from cancelling or refusing to insure anyone who has had 2 years of driving experience on the basis of age, sex or marital status.
Montana	No state prohibition against using age, sex, marital status or territory as pricing factors.
Nebraska	No state prohibition against using age, sex, marital status or territory as pricing factors. "Our efforts to combat the

rising costs of insurance are keyed upon the individual company's past experience, analyzing each individual filing and using data obtained from fast-track, etc., plus utilizing extensive study by our actuary to obtain the proper rates. By permitting only rate increases justifiable by experience and proper trend factors, we hope to dampen an inflationary spiral effect in rates. We also actively encourage discounts for effective safety equipment. Although we are a prior approval state, our goal is a competitive market environment that allows the forces of demand and supply (within the confines of the aforementioned criteria) to determine the most efficient rate for each class of insured."

New Hampshire	No state prohibition against using age, sex, marital status or territory as pricing factors.
New Jersey	The insurance commissioner is now considering new regulations which would limit the use of age, sex, marital status and territory as rating criteria. The decision is still pending.
New Mexico	No state prohibition against using age, sex, marital status or territory as pricing factors.
New York	No state prohibition against using age, sex, marital status or territory as pricing factors. Automobile insurance may not be denied solely on the basis of age.
North Carolina	North Carolina Insurance Code 58-30.3 says:

Discriminatory practices prohibited

No insurer shall after September 1, 1975, base any standard or rating plan for private passenger automobiles or motorcycles, in whole or in part, directly or indirectly, upon the age or sex of the persons insured. (1975, c.666, s.1.)

Section 58-30.4 requires the North Carolina Rate Bureau to promulgate a revised basic classification plan and a

revised subclassification plan for coverages on private passenger motor vehicles consisting of pleasure use only, pleasure use except for driving to and from work, business use and farm use. Section 58-124.26 provides for caps on certain forms of automobile insurance rate increases.

North Dakota

No state prohibition against using age, sex, marital status or territory as pricing factors. Regulations are being studied, however, which could modify use of such criteria.

Ohio

No state prohibition against using age, sex, marital status or territory as pricing factors. "Two companies licensed to sell insurance in this state have, of their own volition, eliminated age, sex, and marital status as rating classifications."

Oklahoma

No state prohibition against using age, sex, marital status or territory as pricing factors.

69.

Oregon

"Two bills were submitted to the 1979 Oregon legislature mandating the so-called merit rating approach in pricing automobile insurance. After lengthy testimony both bills died in committee. As a knowledgeable observer it was my impression the committees were not satisfied that any changes in the rating system would materially effect the insurance premium paid in the State of Oregon. It would only redistribute the amount paid. Some individuals would pay considerably less for their auto insurance which would by necessity require others to pay more. It also appeared to me there was a strong possibility that strict use of the merit rating system would price certain individuals completely out of the insurance market. From strictly financial thinking, this might be good but I am convinced it would be totally unacceptable to the public.

Another major draw back to the sponsors of merit rating was their lack of actuarial expertise in their testimony. They relied primarily on the emotional approach."

Pennsylvania

"We do not promulgate particular rating schemes, merit rating plans, or territorial definitions. Companies and rating bureaus file for approval of their own programs. However, along this line we are presently considering a filing made by the Northern Assurance Company which would eliminate age, sex and marital status in rating automobile insurance. Additionally, we are a party to a suit between a 27 year old male and Hartford Insurance Company over the use of sex as a rating criteria. Some briefs have been filed and I suspect the Commissioner's adjudication in this matter is several months away. If his decision is favorable to the insured it certainly will have repercussions through the industry in Pennsylvania.

Enclosed is a pamphlet we have circulated for several years on how to 'save money on automobile insurance.' As you may note, there are several PIP discounts which are available to lower premiums costs. Also enclosed is 'rate comparison' which we from time to time are required by our no-fault statute to publish."

Rhode Island

"The State of Rhode Island is currently engaged in hearings relative to territorial rating and in the course of the hearings, other items involving age, sex, and marital status issues have also surfaced.

The State of Rhode Island, like all jurisdictions, is equally concerned with the rising cost of automobile insurance. In our filings, we are questioning investment income computations and currently plan to require that companies bring in their investment counselors for expert testimony into the manner in which large sums of money are retained in the area of incurred losses and unearned premiums accounts. It is our considered opinion that the normal method of reflecting income on rate level requests have understated the actual returns earned by the companies, and we are reviewing this area in depth. Like most jurisdictions, we are also watching with interest the effects of the energy crisis, the continual decline in frequency of



losses, and what we currently consider to be the ever increasing use of public transportation with a decline of motor vehicles actually on the highway.

In the gathering of information, we have caused 25 questions \* \* \* to be forwarded to all companies, which must be answered in detail on every major rate filing."

South Carolina      South Carolina uses uniform classification, territorial and rating plans. The classification plan provides for use of age, sex and marital status.

South Dakota      No state prohibition against using age, sex, marital status or territory as pricing factors.

Tennessee      No state prohibition against using age, sex, marital status or territory as pricing factors.

Texas      No state prohibition against using age, sex, marital status or territory as pricing factors.

Utah      No state prohibition against using age, sex, marital status or territory as pricing factors.

Vermont      No state prohibition against using age, sex, marital status or territory as pricing factors.

"The underlying reasons for the rising costs of automobile insurance cannot be controlled on the state level. The rising cost of medical care and auto repairs will continue to push rates up. We have been combatting the high cost of auto insurance by encouraging the use of deductibles, closely monitoring rate requests and encouraging competition."

Virginia      No state prohibition against using age, sex, marital status or territory as pricing factors. Virginia is starting to require "flattened" expense components. "At this time we are continuing our study of this, \* \* \* (flattening) \* \* \* subject, particularly with regard to the possible use of a flat policy fee plus a variable premium element."

Washington

"We do have a statute, RCW 48.30.300 \* \* \* which does prohibit the use of sex and marital status in rating unless the insurer has bona fide statistical data supporting the classification."

48.30.300 Unfair discrimination based upon sex, marital status, sensory, mental or physical handicap prohibited.  
No person or entity engaged in the business of insurance in this state shall refuse to issue any contract of insurance or cancel or decline to renew such contract because of the sex or marital status, or the presence of any sensory, mental, or physical handicap of the insured or prospective insured. The amount of benefits payable, or any term, rate, condition, or type of coverage shall not be restricted, modified, excluded, increased or reduced on the basis of the sex or marital status, or be restricted, modified, excluded or reduced on the basis of the presence of any sensor, mental, or physical handicap of the insured or prospective insured. These provisions shall not prohibit fair discrimination on the basis of sex, or marital status, or the presence of any sensory, mental, or physical handicap when bona fide statistical differences in risk or exposure have been substantiated. (1975-'76 2nd ex.s. c 119 § 7.)

"At least one company, Northern Assurance Company of America, a subsidiary of the Commercial Union Group, has filed with us a merit rating plan. This plan is strictly a merit rated plan and has been developed by the company as a test program to determine the liability of such rating programs. It became effective here on November 1, 1979. We are encouraged by this action as it fortifies our belief that private industry will develop systems that respond to the social atmosphere of their clientele."

West Virginia

No state prohibition against using age, sex, marital status or territory as pricing factors. "State law requires the use of at least seven rating territories."

Wisconsin

No state prohibition against using age, sex, marital status or territory as pricing factors.

Wyoming

The insurance commissioner adopted regulations in 1978 prohibiting the use of territory, sex, marital status and commuter categories.

"With the exception of four companies, all insurers and ISO writing in the State appealed the regulations in the Laramie County District Court and a stay was granted. The Courts of Wyoming are a slow process. We have had cases appealed to the District Court and it has taken three years to get a decision. After a year and a half in the Court, the Commissioner withdrew the regulations primarily because the regulations were hampering our rate challenges of automobile insurers. We still strongly feel the regulations were sound and I am confident we will give automobile classifications another 'go' in the near future.

We do not feel territories, sex, marital status, commuter categories, etc. have a place in the rating scheme. The Department is considering legislative action rather than regulations on the next challenge of classifications."

Prepared by Research Division  
February 7, 1980



## APPENDIX B

Motor vehicle insurance company responses to  
staff letters inquiring about cost containment  
and other areas of interest to the subcommittee.





Robert F. McDermott, President  
Brig. Gen., USAF (Retired)

February 6, 1980

Mr. Donald A. Rhodes  
Chief Deputy Research Director  
Nevada Legislative Counsel Bureau  
Legislative Building - Capitol Complex  
Carson City, Nevada 89710

Dear Mr. Rhodes:

General McDermott has asked me to reply to your recent letter. Your letter asks for our thoughts on equitable auto rates, distribution of expense components, and cost containment for auto claims payments. We will try to deal briefly with each of these areas.

We feel that the most important factor promoting equitable auto rates is the existence of open competition among insurers. Nevada has a "file and use" type rating law which does promote a competitive environment. We feel this type of law should be retained and that it should be actively supported by the insurance regulatory authorities.

The National Association of Insurance Commissioners (NAIC) is currently conducting a study of various facets of the role of competition in the insurance marketplace. They have asked companies, insurance departments, and other parties, for comments on the subjects being covered by that study. If you are not familiar with this study, I suggest you contact either the Nevada Insurance Department or the Central Office of the NAIC in Milwaukee.

Auto classification variables are another current issue, as you mention. Our feeling is that there are sound reasons for the use of age, sex, marital status and other factors. And, that in a competitive environment, companies should be free to use such variables. Much has been written on the subject and I would again refer you to the NAIC. There is currently an NAIC Classification Study being conducted for NAIC by the Illinois Insurance Department. This study was directed by the June, 1979 NAIC Meeting to come up with data on classifications for consideration in June, 1981. You may wish to contact your Insurance Department or NAIC to review the voluminous background material relating to this whole question and also to keep informed of the progress of the study.

Another subject you mentioned was the distribution of expense components. Our company is a direct writer and has no agents. We support "expense flattening", as it is called, and have revised our rate making methods to accommodate it in most states, including Nevada.

Mr. Donald A. Rhodes  
PAGE TWO  
February 6, 1980

Cost containment of auto claims is a very broad subject since it concerns both first party and third party coverages. Generally, we see cost containment as being comprised of the two main categories of engineering and legislative changes.

Engineering approaches include better highway design, collapsible physical hazards such as light poles, and vehicle design features such as seat belts and air bags. While some of these may be beyond the province of individual states, you may wish to review Nevada highway construction standards to determine if adequate safety performance standards have been built into your laws. The Insurance Institute for Highway Safety in Washington, DC might be a good source of information in this area.

Legislative approaches to highway safety are also important. For example, we favor strict enforcement of speeding and drunken driver laws as meaningful ways to reduce accidents. Other areas of impact include severe penalties for fraud or arson perpetrated against insurance companies, legislative protection for reasonable insurance company investigation procedures designed to detect fraud, and limitations on punitive damages.

We hope these comments, though brief, will be of some aid to you in your study. We would be happy to discuss any of the specifics with you in more detail. Feel free to call or write us.

Sincerely,



ROBERT G. BRAKEY  
Staff Vice President  
Property & Casualty Insurance Operations

/ag



# Royal-Globe Insurance Companies



150 William Street  
New York, N.Y. 10038

(212) 732-8400

January 22, 1980

Mr. Donald A. Rhodes  
Chief Deputy Research Director  
Legislative Counsel Bureau  
Legislative Building  
Capitol Complex  
Carson City, Nevada 89710

Dear Mr. Rhodes:

This is in response to your letter of January 7 concerning your automobile insurance pricing study in which you invited our comments on classification variables and distribution of expense components.

I am sure you have assembled a great deal of information on this general subject, such as the May 1979 report of the Advisory Committee of the N.A.I.C. D-3 Committee. Since these reports contain a wealth of up-to-date information on the subject of risk classification, additional comment by us would be largely redundant.

It is common knowledge that insurance underwriters seek to select those risks which they believe will prospectively have better than average loss experience. With respect to such variables as age and sex, should classification systems exclude such factors, one would expect youthful males to have a more difficult time obtaining insurance than would females. On the other hand, if classifications properly differentiate between risks, premiums for youthful males reflect the higher risk but availability is not generally a real problem. Additionally, in a freely competitive market imbalances tend to be self-correcting, as underwriters compete for temporarily overpriced business and price reductions result. Similar forces affect distribution of company and agency expense components included in rates. There is logic in the argument that those with high loss potential may be subsidizing the expense portion of those with low loss potential, and that insureds in "high risk" states, such as Massachusetts, may be subsidizing insureds in such states as Nevada. But, in the real world, in addition to legal prohibitions, we know there are competitive forces at work which will not permit shifting of such expenses from the driving population of one

January 22, 1980

state to that of another. The same is true as between territories within the individual states.

As inflationary forces continue to escalate rate levels, the subject of allocation and "expense flattening" take on added importance. The Insurance Services Office, as well as individual companies, is studying the subject. We think it likely that changes will occur in this area. We do not blindly defend present methods of distribution of these expenses, but believe they are equitable and think competition will tend to correct such inequalities as may be found to exist. We are convinced the best policy a state can follow to assure availability at the lowest rates, is to encourage competition between all segments of the insurance business. We feel strongly that efforts to redistribute costs through legislation both increases the overall expense of doing business, and creates new problems for the insurance buying public.

Sincerely yours,



William G. Walton  
Senior Vice President

WGW:b

January 28, 1980

Mr. Donald A. Rhodes  
Chief Deputy Research Director  
Legislative Counsel Bureau  
Legislative Building  
Capitol Complex  
Carson City, Nevada 89710

Dear Mr. Rhodes:

I have been asked to respond to your January 7, 1980 letter to Mr. Fisher concerning the study of motor vehicle insurance rates.

With respect to the classification variables of age, sex and marital status, we firmly believe the use of such factors is valid and very well supported. Perhaps the most comprehensive study available on this subject is the report of the Industry Advisory Committee to the National Association of Insurance Commissioners Task Force on Rates and Rating Procedures. A copy of that report, published in May of 1979, is enclosed.

Also, territorial rating has consistently been justified, on the basis of loss experience, as a legitimate rating variable.

Recognizing that certain expenses do not vary in proportion to premiums, many companies, including our own where our volume is sufficient, have adopted a "flattening" procedure. This is a method of allocating a portion of such expenses to classifications and territories on a flat dollar basis rather than as a percentage of premium. Enclosed is a copy of a directive issued by the Ohio Department of Insurance which we believe is a reasonable approach in terms of a regulatory directive.

While Nationwide is an advocate of strong no-fault laws, the objective of such laws and the related changes in the tort liability system, is to provide a more equitable distribution of the benefits, i.e., to assure prompt payment for losses to all injured victims of automobile accidents. Thus, we do not hold tort reform out as a means to reduce automobile insurance premiums.

The real answer, of course, is loss prevention. It has been said that the least costly accident is the one that doesn't happen. Enclosed is a paper prepared here at Nationwide on the subject of accident prevention. While it is about three years old and was partly designed to show some of the past efforts by the insurance industry, including Nationwide, we think you will find that it may suggest areas of possible activity in terms of reducing the frequency and severity of accidents.

Mr. Donald A. Rhodes

Page 2

January 28, 1980

Finally, we are enclosing still another publication which may be of some interest and assistance. It is the "Report of the Williamsburg Assembly on Anti-Inflation Policy" sponsored by the American Council of Life Insurance in February of 1979. The recommendations are not all subject to implementation at the state legislative and regulatory level, but do serve to pin-point some of the basic causes of inflation.

We hope this information, some of which may be more voluminous than you need, will be of some help to you.

Very truly yours,



R. E. Munro  
Vice President  
Actuary

REM/ljw  
Enc.

## Conclusions and Recommendations

### A Report of the Advisory Committee

May 1979

The current NAIC risk classification inquiry has produced more intense controversy and discussion than any other regulatory inquiry in the recent past. This is because adoption of the NAIC Task Force report would require insurers to depart from the principles and discipline of the marketplace, forcing them to disregard sound economic and actuarial precepts in favor of certain perceived social considerations.

It is imperative that everyone understand that the Advisory Committee's opposition to the NAIC Task Force recommendations is based upon the fundamental economic principle of pricing according to expected costs.

The facts are (as documented in Section II, Parts C, D and E) that:

- . Young drivers cost more to insure than older drivers.
- . Young male drivers cost more to insure than young female drivers.
- . Young single drivers cost more to insure than young married drivers.

These differences among drivers are verified not only by insurance data but also by an extensive body of independent research and data external to the insurance industry. (See Section III-T)

At its December 1978 meeting, the NAIC chose not to adopt the Task Force recommendation to eliminate sex and marital status as rating variables, but did request a thorough review of possible alternatives which might serve as effective substitutes. While most members of the NAIC realize that the search for different and better variables is ongoing, the Advisory Committee has isolated and summarized considerable data and research which shed a great deal of light on the availability, feasibility, and effectiveness of alternative rating variables.

The commonly suggested alternatives of:

- . Driving record
- . Mileage
- . Years licensed

have been thoroughly analyzed in Section II, Parts G, H and I. This analysis demonstrates that although emotionally appealing, as substitutes they clearly will not work.

This report concludes that:

- . Driving record is not an effective substitute for age, sex and/or marital status. (Section II-G)
- . Mileage is not an effective substitute for sex since females have a demonstrably lower accident rate than males within each category of miles driven. (Section II-H)
- . Years licensed is not an effective substitute

for age because inexperienced adult operators have a better accident record than inexperienced youthful operators. (Section II-I)

As discussed in the referenced sections, there are also important practical limitations to these commonly suggested alternatives. Other variables are also analyzed as possible substitutes and rejected. See Section II for full discussion of these items.

The NAIC Task Force report raised certain questions regarding the underlying equity of the current classification system. These questions were two-fold in nature, relating first to the "efficiency" of the current system and second to public policy considerations.

Concerning the "efficiency" question, recent developments have indicated that the efficiency of the current risk assessment process may be significantly higher than originally measured by SRI International. SRI has cautioned against being misled by its preliminary work in this area and has acknowledged that its estimate, based on non-insurance data, <sup>may well be</sup> ~~was~~ biased on the low side. (See Section III, Parts P and S). The Advisory Committee strongly recommends, therefore, that no regulatory action be taken based upon the original SRI estimate. Such action would impede the application and development of new insights which may be achievable in this area in the future.

With respect to public policy questions, the Advisory Committee believes that:

- . The American economic system works best when perceived social concerns are not allowed to preempt economic fact, lest incurable market dislocations result.
- . Opposition to existing variables is based upon a lack of understanding. Public policy decisions should be made only after the public has the opportunity to make a reasoned and informed choice.

The United States Department of Transportation has concluded that the public policy arguments used by those seeking change are in large measure not valid. (See Section III-R)

We believe some of the public dissatisfaction today may be attributable to the high cost of auto insurance for a few drivers rather than dissatisfaction with the classification system, per se. Substitutes for current variables will not resolve this problem, because to the extent that they continue to separate the high and low risk drivers, price disparities will continue to create just as much public dissatisfaction.

Insurers will continue to experiment with private passenger auto classification plans regardless of NAIC action, and we recognize that public concerns and governmental interest will be ongoing. We wish to point out, however, that the economic motivation for insurers to



identify more effective rating variables will continue to be a more powerful incentive to do so. Insurers operating in a competitive environment are constantly seeking to identify better than average risks in order to maximize profits. If a better, more predictable rating variable exists, the competitive mechanism will find it. We note in Section O, for example, that future improvements in car design will likely have a significant effect on auto insurance classification plans.

In conclusion, we recommend that:

- . The NAIC refrain from urging artificial alterations of the risk classification system which in our view produce more public harm than public good.
- . The NAIC create a positive atmosphere for experimentation with new rating variables (e.g., make and model rating).
- . The NAIC endorse the fundamental principle of pricing according to expected costs and recognize that any deviation from this principle would have severe consequences.



ALLSTATE INSURANCE COMPANY

ALLSTATE PLAZA

NORTHBROOK, ILLINOIS 60062

DAVID R. LEONARD  
ASSOCIATE COUNSEL

312 291-5697

January 22, 1980

Mr. Donald A. Rhodes  
Chief Deputy Research Director  
State of Nevada  
Legislative Counsel Bureau  
Legislative Building  
Capitol Complex  
Carson City, NV 89710

Dear Mr. Rhodes:

Pursuant to our recent telephone conversation, this is to advise you that Allstate will participate in your March hearing. As I understand it, the subject matter is an explanation of our rating criteria, our views on the flattening of expenses, and what cost containment measures and programs we have undertaken.

Allstate has consistently supported the use of age, sex, marital status, and territories as valid rating criteria. We feel the use of these factors permits us to charge rates which are fair and equitable to all classes of insureds. We have sufficient actuarial data which we believe justified the use of these categories, and we shall be happy to present them to you in testimony.


We have flattened administrative expenses, both by territory and by class, in a number of states. It is our position that any law or regulation which mandates the flattening of expenses should be sufficiently flexible to permit the various types of insurers to function effectively under that law or regulation. We shall present testimony which will outline our ideas in depth.

Allstate has been actively involved in the cost containment aspect of our business in many areas. We have been an ardent supporter of air bags, which we feel is the most significant life-saving device in automotive history. We have supported meaningful no-fault legislation on the state level and have instituted rating programs geared to the damageability of the vehicle insured.

Mr. Donald A. Rhodes  
Page Two  
January 22, 1980

We look forward to presenting a detailed analysis of our activities and corporate philosophies in the three areas mentioned above. Please advise me of the date, time and location of the hearing.

Very truly yours,

A handwritten signature in black ink, appearing to read 'D.R. Leonard', with a large, sweeping flourish extending from the end of the signature.

David R. Leonard

DRL:pv

# California State Automobile Association Inter-Insurance Bureau

ORGANIZED 1914

100 VAN NESS AVENUE • SAN FRANCISCO  
CALIFORNIA • 94101



EXECUTIVE OFFICES

January 31, 1980

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CHAIRMAN OF THE INSURANCE  
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Mr. Donald A. Rhodes  
Chief Deputy Research Director  
State of Nevada  
Legislative Counsel Bureau  
Legislative Building  
Capitol Complex  
Carson City, Nevada 89710

Dear Mr. Rhodes:

Thank you for the opportunity to discuss various areas of insurance rating, costs, and changes. We will divide the discussion along those lines and speak to each issue.

## Insurance Rating

We would recommend that the California Insurance Department file RH 207 on the matter of findings of territorial classifications be made a part of your study. Our organization participated and gave testimony to back up the contention that territory rating is a viable portion of the rating package.

I am enclosing a copy of the testimony that I gave in March 1979. Although this deals with California, it will give your committee background on how rating territories are revised. Pages 4 through 7 will not be too important but I believe the information starting on page 8 is important in that it shows how thorough we are of being assured that the proper rate is being applied to each account so that class and territory groups will not be deluded by risks that do not belong in them.

In that light, as a major auto writer, writing nearly 10% of the registered private passenger cars in Nevada, we believe that the application of two rating territories is sufficient. Most insurers currently employ four or more rating territories.

Mr. Donald A. Rhodes  
Chief Deputy Research Director  
State of Nevada

January 31, 1980  
Page 2

Territory, of course, is just a part of the rating plan. You mentioned factors of age, sex, and marital status and those areas are being explored by Insurance Departments in other states, and even some states are dictating that they be eliminated from the ratemaking process. A sub-committee of the NAIC has been given the assignment to study and collect data on this and our organization has been requested to participate. Currently necessary rules of the type of data necessary is being formulated, and I would expect that those carriers who will participate will be given the necessary instructions by this spring. We believe that the volume of our business, which is confined totally to Northern and Central California and the State of Nevada, is such that our statistical data is current and reflects the experience of our classification system in those specific categories.

Although we have only been writing insurance in the State of Nevada since 1961, we have a long history in California where today we insure one out of every four private passenger cars in the territory we serve.

We currently insure about 41,000 vehicles in Nevada and the Nevada Motor Vehicle registration for 1978 was 435,000 -- so, we have about 10% of the available market and, depending on what the estimate currently is on the uninsured population, that percentage will be higher when related to the insured vehicles in Nevada.

#### Costs and Changes

1. Automobile ratemaking procedures should provide for a "flattening" of company expense provision, regardless of territory or classification, rather than on a "percent" of premium basis.

The fixed expense charge, which should be applied by car and by coverage, recognizes that a major portion of expenses (other acquisition, field supervision and collection expenses, and other general expenses, as defined in the Insurance Expense Exhibit of the Annual Statement) are a reasonably fixed amount and do not vary by risk category.

2. Although unpopular with the agency forces, a better distribution of commission should be implemented. The total amount of commission paid may be in order but the method of arriving at commission payments needs to be reformed. It is easy for us to speak to this issue since our organization has been paying its sales representatives a flat commission amount by policy, regardless of premium or classification, rather than a percentage of the premium.

Mr. Donald A. Rhodes  
Chief Deputy Research Director  
State of Nevada

January 31, 1980

Page 3

3. Auto insurers should be required to review their auto classification plans for possible consolidation of classes, when warranted by experience or because of insufficient exposure volume. Beginning in January 1979, our Bureau performed consolidations, resulting in the elimination of 17 rating classifications. Further consolidations are contemplated this year.

However, revising the territory and classification programs will not alter the ultimate total premium that must be charged. It will only shift the burden of cost from one group of motorists to another as total expense and loss costs would remain unchanged.

CSAA began writing auto insurance in Nevada in 1960 and has only experienced eight profitable years. Unfortunately, over the 19-year period, 1960-1979, the Bureau has experienced a net loss of \$745,000 after considering underwriting and investment income. When underwriting gains have occurred, monies have been returned to policyholders in the form of savings dividends.

4. Consideration should be given to requiring implementation of a vehicle damageability rating program similar to the one adopted by State Farm and ISO. This approach attempts to recognize and more equitably distribute physical damage premiums among vehicles based upon their higher or lower loss cost and theft potential. The Bureau is currently embarking on such a program which it expects to adopt in late 1980.

Although this program will reduce premium charges on certain vehicles, it will also increase costs on others as overall total physical damage premiums will be redistributed and not reduced.

5. The inflationary effect on the property and casualty business must be recognized very quickly by regulatory bodies. How can we really expect containment when the price of the product goes up at a greater rate than CPI -- unless we change the system. It seems very clear in the majority of the states that the tort system is not to be changed. Nevada had a chance of improving its no-fault system but opted to return to full tort. In the face of that, could we really expect the legislature to do an about face and bring back no-fault?

In our present tort system, the courts are free to act in the common law tradition to modify the statutory system. The trend in the courts is to maximize recovery to the injured party. The burden of proof seems to be shifting to the defendant with an ever broadening of the scope of negligence.

Mr. Donald A. Rhodes  
Chief Deputy Research Director  
State of Nevada

January 31, 1980

Page 4

We see the courts continuing to expand their role as law makers unless the legislature enacts some checks and balances.

To contain the increases to insurance costs, a number of approaches should be considered:

- Co-insurance features similar to major medical programs where the insured assumes a percentage of the loss cost.
- Stress that insureds review their insurance needs (i.e., car, deductibles, coverage) via a "shopper's guide."
- Incorporate loss prevention programs to stop losses before they occur -- driver education, traffic code enforcement, removal of drunk drivers, upgrade bumper standards, urge more safe and easier repairable vehicles (i.e., damageability designed vehicles), and improve occupant crash-worthiness.
- Reform the tort system and re-introduce a workable no-fault system with a verbal threshold.
- Adopt stronger fraud/theft deterrent programs.
- Coordinate accident/health and auto policy. Motorists should be fully aware of any overlapping coverage.
- Vary the deductibles depending upon fault and non-fault.
- Eliminate double recoveries in the tort system (i.e., collateral recoveries).
- Reinstitute the Guest Law.

There are obviously so many things that must be done to a very antiquated system if we are to seek a goal of cost containment and distribute the premium dollars in the best possible way to those who are injured or damaged. The industry can continue to live with the present system. However, the public will continue to have to pay the price -- and that price will continue ever upward.

There continues to be talk that carriers should use their investment income as part of their ratemaking process. As a private investor, would you put your money into the stock of a company that will not be allowed to make a profit and



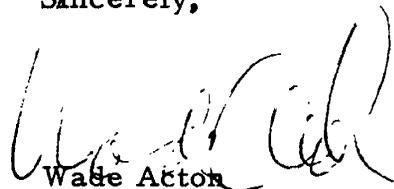
Mr. Donald A. Rhodes  
Chief Deputy Research Director  
State of Nevada

January 31, 1980  
Page 5

further, that its investment return will be put into part of the cost of the product? Can you expect the P&C industry, the majority of which are stock companies, to continue to have the capacity to handle business while it cannot attract capital from the investing public to allow continued growth. The mutual or reciprocal carriers may have a better shot at it but since they do not write the majority of the business they cannot be expected to carry the future growth load. Therefore, the insurance industry must be allowed to make an underwriting profit -- profit is not a dirty word.

Small rate increases granted in 1980 will not be sufficient to pay the longer-tailed losses that will not settle in 1980 but some years after -- while inflation continues and the "value" of the loss grows. The status quo of the insurance system will allow no choice but to see the insurance companies do increase their premiums in relationship to the cost of settling claims. Your subcommittee is to be commended if it will produce much needed changes. We stand ready to help.

Sincerely,



Wade Acton  
Executive Vice President

WA/mec  
Enclosure



# FARMERS INSURANCE GROUP

FARMERS INSURANCE EXCHANGE  
TRUCK INSURANCE EXCHANGE  
FIRE INSURANCE EXCHANGE  
MID-CENTURY INSURANCE COMPANY  
FARMERS NEW WORLD  
LIFE INSURANCE COMPANY

*Executive Offices*

4880 WILSHIRE BOULEVARD  
LOS ANGELES, CALIF. 90051  
TELEPHONE: (213) 981-1981

March 3, 1980

Mr. Donald A. Rhodes  
Chief Deputy Research Director  
State of Nevada  
Legislative Counsel Bureau  
Legislative Building  
Capitol Complex  
Carson City, Nevada 89710

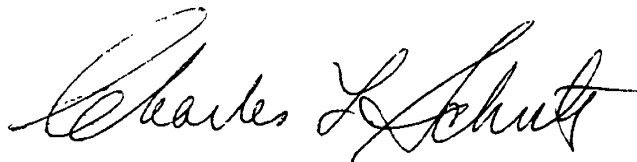
NEVADA ASSEMBLY CONCURRENT RESOLUTION NO. 29  
MOTOR VEHICLE INSURANCE RATES AND RATING PRACTICES

Dear Mr. Rhodes:

Enclosed are copies of my prepared remarks addressing the three topics on which you requested a written response in your letter of January 25.

As I mentioned in my previous letter, I will be happy, however, to discuss other subjects which the committee may wish to bring up.

Yours very truly,



Charles L. Schultz  
Vice President  
Actuarial Department

CLS:eb

Enclosures



STATEMENT PRESENTED TO SUBCOMMITTEE ON AUTOMOBILE INSURANCE  
RENO, NEVADA  
MARCH 8, 1980

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My name is Charles L. Schultz. I am Vice President in Charge of the Actuarial Department of the Farmers Insurance Group, which is a major insurer of private passenger cars in Nevada.

In my prepared remarks I will cover the three topics emphasized in your letter of January 25, 1980, but I will be happy to answer any other questions which you may have.

The three topics which are understandably of concern to you and to the people of Nevada are:

1. Premium cost containment.
2. Equitable classification variables.
3. The fair distribution of the expense part of the insurance premium.

1. Cost Containment

Let me begin with cost containment.

We believe that the first method of accomplishing this is by attempting to control the basic losses for which insurance pays. Under this heading would come those steps which contribute to reducing the frequency and severity of automobile

accidents, such as driver education, traffic law enforcement, the elimination of unsafe highway conditions, safe vehicle design, and so forth.

In the same general area, I would include efforts to contain the costs of repairing the damage caused by accidents and in compensating the victims of automobile accidents, including the control of medical and hospital costs, the prompt and effective provision of emergency medical treatment, the control of auto parts costs and repair charges, etc.

Unfortunately, all of these costs continue to be severely affected by inflation, which is the overriding cause of increasing insurance premiums. The cause, however, lies in Washington and in the Middle East and is beyond our immediate ability to control.

The second part of an effective attack on auto insurance cost includes minimizing what are called the frictional costs of the system - the administrative cost of negotiating settlements, litigation costs, the somewhat hidden costs of overlapping and duplicating compensation systems, and unfortunately a possibly increasing number of fraudulent claims. Action under this heading would include such items as the modification of the collateral source rule to prevent double recoveries of payments for medical costs, the existence of a state fraudulent claims prevention unit,

arbitration systems to minimize litigation, the control of contingent fees, and so forth.

The third major thrust of cost containment should be, I believe, the encouragement of vigorous competition among insurers. Competition among insurers is an effective method of obtaining the best products and services at the lowest ultimate cost to consumers. For example, Farmers has pioneered a Non-Smoker automobile rating program. Our statistics demonstrate that people who do not smoke have a better loss record than people who do smoke, so we are willing to insure them at reduced rates. If competition is stifled, or eliminated, innovations such as these are discouraged. The supporters of a regulated economy seem to believe that in their wisdom they can direct the economy better than the market place. A number of eastern states with their problems of high rates, limited availability, and huge residual markets show how ineffective and counter productive government control can be.

I might mention here one action that individual policyholders can take to reduce their premiums, namely, to select a deductible in keeping with their own financial circumstances. Most people I believe are better off with a substantial deductible on their collision and comprehensive rather than by paying to insure the first one or two hundred dollars of a loss which may never happen to them.

## 2. Equitable Classification Variables

The second major topic addressed in your letter is that of the equitable allocation of the cost of insurance among policyholders.

While much can be done, in the long term at least, we are at any given time faced with the problem of how to share the cost of this insurance. We cannot overcome inflation, nor can we do all those fine things which will make us better, safer, more law abiding drivers, so how do we spread the cost which, after all, is what insurance is about?

Remember, if you will, that the Farmers Insurance Companies are not owned by stockholders. All funds ultimately go to the protection of our policyholders so there is no reason for us to charge, or to want to charge anything more than an adequate rate.

We are extremely concerned, however, with fairness as between our policyholders.

The principle on which we operate is that of cost-based pricing. We try to analyze our actual losses as carefully as possible and to apportion premium costs to groups of insureds with common characteristics so that each policyholder pays a premium that is directly proportional to the expected losses of the group to which he belongs.



In the years in which we've done business, we have found a number of classification variables that we believe are fair, and which seem to work, including garage location, age, mileage driven, smoking habits, and yes, sex.

Attached are two exhibits which show how loss costs do vary.

Exhibit I shows the net incurred loss on bodily injury and property damage liability per car year during 1978.

The state average during that year was \$55.63, but the average loss in individual territories ranged from \$31.16 per car year in Carson City to \$64.02 in Reno. The highest territory had losses 105% greater than the lowest.

Exhibit II shows these same losses per car year organized by rate classification. Unmarried male drivers under 25 had losses of \$359.04 per car year, while drivers over 25 who do not drive to and from work (pleasure use only), had an average loss of \$30.87 per car year.

I would suggest that to depart from the principle of cost-based pricing is likely to result in subsidies of some policyholders by others, problems of availability, and a greater number of uninsured drivers - excellent illustrations of the problems that can be caused by pricing by fiat rather than by fact.

### 3. Expense Distribution

Your third topic is the apportionment of expense components.

Traditionally, automobile insurance rates have been predicated on developed incurred losses combined with the expense elements of administrative cost, commissions and taxes. These expense components have customarily been added as a percentage of the basic loss cost. While this may be fair in the aggregate, since insurer expenses go up with inflation, too, it is true that some expenses do not vary in proportion to the underlying cost. It does not cost twice as much to issue a policy because the premium is twice as great. We believe that where appropriate expenses should not be a percentage of premium but should be related to the actual costs incurred.

This method of expense allocation will tend to moderate variations in premium levels among policyholders and insurers should be encouraged to move in this direction. Essentially rates should be predicated as far as practical on expected losses plus average dollar increments for expenses which do not vary in proportion to premium. I might point out that for many years Farmers has been reducing the percentage of total premium attributable to expenses, which increases the portion of the policyholder's payment available to pay losses and loss adjustment expenses.

This concludes my prepared remarks, Mr. Chairman, and I will be pleased to answer any questions you may have. Thank you.

# CAL-FARM INSURANCE COMPANY

AUTO FARMOWNERS HOMEOWNERS UMBRELLA



1601 Exposition Boulevard, Sacramento, California 95815

January 24, 1980

Mr. Donald A. Rhodes  
Chief Deputy Research Director  
State of Nevada  
Legislative Counsel Bureau  
Legislative Building  
Capitol Complex  
Carson City, Nevada 89710

Dear Mr. Rhodes:

This is in response to your January 7 request for input concerning containment of auto insurance premium costs and what can be done to ensure the use of equitable automobile premium pricing classification variables.

Several months ago the National Association of Independent Insurers prepared a background report on the subject of auto insurance classification variables. Very possibly you have seen this report; however, we are passing along a copy in the event it has not been brought to your attention.

We support the use of the current classification variables, since, as the NAII report points out, the removal of these variables would increase the cost of insurance for the majority of motorists.

Increased insurance costs are the direct byproduct of three key elements. Auto repair costs and medical costs have been climbing at a faster pace than the general inflationary spiral. The third factor is the suit conscious attitude which currently prevails with the general public. With these elements, it is difficult to suggest ways of containing auto premium costs. As the NAII report concludes, the only effective way to lower auto insurance costs is to find ways of preventing accidents from occurring or to reduce the losses generated when they do occur. Loss prevention and reduction require designing and manufacturing safer automobiles, constructing and maintaining better highways and streets, and strengthening driver licensing requirements.

We do not believe that changes in Nevada insurance regulations will have a significant influence on auto premium cost containment.

Sincerely,

A handwritten signature in cursive script, appearing to read "Frederick J. Heringer".

Frederick J. Heringer  
President



DONALD D. BARTAK  
Vice President

February 14, 1980

Donald A. Rhodes  
Chief Deputy Research Director  
Legislative Counsel Bureau  
Legislative Building  
Capitol Complex  
Carson City, Nevada 89710

Dear Mr. Rhodes:

Your letter of January 7, 1980, regarding A.C.R. 29 has been referred to me for response.

The recent legislative studies in several states as respects alternatives to the current method of insurance pricing have become a major concern to our company. One of the most popular alternatives that results from these studies is to base the insurance premium on the individual's driving record only. In our opinion this is an insufficient basis for determining a fair, adequate, or equitable insurance premium. At Financial Indemnity Company we maintain statistical data for every criteria that we use in rating, such as age, marital status, sex, territory, driving record, and surcharges. Whenever possible, our rate level is based on these statistics and, if our own statistics are not credible, we then rely on industry wide statistical data. As you are probably aware, this statistical data fully supports the use of age, sex, marital status, territory and driving record as rating criteria. For example, this data clearly shows that loss costs and claims frequency are considerably higher for young single drivers than for older married drivers. In support of our position it is worthwhile to refer to a recent study by the California Department of Insurance. After numerous statewide hearings and extensive analysis of the situation, California's Insurance Commissioner recently announced his conclusions regarding territorial rating. It was his position that territorial rating is actuarially valid and constitutes a reasonable and credible rating criterion.

## Financial Indemnity Company

Page two  
February 14, 1980  
A.C.R. 29

We agree with the Insurance Department and believe that the removal of variables such as territory from the rating process would result in a subsidy program whereby those drivers who as a group have proven to be good risks will be paying (subsidizing) those drivers who as a group have proven to be poor risks.

Much of the recent concern with rating criteria appears to have arisen due to increased premium levels charged by insurance companies. However, revision of the rating criteria will not reduce the overall cost of insurance; it will merely reallocate such costs among consumers. It appears that the insurers' viewpoint regarding such costs is almost always 'lost in the muddle' of the discussions on rising insurance costs. Due to the extreme competitiveness of the insurance industry, we continually must strive to keep our expenses and profits as level as possible; however, we have little control over the medical and automobile repair bills received on losses.

In an effort to maintain a fair distribution of our company expense in processing policies we have implemented the flat dollar expense loading. Previously, we used a percentage of the premium to cover these expenses, and this resulted in an unfair apportionment of this expense to those insureds with higher premiums. We now use a flat dollar loading on premiums so everyone is paying the same amount regardless of their premium level.

Another very critical factor in the rising cost of insurance is the apparently unrealistic high monetary amounts awarded to insureds by the courts. When these awards are made, the attorneys involved are the true winners, not the insureds. The insurance company who has to pay passes this amount on to the loss costs and at the end all the insureds pay through their premiums.

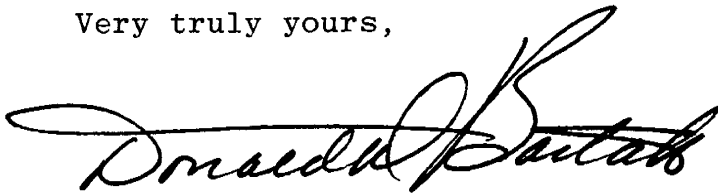
It would also help if Nevada Insurance Division Regulations were eased so more competitive pricing would exist. Currently, there is too much regulation placed upon the insurers when a rate adjustment is needed. The outside, uncontrollable factors mentioned above are not truly considered by the division when we require a rate change due to adverse loss trends.

**Financial Indemnity Company**

Page three  
February 14, 1980  
A.C.R. 29

We hope that our comments have been of help to you in your study. There are other factors involved, but these are the most pertinent. Thank you for your concern about our viewpoint and should you require anything further, please let me know.

Very truly yours,

A handwritten signature in cursive script, reading "Donald D. Bartak". The signature is written in dark ink and is positioned above the printed name and title.

Donald D. Bartak  
Vice President

DDB/py





AUGUST P. ALEGI  
Assistant Vice President

A Shareholder Owned Company  
Not Affiliated with the  
U.S. Government



# GOVERNMENT EMPLOYEES *Insurance Company*

GEICO PLAZA  
WASHINGTON, D.C. 20076

April 25, 1980

Mr. Donald A. Rhodes, Chief Deputy  
Research Director  
State of Nevada  
Legislative Counsel Bureau  
Legislative Building  
Capitol Complex  
Carson City, Nevada 89710

Dear Mr. Rhodes:

Mr. Byrne has asked me to reply to your letter of January 7, 1980 with respect to motor vehicle rates and rating practices. Additionally, Assembly Concurrent Resolution No. 29 also directs the Legislative Commission to study "possible changes in laws affecting recovery under the tort liability system...."

You indicate that your committee is focusing on alternatives to standard automobile pricing variables such as age, sex and marital status, as well as territory. You also indicate an interest in the use of insurance company expense components in rating plans.

We agree that the allocation of certain expense items as a percentage of premiums may not be the most efficient actuarial technique. Therefore, GEICO will adopt the "flat expense" theory in our next rate filing in Nevada.

Regarding classification variables, it is our strong opinion that the price for insurance must reflect the cost to produce the product. Any elimination of the present variables does not make automobile insurance more inexpensive, it only raises the price for good risks, while lowering the price for bad ones.

GEICO has recently been involved in successful litigation in Louisiana, Florida and Wyoming over this exact issue.

The Louisiana Court stated in its decision:

The conclusion that the use of age and sex in setting insurance rates is unfairly discriminatory is a manifestly erroneous conclusion and not supported by the evidence. Age and sex have been used in insurance

rating for sometime in Louisiana and virtually everywhere else as valid rating criteria. Markets have been generally maintained by matching premiums to expected losses in insurance. Those criteria meet the standards of definition, practicality and homogeneity. The criteria are rationally related to a legitimate state objective and although they create a degree of discrimination to a very isolated segment of those classes, they are not unfairly discriminatory, and shall be allowed to continue.

Additionally, on April 3, 1980, a Florida Administrative Hearing officer ruled, in an analogous case, that;

It is not necessary to determine the validity of the present rate classification plans of petitioners to determine from the facts presented in this case and set forth above, that partial use of sex, marital status, and scholastic achievement as rating factors in the formulation of private passenger automobile insurance rates can enhance the predictive accuracy of a rate classification plan and thus enhance the equitability of premiums. Thus, it has been established that the use of the criteria prohibited by the Rule does not necessarily result in unfair discrimination.

In our opinion, the people of Nevada could be assured of a viable, competitive and free market for automobile insurance if the legislature would enact an "open-competition" type of rating law, similar to those in effect in California and Colorado.

The only result of tampering with the present classification system would be the establishment of subsidies between classes of consumers, and a complete dislocation of the automobile insurance market, such as has taken place in Massachusetts.

An "open-competition" system would exert the pressures of the market place on automobile insurance rates to the benefit of all concerned.

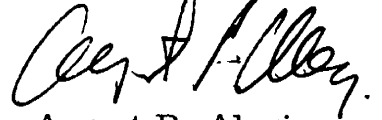
A.C.R. 29 also speaks to reform of the tort liability system. The legislatures of the states of Florida and New York have ameliorated the effect of inflation on automobile insurance rates by enacting strong "verbal" thresholds as integral parts of their no-fault laws.

The consumers of Florida actually saw their rates decrease as a result of the no-fault reform.

Mr. Donald A. Rhodes  
April 25, 1980  
Page 3

If you have any questions with respect to the above, or if you wish any further information, please advise.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Aug P. Alegi". The signature is fluid and cursive, with a large initial "A" and a long, sweeping underline.

August P. Alegi

APA:dc

cc: Assemblyman Robert E. Price  
Commissioner Donald Heath  
Mr. John J. Byrne



### APPENDIX C

Summary of legislation from the 1979 legislative session which affects motor vehicle insurance.



A.B. 108 (chapter 684,  
Statutes of Nevada 1979)

Requires that applications for motor vehicle registration and reregistration be accompanied by a statement from the insurer that mandatory insurance is in effect. Evidence of current insurance is to be carried in the vehicle. The act also provides penalties for violations. If a person operates or knowingly permits operation of a vehicle, without having evidence of current insurance in the vehicle, he is to be fined from \$100 to \$500. If he fails or refuses to surrender proof of security upon demand from a peace officer or representative of the department of motor vehicles, he is subject to the same fine. However, he may not be fined if he presents evidence to the court that the required security was in effect at the time demand was made for it. The act also makes very explicit the requirement that every owner of a motor vehicle requiring registration in this state must continuously provide security, through contract of insurance or qualification as a self-insurer, to cover liabilities arising from use or maintenance of the vehicle.

A.B. 255 (chapter 448,  
Statutes of Nevada 1979)

This bill relates to interest on judgments and increases the rate which applies when there is no express written contract, increases the rate on judgments to eight percent, and provides that interest on judgments runs from the service of the summons and complaint, except in certain circumstances.

A.B. 333 (chapter 629,  
Statutes of Nevada 1979)

Consolidates, clarifies and amends certain provisions relating to comparative negligence.

A.B. 617 (chapter 544,  
Statutes of Nevada 1979)

Specifies limit of recovery when two or more policies of casualty insurance are in effect. The bill says:

1. Any policy of insurance or endorsement providing coverage under the provisions of NRS 690B.020 or chapter 698 of NRS or other policy of casualty insurance may provide that if the insured has coverage available to him under more than one policy or provision of coverage, any recovery or benefits may equal but not exceed the higher of the applicable limits of the respective coverages, and the recovery or benefits must be prorated between the applicable coverages in the proportion that their respective limits bear to the aggregate of their limits. Any provisions which limits benefits pursuant to this section must be in clear language and be prominently displayed in the policy, binder or endorsement. Any limiting provision is void if the named insured has purchased separate coverage on the same risk and has paid a premium calculated for full reimbursement under that coverage.

2. Insurance companies doing business in this state must offer uninsured motorist coverage equal to the limits of bodily injury coverage sold to the individual policyholder. Uninsured motorist coverage must include a provision which enables the insured to recover any amount of damages for



A.B. 617 (chapter 544,  
(Statutes of Nevada 1979)  
continued

bodily injury from his insurer to which he is legally entitled but which exceeds the limits of the bodily injury coverage carried by the owner or operator of the other vehicle.

S.B. 313 (chapter 660,  
Statutes of Nevada 1979)

Repealed the Nevada Motor Vehicle Insurance Act as of January 1, 1980. Thus, after this date "no fault" motor vehicle insurance was no longer required in Nevada. However, liability insurance or "proof of financial responsibility" as a self-insurer is still required.



#### APPENDIX D

Definitions, taken from the Nevada Revised Statutes, of mutual, stock and reciprocal insurance companies.



680A.030 "Mutual" insurer defined. A "mutual" insurer is an incorporated insurer without capital stock and the governing body of which is elected by its policyholders. This definition shall not be deemed to exclude as "mutual" insurers certain foreign insurers found by the commissioner to be organized on the mutual plan under the laws of their states of domicile, but having temporary share capital or providing for election of the insurer's governing body on a reasonable basis.

(Added to NRS by 1971, 1576)

680A.040 "Reciprocal" insurer defined. A "reciprocal" insurer is an unincorporated aggregation of subscribers operating individually and collectively through an attorney-in-fact common to all such persons to provide reciprocal insurance among themselves.

(Added to NRS by 1971, 1576)

680A.050 "Stock" insurer defined. A "stock" insurer is an incorporated insurer with its capital divided into shares and owned by its stockholders.

(Added to NRS by 1971, 1576)



## APPENDIX E

Preliminary project outline and proposed survey questionnaire for the National Association of Insurance Commissioners Automobile Insurance Classification Study.





## NAIC RATES AND RATING PROCEDURES TASK FORCE

### Automobile Insurance Classification Study

#### I. Purpose

The purpose of the study is to gather classification and loss information for a sample of automobile drivers in order to study the usefulness and effectiveness of a number of traditional and alternative automobile insurance rating variables. The study was commissioned by a resolution of the National Association of Insurance Commissioners at its June 1979 national meeting.

#### II. Scope

The study will investigate both traditional automobile insurance rating variables, such as age, sex, marital status, and territory, as well as a number of possible alternative or additional variables. A listing of the variables is attached.

#### III. Methodology

The study proposes to make evaluations of the effectiveness of various rating characteristics by means of a "census survey" technique. Two random samples of approximately 10,000 individuals each will be established. One sample will be drawn from a population of insureds making property damage liability claims. The second sample will be drawn from the general policyholder population. For each group, all individuals will be surveyed to determine their status or responses for the various classification variables under study. By comparing relative distributions of characteristics between the two samples, the study will be able to develop conclusions regarding the effectiveness of different variables as accident predictors.

#### IV. Proposed Study States

The study will involve policyholders in several representative states. Within each state, it is hoped that the state insurance commissioner will take actions to publicly endorse the survey activities. States tentatively targeted for the study include Connecticut, California, Florida and Illinois.

#### V. Participating Companies

The study plans to collect the necessary information through voluntary participation of major insurance companies, which will provide data from policyholder records or from direct survey contacts with policyholders. Depending on the number of companies agreeing to participate, each company will be asked to provide complete data results for survey populations of 500 to 1,000 individuals for each of the two proposed samples.

VI. Pilot Project

In order to test survey methodology and to establish survey response rates, the study will also involve a small pilot project intended to make approximately several hundred (total) survey contacts. This pilot project would be completed prior to the start of the main study effort.

VII. Project Timetable

The deadline established in the NAIC resolution for completion of the total project is June 1981. In order to meet this timetable, the study would require that the policyholder and claimant surveys both be completed by mid - 1980.

## RATING PROCEDURE TASK FORCE

### Proposed Study Variables

1. NAIC Company Code
2. Driver age
3. Driver Sex
4. Driver Marital Status
5. Years of Driving Experience
6. Five-Year Accident Record
7. Three-Year Violation Record
8. Length of Most Recent Claim-Free Period
9. State of Residence
10. Driver License Number
11. Number of Persons in Household
12. Number of Licensed Drivers in Household
13. Number of Vehicles in Household
14. Number of Years Insured (Household) with Present Insurer
15. Vehicle Use
16. Average Daily Vehicle Mileage
17. Number of Days Per Week Used
18. Territory of Garaging
19. Territory of Destination (Commuters)
20. Annual Vehicle Mileage
21. Odometer Reading
22. Vehicle Age
23. Vehicle Symbol Code
24. Vehicle Ownership (Rated or Non-Rated Driver)
25. Territory of Accident (Claims)
26. Driver in Accident (Claims)

NAIC RATING PROCEDURES TASK FORCE CLASSIFICATION QUESTIONNAIRE

1. NAIC Company Code \_\_\_\_\_
2. Policy Number \_\_\_\_\_
3. Claim Number (if applicable) \_\_\_\_\_

DRIVER CHARACTERISTICS (for each of up to 4 drivers  
covered under the policy)

---

A. First Rated (or Principal) Driver

4A. Driver's Age (years) \_\_\_\_\_

5A. Driver's Sex M F

6A. Driver's Marital Status (check one)

Single, Never Married \_\_\_\_\_  
Married \_\_\_\_\_  
Separated or Divorced \_\_\_\_\_  
Widowed \_\_\_\_\_

7A. Years of Driving Experience (years licensed) \_\_\_\_\_

8A. Number of At-Fault Accidents, previous 5 years \_\_\_\_\_

9A. Violation Record, previous 3 years

- Number of Major Violations \_\_\_\_\_  
- Number of Minor Violations \_\_\_\_\_

10A. Length of Time (up to 5 years) Without ...

- At-Fault Accidents (years) \_\_\_\_\_  
- Violations (years) \_\_\_\_\_

11A. State of Residence \_\_\_\_\_

12A. Driver License Number \_\_\_\_\_

B. Second Rated (or Principal) Driver

- 4B. Driver's Age (years) \_\_\_\_\_
- 5B. Driver's Sex M F
- 6B. Driver's Marital Status (check one)
- Single, Never Married \_\_\_\_\_
- Married \_\_\_\_\_
- Separated or Divorced \_\_\_\_\_
- Widowed \_\_\_\_\_
- 7B. Years of Driving Experience (years licensed) \_\_\_\_\_
- 8B. Number of At-Fault Accidents, previous 5 years \_\_\_\_\_
- 9B. Violation Record, previous 3 years
- Number of Major Violations \_\_\_\_\_
- Number of Minor Violations \_\_\_\_\_
- 10B. Length of Time (up to 5 years) Without...
- At-Fault Accidents (years) \_\_\_\_\_
- Violations (years) \_\_\_\_\_
- 11B. State of Residence \_\_\_\_\_
- 12B. Driver License Number \_\_\_\_\_

C. Third Rated (or Principal) Driver

- 4C. Driver's Age (years) \_\_\_\_\_
- 5C. Driver's Sex M F
- 6C. Driver's Marital Status (check one)
- Single, Never Married \_\_\_\_\_
- Married \_\_\_\_\_
- Separated or Divorced \_\_\_\_\_
- Widowed \_\_\_\_\_
- 7C. Years of Driving Experience (years licensed) \_\_\_\_\_
- 8C. Number of At-Fault Accidents, previous 5 years \_\_\_\_\_

9C. Violation Record, previous 3 years

- Number of Major Violations \_\_\_\_\_
- Number of Minor Violations \_\_\_\_\_

10C. Length of Time (up to 5 years) Without...

- At-Fault Accidents (years) \_\_\_\_\_
- Violations (years) \_\_\_\_\_

11C. State of Residence \_\_\_\_\_

12C. Driver License Number \_\_\_\_\_

D. Fourth Rated (or Principal) Driver

4D. Driver's Age (years) \_\_\_\_\_

5D. Driver's Sex

M F

6D. Driver's Marital Status (check one)

- Single, Never Married \_\_\_\_\_
- Married \_\_\_\_\_
- Separated or Divorced \_\_\_\_\_
- Widowed \_\_\_\_\_

7D. Years of Driving Experience (years licensed) \_\_\_\_\_

8D. Number of At-Fault Accidents, previous 5 years \_\_\_\_\_

9D. Violation Record, previous 3 years

- Number of Major Violations \_\_\_\_\_
- Number of Minor Violations \_\_\_\_\_

10D. Length of Time (up to 5 years) Without...

- At-Fault Accidents (years) \_\_\_\_\_
- Violations (years) \_\_\_\_\_

11D. State of Residence \_\_\_\_\_

12D. Driver License Number \_\_\_\_\_

Household Characteristics

13. Number of Persons in Household \_\_\_\_\_

14. Number of Licensed Drivers in Household \_\_\_\_\_

15. Number of Vehicles in Household \_\_\_\_\_

16. Number of years (up to 5) Household has been  
Insured with this Company \_\_\_\_\_

Vehicle Characteristics

17. Vehicle Use (check one)

Non-Commuter Use \_\_\_\_\_  
Commuter Use \_\_\_\_\_  
Business Use \_\_\_\_\_  
Farm Use \_\_\_\_\_

18. If Non-Farm Use, Average Daily Mileage \_\_\_\_\_

19. Usual Number of Days Per Week Used \_\_\_\_\_

20. Place of Garaging (ISO Statistical  
Territory Code) \_\_\_\_\_

21. If Commuter Use, Usual Destination of  
Commute (IS) Statistical Territory Code) \_\_\_\_\_

22. Estimated Annual Mileage (check one)

Under 5,000 \_\_\_\_\_  
5,000 - 10,000 \_\_\_\_\_  
10,000 - 15,000 \_\_\_\_\_  
15,000 - 20,000 \_\_\_\_\_  
over 20,000 \_\_\_\_\_

23. Current Odometer Reading \_\_\_\_\_

24. Is Rated Driver Also Vehicle Owner? Yes No

25. Vehicle Age (model year) \_\_\_\_\_

Claim Information (if applicable)

26. Was the Rated Driver Operating the Vehicle  
at the Time of the Accident? Yes No

27. Where Did Claim Occur (check one)?

Territory of Garaging \_\_\_\_\_  
Territory of Destination (Commuter  
Use) \_\_\_\_\_  
Other \_\_\_\_\_

# POTENTIAL STUDY PARTICIPANTS

	<u>Response</u>
Farmers Insurance Group	Yes
Interins Exchange Auto Club of SH California	Yes
California State Auto Association Inti Bureau	Yes
United Services Auto Association Group	Yes
Firemans Fund Insurance Group	None
Safeco Insurance Company Group	Possibly
Twentieth Century Insurance Company	Yes
Transamerica Insurance Group	Yes
Kemper Insurance Companies Group	None
Continental Insurance Group	None
Liberty Mutual Group	Possibly
Hartford Fire Group	None
Prudential of America Group	None
Nationwide Group	No
Metropolitan Property & Liability Group	No
United States Fidelity Group	Yes
Home Insurance Company Group	None
Government Employees Group	Yes
Florida Farm Bureau Group	Yes
Auto Owners Insurance Group	No
Ohio Casualty Group	None
Sentry Insurance and Mutual Company Group	Yes
Country Mutual of Illinois Group	Yes
American Family of Wisconsin Group	None
American States Group	No
Colonial Penn Group	Yes
Travelers Indemnity Company Group	None
Aetna Life and Casualty Group	Yes
Allstate Insurance Companies Group	Yes
State Farm Group	Yes



**APPENDIX F**

**Chart showing driving under the influence  
penalties in the states.**



PENALTIES FOR DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS

Traffic Laws Annotated 11.902(c)

UVC	-----First Conviction-----					Within Yrs. of Prior Conviction	-----Second or Subsequent Conviction-----					(or more)
	10 days to	1 yr.	&/or	\$100 to	\$1000		90 days to	1 yr.	&	-	to \$1000	
Alabama	-	1	X	100	1000	-	-	1	&/or	100	1000	-
Alaska	-	1	X	-	1000	5	3-days mand.	-	-	-	-	-
Arizona*	10	6 mos.	&/or	100	300	2	20	6 mos.	&/or	150	300	-
Arkansas*	1	30 days	&	50	500	1	-	1	X	250	1000	-
California*	2	6 mos.	&/or	250	500	5	2	1	&	250	1000	-
Colorado*	10	1	&/or	100	1000	5	90	1 mand.	X	100	1000	-
Connecticut*	-	6 mos.	X	150	500	-	60	1	-	-	-	-
Delaware	60	6 mos.	X	200	1000	5	60	1 1/2	X	500	2000	-
Florida*	-	6 mos.	X	25	500	3	10	6 mos.	X	-	500	-
Georgia*	-	-	-	-	-	3	-	15 days	-	-	-	-
Hawaii	-	1	X	-	1000	-	-	-	-	-	-	-
Idaho*	-	6 mos.	X	-	300	-	-	5	-	-	-	-
Illinois	2	1	X	100	1000	5	90	1	X	-	1000	-
Indiana*	5	6 mos.	X	25	500	3	5	1	X	250	1000	-
Iowa*	-	1	X	300	1000	-	-	1	&/or	500	1000	-
Kansas	-	1	X	100	500	-	90	1	X	-	500	-
Kentucky*	-	-	-	100	500	-	-	6 mos.	X	100	500	-
Louisiana*	30	6 mos.	X	125	400	5	125	6 mos.	X	125	500	-
Maine	-	90 days	&/or	-	1000	-	24 hours	6 mos. mand.	&	250	2500	-
Maryland*	-	1	X	-	1000	-	-	2	X	-	1000	-
Massachusetts	14	2	X	35	1000	-	-	-	-	-	-	-
Michigan*	-	90 days	X	50	100	-	-	1	X	-	1000	-
Minnesota*	10	90 days	or	10	100	3	10	90 days	-	-	-	-
Mississippi*	10	1	X	100	1000	-	-	-	-	-	-	-
Missouri*	-	3 mos.	X	-	50	3	7 days	6 mos.	-	-	-	-
Montana*	-	6 mos.	X	100	500	-	10	6 mos.	X	300	500	-

Nebaska	-	1 mos.	X	-	100	-	5	3 mos.	X	-	300
Nevada*	-	-	-	-	-	3	10	6 mos.	4/or	100	500
New Hampshire*	Deletet penalties from drunk driving laws. Criminal code provides a penalty of up to 1 yr. in jail and/or \$1000.										
New Jersey*	30	1 mos.	X	200	500	-	3 mos.	-	-	-	-
New Mexico	30	90 days	X	100	200	-	90	1	X	-	1000
New York*	-	1	X	-	500	10	60	2	4/or	200	2000
North Carolina*	30	6 mos.	X	100	500	-	2 mos.	6 mos.	4/or	200	500
North Dakota*	3	30 days	4/or	-	100	1 1/2	3	30 days	X	150	500
Ohio	3 mand.	6 mos.	4/or	-	1000	-	-	-	-	-	-
Oklahoma	10	1	4	100	300	-	1 yr.	5	X	300	500
Oregon	-	1	X	-	1000	-	-	-	-	-	-
Pennsylvania*	-	1	X	100	-	-	-	-	-	-	-
Rhode Island*	-	1	X	-	500	-	-	-	-	-	-
South Carolina*	10	30 days	or	50	100	10	1	-	4/or	1000	-
South Dakota	-	90 days	4/or	-	300	-	30	6 mos.	4/or	100	500
Tennessee*	2	1	4	10	500	-	5	1	X	25	750
Texas*	3	2	4	50	500	-	10	2	4/or	100	5000
Utah*	30	6 mos.	4/or	100	299	-	-	-	-	-	-
Vermont*	-	1	4/or	-	125	-	-	-	-	-	-
Virginia*	30	6 mos.	X	200	1000	10	1 mo.	1	X	200	1000
Washington*	5	1	4	50	500	5	30	1	4	100	1000
West Virginia*	1	6 mos.	4	50	500	5	6 mos.	1	-	-	-
Wisconsin*	-	-	X	-	-	5	5	-	X	-	500
Wyoming	-	30 days	X	-	100	-	-	60 days	4/or	-	200
District of Columbia	-	6 mos.	4/or	-	500	-	-	1	4/or	-	1000

\*See Appendix

## APPENDIX G

### Suggested Legislation

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SUMMARY--Urges judges to impose suitable penalties for traffic violations. (BDR 8)

CONCURRENT RESOLUTION--Urging judges of the courts of Nevada to impose suitable penalties for violations of traffic laws.

WHEREAS, The people of Nevada are the victims of many need-less traffic accidents which are the results of violations of traffic laws; and

WHEREAS, Those who are not directly injured by accidents are required to pay premiums for automobile insurance which are inordinately high; and

WHEREAS, Police agencies are not enforcing traffic laws to the fullest; prosecutors are not bringing cases, or are bargaining with defendants for pleas of guilty to lesser offenses; and judges are not imposing penalties which would encourage potential violators to observe traffic laws; and

WHEREAS, Strict and impartial enforcement of traffic laws would encourage obedience by drivers, which would result in fewer accidents and injuries and in less waste through property damage, and finally in lower rates for motor vehicle insurance; now, therefore, be it

RESOLVED BY THE                      OF THE STATE OF NEVADA, THE  
CONCURRING, That the district judges, justices of the peace

and municipal or police judges of Nevada are urged to mete out sentences for violations of traffic laws which adequately reflect the seriousness of the offense; and be it further

RESOLVED, That district attorneys and city attorneys are urged to charge each violator with the traffic offense which he has committed and not with any lesser offense, and to prosecute each such offense as fully as possible; and be it further

RESOLVED, That police agencies which are charged with the enforcement of traffic laws are urged to enforce those laws for the protection of all of the people who are on or near Nevada's highways.



SUMMARY--Prescribes duties for commissioner of insurance.  
(BDR 57-9)

Fiscal Note: Effect on Local Government: No.  
Effect on the State or on Industrial  
Insurance: Yes.

AN ACT relating to insurance; prescribing duties for the commissioner of insurance; providing for the production and distribution of certain aids for purchasers of automobile insurance; 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 686B of NRS is hereby amended by adding thereto a new section which shall read as follows:

The commissioner shall adopt regulations which establish uniform territories for use in setting rates for insurance which covers vehicles registered or garaged in Nevada.

Sec. 2. NRS 686B.050 is hereby amended to read as follows:

686B.050 1. Rates [shall] must not be excessive, inadequate or unfairly discriminatory, nor [shall] may an insurer charge any rate which if continued will have or tend to have the effect of destroying competition or creating a monopoly.

2. Rates are [presumed not to be excessive if a reasonable degree of price competition exists at the consumer level with respect to the class of business to which they apply. In

determining whether a reasonable degree of price competition exists, the commissioner shall consider all relevant tests, including:

(a) The number of insurers actively engaged in the class of business and their market shares;

(b) The existence of rate differentials in that class of business;

(c) Whether long-run profitability for insurers generally of the class of business is unreasonably high in relation to its riskiness; and

(d) Consumer knowledge in regard to the market in question.

If such competition does not exist, rates are] excessive if they are likely to produce a long-run profit that is unreasonably high in relation to the riskiness of the class of business, or if expenses are unreasonably high in relation to the services rendered.

3. Rates are inadequate if they are clearly insufficient, together with the investment income attributable to them, to sustain projected losses and expenses in the class of business to which they apply.

4. One rate is unfairly discriminatory in relation to another in the same class if it clearly fails to reflect equitably the differences in expected losses and expenses.

Rates are not unfairly discriminatory because different premiums result for policyholders with like loss exposures but different expense factors, or like expense factors but different loss exposures, so long as the rates reflect the differences with reasonable accuracy. Rates are not unfairly discriminatory if they are averaged broadly among persons insured under a group, franchise or blanket policy.

5. The commissioner shall deny any increase in a rate for automobile insurance if the rate is not based on:

- (a) A reasonable system of classification;
- (b) Sound actuarial principles; and
- (c) Relevant and credible statistics relating to losses, including experience and other data which are reasonably related to the prediction of losses.

6. In determining whether rates for automobile insurance are excessive or inadequate, the commissioner shall consider income from the investment of unearned premium reserves and loss reserves, and may consider this factor with respect to other kinds of insurance.

Sec. 3. Chapter 690B of NRS is hereby amended by adding thereto a new section which shall read as follows:

The commissioner shall:

- 1. Publish a guide to prices of automobile insurance which contains:

(a) Comparisons of costs for insurance purchased from the five most expensive and five least expensive insurers, using the most common coverages as a basis for comparison;

(b) Data relating to complaints received from insured persons and the coverages to which the complaints pertained;

(c) Ratings of the manner in which insurers settle claims;  
and

(d) Other information which the commissioner deems appropriate.

2. Maintain the guide to prices by republishing it with revised information as often as necessary and at least once in each quarter, and deliver it to the department of motor vehicles.

3. Publish a guide for the purchase of automobile insurance, including information on coverages, provisions, exclusions and other information which the commissioner deems appropriate for the instruction of purchasers of automobile insurance. The commissioner shall provide for the distribution of the guide, at no cost to the users, through the department of motor vehicles, county assessors and schools and in courthouses, libraries and other public places.

Sec. 4. Chapter 482 of NRS is hereby amended by adding thereto a new section which shall read as follows:

The department shall include with each application form for renewal of registration which it mails a copy of the latest

guide to prices of automobile insurance provided by the com-  
missioner of insurance.



SUMMARY--Imposes duties on insurers in relation to rates and coverage for motor vehicle insurance. (BDR 57-10)  
Fiscal Note: Effect on Local Government: No.  
Effect on the State or on Industrial Insurance: No.

AN ACT relating to motor vehicle insurance; providing for duties of insurers relating to rates and coverage; 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 687B.145 is hereby amended to read as follows:

687B.145 1. Any policy of insurance or endorsement providing coverage under the provisions of NRS 690B.020 [or chapter 698 of NRS] or other policy of casualty insurance may provide that if the insured has coverage available to him under more than one policy or provision of coverage, any recovery or benefits may equal but not exceed the higher of the applicable limits of the respective coverages, and the recovery or benefits must be prorated between the applicable coverages in the proportion that their respective limits bear to the aggregate of their limits. Any provision which limits benefits pursuant to this section must be in clear language and be prominently displayed in the policy, binder or endorsement. Any limiting provision is void if the named insured has purchased separate coverage on

the same risk and has paid a premium calculated for full reimbursement under that coverage.

2. Insurance companies doing business in this state must offer uninsured motorist coverage equal to the limits of bodily injury coverage sold to the individual policyholder. Uninsured motorist coverage must include a provision which enables the insured to recover any amount of damages for bodily injury from his insurer to which he is legally entitled but which exceeds the limits of the bodily injury coverage carried by the owner or operator of the other vehicle [.] , up to the limits of the uninsured motorist coverage carried by the insured.

Sec. 2. Chapter 690B of NRS is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this act.

Sec. 3. 1. No insurer may refuse to insure any eligible person under a policy of motor vehicle insurance, refuse to continue to provide such coverage or limit the coverage available because the person:

- (a) Is of a certain age, sex or marital status;
- (b) Engages in a certain occupation;
- (c) Lives in a certain area or because of the duration of his residence;
- (d) Does not have motor vehicle insurance in force at the time application is made;



(e) Drives a certain distance to and from his place of employment, or drives a certain number of miles in any given period;

(f) Is or is not the principal operator of the vehicle, owns a certain number of vehicles to be insured or has a certain number of licensed drivers in his household; or

(g) Has applied for any particular limits of coverage.

2. This section does not limit the weight to be given to any of these factors in computing a reasonable rate which reflects the exposure of the eligible person to loss.

Sec. 4. 1. Each insurer shall file a list of the criteria which it uses in underwriting risks for coverage under policies of motor vehicle insurance, and an explanation of those criteria, with each schedule of rates for motor vehicle insurance which it files with the commissioner.

2. The commissioner may adopt regulations prescribing the form in which the information required by this section must be filed.

Sec. 5. The criteria for underwriting risks for coverage under policies of motor vehicle insurance, and explanations of those criteria, which apply to schedules of rates in effect on the date of passage and approval of this act must be filed with the commissioner on or before July 1, 1981.

Sec. 6. 1. Sections 4 and 5 of this act shall become effective upon passage and approval.

2. The remaining sections of this act shall become effective on July 1, 1981.

SUMMARY--Limits disclosure of information by insurers, agents and organizations which support the business of insurance. (BDR 57-11)

Fiscal Note: Effect on Local Government: No.  
Effect on the State or on Industrial Insurance: No.

AN ACT relating to the business of insurance; providing limitations on the disclosure of personal information about certain persons; prescribing procedures for obtaining information and for correcting, amending and deleting personal information; providing penalties; 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 680A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 26, inclusive, of this act.

Sec. 2. As used in sections 2 to 26, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 11, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 3. "Adverse underwriting decision" means:

1. A declination of coverage under a policy of insurance;
2. A termination of coverage under a policy of insurance;
3. A failure on the part of an agent to apply for coverage with a specific insurer which the agent represents and which has been requested by the applicant;

4. Action by an agent to obtain insurance through an assigned risk plan or any other mechanism for obtaining insurance for substandard or marginal risks;

5. With respect to life, health or disability insurance, an offer to insure at higher than standard rates; or

6. With respect to property or casualty insurance, the charging of a higher rate of premium based on information which differs from that which the applicant or policyholder furnished.

Sec. 4. "Affiliate" means a person who directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with another.

Sec. 5. "Agent" means a person who is required to be licensed pursuant to chapter 683A of NRS.

Sec. 6. "Applicant" means any person who seeks to contract for coverage under a policy of insurance, other than a person who is seeking coverage under a policy of group insurance which is not underwritten on an individual basis.

Sec. 7. "Investigation" means the gathering of information and the report which contains the information about the character, general reputation, personal characteristics and habits of a natural person, obtained by means of interviews with neighbors, friends, associates and acquaintances of the subject of the investigation, and with others who may have knowledge of him.

Sec. 8. "Medical information" means personal information which relates to physical or mental condition, medical history or medical treatment, and which is obtained from a provider of health care, or the subject of the information or his spouse, parent or legal guardian.

Sec. 9. "Personal information" means any information gathered in connection with an insurance transaction, by which the subject of the information may be identified, from which a judgment can be made about character, habits, avocations, finances, occupation, general reputation, credit, health or other personal characteristics. The term includes medical information but not privileged information.

Sec. 10. "Privileged information" means any information, by which the subject of the information may be identified, which is related to and collected in connection with or in reasonable anticipation of a claim or a civil or criminal proceeding involving the subject of the information.

Sec. 11. "Supporting organization" means any person, other than an agent, provider of health care, agency of government or insurer, who regularly engages in the practice of assembling or evaluating information about natural persons for the primary purpose of providing the information or evaluation to an insurer or agent to assist the insurer or agent in conducting the business of insurance, including:

1. Conducting investigations and providing the information obtained to insurers and agents; and

2. Collecting personal information from insurers, agents and other supporting organizations for the purpose of detecting or preventing fraud or the misrepresentation or failure to disclose material facts in connection with the underwriting of insurance or the administration of claims.

Sec. 12. 1. Each insurer or agent shall provide a notice of its practices with regard to personal information to each applicant and policyholder in connection with each:

(a) Application for insurance;

(b) Renewal of a policy;

(c) Reinstatement of a policy; and

(d) Request for a change in benefits under a policy.

2. The notice must be in writing and must state:

(a) Whether personal information may be collected from persons other than the person proposed for coverage.

(b) The types of personal information which may be collected and the types of sources and techniques of investigation which may be used to collect the information.

(c) The persons who may receive personal information without prior authorization obtained pursuant to section 19 of this act.

(d) The types of personal information which may be disclosed without prior authorization.

(e) Which items of information, if any, are being collected solely for marketing, research or other purposes not directly related to the transaction.

(f) That the applicant or policyholder has a right of access to and correction and amendment of the personal information.

(g) That information received from a supporting organization may be retained by the organization and disclosed to persons other than the insurer.

(h) That upon request a person who has been proposed for coverage may obtain:

(1) A description of procedures by which he can obtain access to and correction of personal information; and

(2) A description of the circumstances under which personal information may be disclosed without prior authorization obtained pursuant to section 19 of this act.

3. The notice required by this section may be provided by an insurer or agent who is authorized to act on behalf of another insurer or agent, and if it is so provided, the requirement of the insurer or agent on whose behalf the notice is given shall be deemed to have given the notice.

Sec. 13. A notice required by section 12 of this act which relates to:

1. An application for insurance must be given no later than:  
(a) The delivery of the policy or certificate, if personal information has been and is to be collected only from the applicant.

(b) At the time the collection of personal information is begun, if the information is intended to be collected from any person other than the applicant.

2. Renewal of a policy must be given no later than the date of the renewal. No notice is required if:

(a) Notice has been given within 24 months before the date of the renewal; and

(b) Personal information has been and is to be collected only from the policyholder.

3. Reinstatement of a policy or a change in benefits under a policy must be given no later than the time at which the request for the reinstatement or change is received by the insurer. No notice is required if personal information has been and is to be collected only from the policyholder.

4. A policy of property or casualty insurance must be given within 3 business days after the coverage is bound, whether the notice relates to an application, renewal, reinstatement or change in benefits.



Sec. 14. Each person who is proposed for coverage by a policy of insurance and who requests information relating to his right to access to and correction of personal information must be informed of:

1. The procedures by which he may:

(a) Gain access to recorded personal information collected about him by an insurer, agent or supporting organization; and

(b) Correct, amend, delete or dispute recorded personal information.

2. The circumstances under which personal information may be disclosed without prior authorization obtained pursuant to section 19 of this act.

Sec. 15. 1. An insurer, agent or supporting organization may not conduct an investigation or request that an investigation be conducted by any other person in connection with an application for insurance, renewal of a policy, reinstatement of a policy or a change in the benefits under a policy unless the insurer, agent or organization informs the person who is to be the subject of the investigation:

(a) That he may request to be interviewed in connection with the investigation; and

(b) That if no interview is conducted and he makes a proper request, he is entitled to receive a copy of the report of the investigation.

2. If an investigation is to be conducted by an insurer or agent, the insurer or agent shall make reasonable attempts to conduct an interview if it is requested by the subject of the investigation.

3. An insurer or agent who has requested that a supporting organization conduct an investigation shall inform the organization of any request for an interview which it has received from the subject of the investigation. The supporting organization shall make reasonable attempts to conduct an interview upon receiving notice of a request from the insurer or agent.

Sec. 16. 1. Except as provided in subsection 2, an insurer, agent or supporting organization shall not use or authorize the use of interviews whereby a person, in an attempt to obtain information about any other person:

- (a) Pretends to be someone he is not;
- (b) Pretends to represent a person he does not actually represent;
- (c) Misrepresents the true purpose of the interview; or
- (d) Refuses to identify himself if requested to do so.

2. An insurer, agent or supporting organization may undertake an interview of a type prohibited by subsection 1 if:

- (a) The interview is undertaken for the purpose of obtaining information relating to the investigation of a claim, and there

is a reasonable basis for suspecting that the claim involves fraud, or misrepresentation or concealment of a material fact; and

(b) The person from whom the information is sought to be obtained does not have a privileged relationship with the person to whom the information relates.

Sec. 17. No insurer, agent or supporting organization may seek information about any person which concerns any:

1. Adverse underwriting decision made against the person in connection with an insurance transaction in which the person was an applicant, policyholder or proposed for coverage; or

2. Previous insurance which the person obtained through an assigned risk plan or similar mechanism designed to provide insurance to substandard or marginal risks,  
unless the inquiry also requests the reasons for the adverse underwriting decision or the reasons that the insurance had to be obtained through an assigned risk plan or similar mechanism.

Sec. 18. An insurer, agent or supporting organization shall not disclose any personal or privileged information which was collected or received in connection with an insurance transaction unless the disclosure is made:

1. With the written authorization of the subject of the information or his legal representative, and the authorization was obtained pursuant to section 19 of this act.

2. To a person other than an insurer, agent or supporting organization to enable the recipient to perform a business, professional or insurance function for the disclosing insurer, agent or supporting organization, if:

(a) The information is reasonably necessary for the recipient to perform its function for the disclosing insurer, agent or supporting organization; and

(b) The recipient has agreed not to disclose personal or privileged information without the written authorization of the subject of the information or his legal representative, or the disclosure would be permitted by this section if made by an insurer, agent or supporting organization.

3. To an insurer, agent, supporting organization or self-insurer if the information is reasonably necessary:

(a) To detect or prevent fraud or the misrepresentation of or failure to disclose a material fact in connection with an insurance transaction; or

(b) To enable the disclosing or receiving insurer, agent, supporting organization or self-insurer to perform a function in connection with an insurance transaction which involves the subject of the information.

4. To a provider of health care for the purpose of informing the subject of the information of an injury or illness of which the person may not be aware.

5. To an agency of government which has among its duties the regulation of the business of insurance.

6. To a law enforcement agency or regulatory agency if the insurer, agent or supporting organization reasonably believes that the information contains evidence of illegal activities by the subject of the information.

7. In response to an order of a court, valid subpoena, warrant or otherwise as required by law.

8. For the purpose of research, including actuarial and underwriting studies, management audits, financial audits or evaluations of programs, if no person is individually identified in the report of the research, evaluation or audit, or in any other information released by the persons conducting the research, evaluation or audit.

9. To a party to a proposed or completed sale, transfer, merger or consolidation of all or part of the business of an insurer, agent or supporting organization if:

(a) Before the completion of the sale, transfer, merger or consolidation, only the information which is reasonably necessary to permit the recipient to make business decisions about the purchase, transfer, merger or consolidation; and

(b) The recipient agrees not to disclose the information

unless the disclosure would be otherwise permitted under this section if made by an insurer, agent or supporting organization.

10. To a person whose only use of the information will be in connection with the marketing of a service, if:

(a) The information disclosed does not include any medical information or any privileged or personal information relating to character, personal habits or general reputation, and no classification which has been derived from these types of information is disclosed;

(b) The subject of the information has been given an opportunity to indicate that he does or does not want personal information disclosed for the purposes of marketing, and has not indicated that he does not want the information disclosed for those purposes; and

(c) The recipient uses the information only in connection with the marketing of a product or service.

This subsection does not limit the disclosure of a complete list of names and addresses of persons insured by an insurer or through an agent.

11. To an affiliate for the purpose of marketing insurance or a related service, if the affiliate has agreed not to disclose the information for any other purpose or to any person other than an affiliate.

12. By a supporting organization pursuant to the Federal Fair Credit Reporting Act, 15 U.S.C. 1861(c), if:

(a) The primary sources of information of the organization are persons other than insurers or agents; and

(b) The disclosure is to a person other than an insurer or agent.

Sec. 19. 1. An insurer, agent or supporting organization shall not ask, require or induce any person to execute any form or statement which authorizes or purports to authorize the disclosure of personal or privileged information about himself or another unless the form or statement:

(a) Is written in plain language, dated and contains an expiration date;

(b) Specifies the classes of persons to whom the information may be disclosed and the purposes for which the information may be used by those persons;

(c) Specifies the nature of the information which may be disclosed pursuant to the form or statement; and

(d) Contains a statement advising the person who signs the form or statement that he is entitled to receive a copy of the form or statement.

2. The expiration date of an authorization to disclose personal information executed pursuant to this section must be:

(a) No more than 30 months after the date on which the form or statement was executed, if it is in connection with an application for insurance, a reinstatement of a policy or a request for a change in benefits under a policy of life, health or disability insurance.

(b) No more than 1 year after the date on which the form or statement was executed, if it is in connection with an application for a policy of property or casualty insurance.

(c) The date on which the claim ends, if the form or statement was executed in connection with a claim for benefits under a policy of insurance.

Sec. 20. 1. Any insurer, agent or supporting organization which receives a written request for personal information from any person which contains proper identification of the person making the request as the subject of the information or his legal representative and which sufficiently identifies the information sought shall, if the information is reasonably accessible, within 30 days after receiving the request:

(a) Inform the person who has made the request of the nature and substance of any recorded information in writing, in person or by telephone.

(b) Permit the person to see and to copy the personal information which pertains to him or to a person whom he represents,



or to obtain a copy of the information by mail, whichever the person prefers. If the information is in a coded form, the insurer, agent or supporting organization shall provide an accurate translation in plain language.

(c) Disclose to the person the identity, if it is recorded, of the persons to whom the information has been disclosed within the 2 years preceding the request. If the identity of the persons who have received the information is not recorded, the insurer, agent or supporting organization shall provide the names of those insurers, agents, supporting organizations and other persons to whom the information is normally disclosed.

(d) Provide a summary of the procedures by which the person may request correction, amendment or deletion of personal information from the records of the insurer, agent or supporting organization.

2. Any personal information which was obtained from a source other than interviews with relatives or acquaintances of the subject of the information must be accompanied by the source of the information, and the source must be disclosed to a person who has made a proper request.

3. The insurer, agent or supporting organization may charge a reasonable fee for providing personal information from its

records, except that no fee may be charged for information which is required to be provided by section 23 or 24 of this act.

4. An insurer, agent or supporting organization may arrange with a supporting organization to copy and disclose personal information on its behalf.

5. Nothing in this section extends any right to any person to obtain information which relates to and is collected in connection with or in reasonable anticipation of a claim or a civil or criminal proceeding which involves that person or a person he represents.

Sec. 21. 1. Each insurer, agent or supporting organization which receives a request from a person to correct, amend or delete any item of personal information which it has recorded shall within 30 days after receiving the request:

(a) Correct, amend or delete the information as requested;  
or

(b) Notify the person who has made the request of its refusal to do so, the reasons for the refusal, and that the person has a right to file a supplementary statement as provided in subsection 3.

2. If the insurer, agent or supporting organization corrects, amends or deletes the information as requested, it shall notify:

(a) The person who has requested the correction, amendment or deletion;

(b) Any person whom the requester has specifically named in his request;

(c) Any supporting organization, if the organization has received similar information on a systematic basis within the 7 years preceding the date of the correction, amendment or deletion, unless the supporting organization is not maintaining information about the person; and

(d) Any supporting organization which furnished the personal information which has been corrected, amended or deleted.

3. If the insurer, agent or supporting organization refuses to comply with the request, it shall permit the person who made the request to file a concise statement:

(a) Setting forth his contention that the information is incorrect or incomplete, and the information which he submits as correct, relevant or fair; and

(b) Stating the reasons which he assigns for his disagreement with the refusal of the insurer, agent or supporting organization to correct, amend or delete the information.

4. If a statement has been filed pursuant to subsection 3 of this section, the insurer, agent or supporting organization shall:

(a) File the statement with the disputed information and ensure that any person who reviews the disputed information will be made aware of the statement and have access to it;

(b) Include the statement in any disclosure of the information to which it applies; and

(c) Furnish the statement to any person whom it would have been required to notify if it had made the correction, amendment or deletion as originally requested.

5. Nothing in this section extends any right to correct, amend or delete information which relates to and is collected in connection with or in reasonable anticipation of a claim or a civil or criminal proceeding which involves the subject of the information.

Sec. 22. 1. Except as provided in subsection 2, an insurer or agent shall not base an adverse underwriting decision on:

(a) A previous adverse underwriting decision, or on the fact that a person has previously obtained insurance through an assigned risk plan or similar mechanism designed to provide insurance for substandard or marginal risks; or

(b) Information received from a supporting organization which obtains its information primarily from insurers.

2. An insurer or agent may base an adverse underwriting decision on:

(a) Information obtained from an insurer or agent which made an adverse underwriting decision, whether or not the information was sought because the insurer or agent had knowledge of the previous adverse decision.

(b) Further personal information obtained as a result of information received from a supporting organization.

For purposes of this subsection, "further personal information" includes a statement by an insurer that its underwriting file contains the identity of the source of the information supplied by the supporting organization, that the information is medical information or personal information furnished by the subject of the information, and that the insurer confirms the accuracy of the information supplied to it.

Sec. 23. 1. If an insurer or agent makes an adverse underwriting decision, it shall provide the applicant, policyholder or person proposed for coverage with:

(a) Specific reasons for the decision in writing, or a notice that he may make a written request for the reasons and receive them in writing if the request is made within 90 days after the date of the notice; and

(b) A summary of the rights established pursuant to sections 20 and 21 of this act and subsection 2 of this section.

2. An insurer or agent who receives a written request within 90 days after giving notice of an adverse underwriting decision shall furnish, in writing, within 21 days after receiving the request:

(a) The specific reason or reasons for the adverse underwriting decision if the information was not furnished in writing with the notice of the decision;

(b) Any items of personal information which support the decision, except that privileged information need not be disclosed if the applicant, policyholder or person proposed for coverage is suspected of fraud or of misrepresenting or concealing a material fact; and

(c) The names and addresses of sources other than the relatives or acquaintances of the applicant, policyholder or person proposed for coverage which supplied the information on which the adverse underwriting decision was based.

3. A duty imposed by this section may be satisfied by an insurer, agent or supporting organization on behalf of the insurer or agent who is obligated to perform the duty.

4. An explanation of reasons and summary of rights required by this section may be given orally if the information on which the adverse underwriting decision was based resulted solely from an oral request or inquiry made by the insurer or agent.

Sec. 24. Each insurer or agent who is responsible for:

1. The termination of an individual policy because the policyholder is part of a class, whether the class is state-wide, nationwide or established on another basis;

2. Declining coverage under a policy of insurance because the coverage is not available to applicants or policyholders who are members of a class to which the applicant or policyholder belongs, whether the class is statewide, nationwide or established on another basis;

3. Rescinding a policy of insurance; or

4. With respect to property or casualty insurance, the placement of the coverage with an insurer other than one which accepts preferred or standard risks, shall provide the applicant or policyholder with the specific reason or reasons for the action.

Sec. 25. A person, other than the subject of information or his legal representative, who has received information from an insurer, agent or supporting organization, whether pursuant to sections 2 to 26, inclusive, of this act or in violation of the provisions of those sections, shall not further disclose any of the information to a person who is not legally entitled to receive it.

Sec. 26. Any person who knowingly or willfully obtains information from an insurer, agent or supporting organization under false pretenses is guilty of a gross misdemeanor.

Sec. 27. The rights extended to any person pursuant to sections 18, 20 and 21 of this act apply to all information collected on, before or after July 1, 1981.



SUMMARY--Increases penalties for driving while under influence of intoxicating liquor or controlled substance.  
(BDR 43-13)

Fiscal Note: Effect on Local Government: No.  
Effect on the State or on Industrial Insurance: No.

AN ACT relating to traffic laws; increasing the penalties for driving while under the influence of intoxicating liquor or a controlled substance; providing for certain mandatory penalties; 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 484.379 is hereby amended to read as follows:

484.379 1. It is unlawful for any person who is under the influence of intoxicating liquor to drive or be in actual physical control of a vehicle within this state.

2. It is unlawful for any person who is an habitual user of or under the influence of any controlled substance or any person who inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any chemical, poison or organic solvent, to a degree which renders him incapable of safely driving or steering a vehicle to drive or steer a vehicle within this state. The fact that any person charged with a violation of this subsection is or has been entitled to use such drug under the laws of this

state [shall] does not constitute a defense against any charge of violating this subsection.

3. Any person who violates the provisions of this section [is guilty of a misdemeanor and such] shall be punished by a fine of \$500 and may be further punished by imprisonment in the county or city jail for not more than 6 months. The person's license to operate a vehicle in this state may, by the decision of the court, be suspended by the department of motor vehicles for a period of not less than 30 days nor more than 1 year.

4. Upon a subsequent conviction within 3 years, the person so convicted shall be punished by confinement in the county or [municipal] city jail for not less than [10] 2 days, nor more than 6 months [or] and by a fine of [not more than \$500 or by both such fine and imprisonment.] \$500.

5. [No judge or justice of the peace in imposing sentences provided for in this section shall suspend the same or any part thereof.

6.] Any term of confinement imposed under the provisions of subsection [4] 3 may be served intermittently at the discretion of the judge or justice of the peace. This discretion [shall] must be exercised after considering all the circumstances surrounding the offense, and the family and employment situation

of the person convicted. However, the full term of confinement [shall] must be served within a 6-month period from the date of conviction, and any segment of time the person is confined [shall] must not consist of less than a 24-hour period.

[7.] 6. Jail sentences simultaneously imposed under this section, and NRS 483.560 or 485.330, [shall] must run consecutively.



SUMMARY--Increases statutory rate for interest on judgments from 8 to 12 percent. (BDR 2-14)

Fiscal Note: Effect on Local Government: No.  
Effect on the State or on Industrial Insurance: No.

AN ACT relating to judgments; increasing the statutory rate for interest on judgments from 8 to 12 percent; 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 17.130 is hereby amended to read as follows:

17.130 1. In all judgments and decrees, rendered by any court of justice, for any debt, damages or costs, and in all executions issued thereon, the amount [shall] must be computed, as near as may be, in dollars and cents, rejecting smaller fractions, and no judgment, or other proceedings, may be considered erroneous for that omission.

2. When no rate of interest is provided by contract or otherwise by law, or specified in the judgment, the judgment draws interest at the rate of [8] 12 percent per annum from the time of service of the summons and complaint until satisfied, except for any amount representing future damages, which draws interest at that rate only from the time of the entry of the judgment until satisfied.