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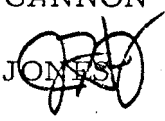
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THE WHITE HOUSE  
WASHINGTON

May 5, 1975

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: JAMES M. CANNON  
FROM: JERRY H. JONES   
SUBJECT: No-Fault Automobile Insurance

Your memorandum to the President of May 2, 1975, on the above subject has been reviewed and the following decisions made:

On Issue #1, "Should the Federal Government mandate State Governments to adopt mandatory automobile insurance coverage using a no-fault system?", Option 2 was approved -- continue to favor State action and oppose Federal no-fault legislation.

On Issue #2, "If you decide to support some Federal involvement in no-fault automobile insurance, what approach do you favor?", both Options 1 and 2 were disapproved.

Please follow-up with the appropriate action.

Thank you.


cc: Donald Rumsfeld

THE WHITE HOUSE

WASHINGTON

ACTION

May 2, 1975

MEMORANDUM FOR: THE PRESIDENT  
FROM: JIM CANNON   
SUBJECT: NO-FAULT AUTOMOBILE INSURANCE

Secretary Coleman is scheduled to testify on no-fault automobile insurance on Monday, May 5.

The purpose of this memorandum is to seek your guidance on this issue.

Background

At the consumer meeting in April, you asked me where we stood on the no-fault automobile insurance issue.

Jim Lynn has prepared a memo discussing the issue (Tab A).

Issues and Options

Two basic issues are presented:

Issue #1 Should the Federal Government mandate State Governments to adopt mandatory automobile insurance coverage using a no-fault system?

Arguments for:

- . The only way in which the remaining States that do not now have mandatory coverage and a no-fault system will adopt such a system is through Federal mandate.
- . There are likely to be significant dollar savings to the consumers through the adoption of a no-fault system.

- . The establishment of uniform minimum Federal standards will ease the administrative burdens imposed on insurers by virtue of the current patchwork quilt of differing State laws and will simplify recoveries by insureds.

Arguments against:

- . Insurance regulation, automobile and drivers registration, enforcement of traffic laws and court adjudication of automobile-related disputes have traditionally been a responsibility of the States. Federal legislation establishing minimum standards for no-fault would encroach upon State responsibility and run counter to your philosophy relating to the decentralization of government.
- . Sixteen States now have a no-fault system covering 42 percent of all licensed drivers. Nine other States have adopted "add-on" laws which provide some form of no-fault coverage. Most States not now having no-fault will consider no-fault proposals this year. If California adopts a no-fault law, over 50 percent of the Nation's licensed drivers will be covered by no-fault.
- . The National Governors Conference opposes the adoption of national no-fault or mandated standards for automobile insurance.

Options

1. Support Federal minimum no-fault standards.

Those favoring this option include Secretary Coleman, Secretary Hills, Virginia Knauer and Jim Lynn.

2. Continue to favor State action and oppose Federal no-fault legislation.

Those favoring this option include the Attorney General, Phil Buchen and Jim Cannon, and Bill Seidman.

Recommendation

I recommend you select option 2.

Decision

Option 1 \_\_\_\_\_ (Coleman, Hills, Knauer, Lynn)

Option 2 MC1 (Attorney General, Buchen, Cannon)

Issue #2 If you decide to support some Federal involvement in no-fault automobile insurance, what approach do you favor?

Options

There are essentially two alternatives being actively considered.

1. Alternative One

The Magnuson-Hart Bill (S.354). This sets minimum no-fault standards, and each State must pass laws conforming to these standards. If the Secretary of DOT determines that the State does not meet the standards, the Federal law automatically pre-empts the State insurance laws.

Arguments for:

- . This is the bill which passed the Senate last year. It is the stronger of the two alternatives and has very strong labor support. (The unions see no-fault as a future bargaining objective as part of a package of employer-financed coverage.)

Arguments against:

- . This involves the most direct Federal involvement and could well lead to an increased Federal role in the future (e.g., in setting rates or coverage requirements). The Attorney General questions the constitutionality of requiring the States to administer a Federal insurance law if they fail to adopt a similar one of their own.

## 2. Alternative Two

Amended S.354 (Kemper Plan) provides that the Governor of each State must certify to the Secretary of DOT that his State law meets the Federal no-fault standard. If the Secretary questions the certification, he must submit the issue to the courts, which would then determine whether or not the State law conformed with the Federal standards. If the court determines that the State law does conform, there would be no further Federal role. If the court determines that the State law does not conform, the Secretary must (no discretion) withhold Federal highway funds from that State.

### Arguments for:

- . Limits Executive Branch involvement to essentially a passive role and, therefore, the Federal role is less likely to increase in the future.

### Arguments against:

- . Will likely be opposed by highway program advocates. Gives the courts responsibility for determining whether complex State insurance laws conform to Federal standards.

Decision (If you decide to support some Federal no-fault law)

Option 1 Support Magnuson-Hart Bill (S.354).

Those favoring this option include Secretary Coleman and Virginia Knauer.

Approve \_\_\_\_\_

Disapprove NR 9

Option 2 Support highway fund cut-off approach.

Those favoring this option include the Attorney General, Phil Buchen, Jim Lynn.

Approve \_\_\_\_\_

Disapprove NR 9

A



# EXECUTIVE OFFICE OF THE PRESIDENT

## OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

MAY 1 1975

ACTION

MEMORANDUM FOR: THE PRESIDENT

FROM: JAMES T. LYNN

SUBJECT: Federal No-fault Motor Vehicle Insurance

The question is again raised whether the Administration should support legislation (Magnuson-Hart) to mandate no-fault insurance with minimum Federal standards prescribing benefits. DOT is scheduled to testify May 5.

Since 1971, the Administration has opposed Federal no-fault legislation. It has endorsed the concept of no-fault but has recommended that action be left to the states. At present, 25 states have some form of no fault (although the laws of nine of these states do not eliminate the tort remedy).

The advantages of no-fault over the traditional tort liability system are substantial. If the Magnuson-Hart standards were legislated, total annual savings could exceed \$2 billion, reflected to some extent in lower insurance premium rates. Moreover, insurance benefits would be distributed more equitably. Federal no-fault supporters include consumer groups, some insurance carriers (e.g., Aetna, State Farm, Kemper), and labor unions (e.g., UAW and Teamsters). Labor foresees group no-fault auto insurance as the next logical employer-financed fringe benefit for their members. Attachment I summarizes the benefits derived under no-fault.

Opponents of no-fault argue variously that Federal intervention is unnecessary and inappropriate and that liability based on negligence is sound policy. The opponents question the need for Federal intervention given that almost 1/3 of the states now have laws which contain some level of tort restriction and are serving as testing grounds for determining the impact of no-fault on the public. Other questions are raised concerning the efficacy and equity of the no-fault concept. The opponents include state insurance commissioners, the American Bar Association, the National Governors Conference, and some insurers (e.g., Allstate). Attachment II lists the objections to the no-fault concept which have been raised.

The nature and extent of the benefits from no-fault depend of course on the precise standards adopted. The legislative process at the state level has sometimes produced benefit standards that promise few net savings to consumers. The uncertainties of the Federal



legislative process could produce a similar result, particularly if certain interest groups such as lawyers shifted their approach from outright opposition to seeking amendments.

The Magnuson-Hart bill passed the Senate last year 53-42. Most of the opposition was based upon hostility to Federal intervention in the regulation of insurance.

Tip O'Neill is publicly committed to bring a bill to the House floor. The Democratic caucus has singled out no-fault as a high priority and the House Interstate and Foreign Commerce Subcommittee (Van Deerlin) will be holding hearings in June and July.

The Attorney General has questioned the constitutionality of the Magnuson-Hart bill's requirement that a state-administered Federal plan take effect if states failed to enact laws meeting specific minimum standards. Most of your advisors favor securing state action by using a Federal-aid highway grant withholding penalty for noncompliance. DOT does not see a constitutional problem with S. 354 and opposes the grant withholding penalty method.

OPTION A: Support the Magnuson-Hart bill with certain amendments such as providing for implementation through withholding Federal-aid highway funds.

OPTION B: Continue to oppose Federal no-fault in favor of state action. Reassess if House begins to move on legislation containing minimum benefits standards that assure substantial net savings.

### Decision

Option A: Support Federal minimum standards no-fault \_\_\_\_\_

Favoring Option A are DOT, HUD, the Office of Consumer Affairs, and OMB.

Option B: Continue to favor state action but oppose Federal no-fault legislation \_\_\_\_\_

In favor of Option B is Justice.

### List of Attachments:

- I - Summary of Benefits of No-fault
- II - Objections to No-fault
- III - Minimum Standards of S. 354 (Hart-Magnuson)
- IV - State Legislation and Experience
- V - Description of first-year experience with Michigan's No-fault law



Summary of Benefits of  
Proposed No-fault Legislation

Under no-fault motor vehicle insurance every vehicle owner is required to obtain first party insurance coverage up to certain minimum benefit levels. Individuals are free to obtain greater protection levels if they wish. The right to sue for damages incurred under a specific dollar threshold is eliminated. Premium costs under no-fault in part depend on the level of benefits established.

In 1971 DOT released a study of automobile insurance which pointed to a number of deficiencies in the present tort liability system. It found the present tort arrangement to be slow, inefficient and inequitable.

I. The following benefits identified by the DOT study have been consistently confirmed by state experience:

States which have had significant no-fault laws for several years have had sizeable declines in premium costs, depending upon the tort thresholds and benefit levels set. The higher the level of benefits the better the insurance coverage. However, premiums also rise in relation to benefits. For example, Massachusetts has realized a 60% premium savings, but has a low guaranteed benefits level (\$2,000 for economic losses), while New York, which has realized a 19% savings in its first year, has a \$50,000 benefit guarantee. (See Attachment IV for more details.)

No-fault eliminates a large portion of the attorneys' fees and claims adjustor costs and permits a greater percentage premium return in the form of benefits than at present. Experts estimate an immediate 50% efficiency gain (from the present 44% return to premiums into benefits to a 65-70% return) is realized.

The DOT study found that as the extent of victims' economic losses and injuries grow, the amount of recovery received under the tort system declined (e.g., 55% of those seriously injured in auto accidents, or the families of those killed, receive no recovery under the tort system). Conversely, those with low losses actually are over compensated (those with economic losses under \$500 receive 4-1/2 times their loss). No-fault rectifies this situation by requiring all to have insurance covering them up to specific benefit levels (e.g., \$50,000 of medical expenses). Thus every citizen involved in motor vehicle accidents would be guaranteed recovery of losses up to basic levels. The over-recovery of damages would be curtailed because intangible losses under specific limits would be denied and "nuisance" payments by insurers (to avoid administrative and legal costs) to those threatening to file suit for small claims would be eliminated.

By eliminating lengthy legal delays and requiring prompt payment, the slowness of the current process would be eliminated (over 40% of all claims now take longer than six months to settle).

High-risk drivers and those pedestrians and bicyclists not belonging to insured-driver families receive better coverage as follows: 1) Motorists who cannot get insurance are now placed in assigned risk plans in many states, where they are randomly assigned to insurers and are charged high premiums. These persons include many who are looked upon by society in a somewhat negative light, and/or are perceived by insurers as being poor prospective defendants in a court trial (e.g., those obviously affluent, divorcees). No-fault has diminished the number of people placed in this category (since most trials are eliminated) and reduced their premiums (since how they appear to a jury becomes irrelevant). 2) Those pedestrians and others who are accident victims but who do not belong to an insured-driver's family receive compensation under no-fault from a fund especially established for this purpose and paid for by the premiums of all insured drivers.

## II. The following arguments have also been put forth on behalf of no-fault:

The threshold and liability removal aspects of no-fault mean it is much more conducive to group sales and mass marketing techniques than the present system. The inherent overhead cost savings of these techniques should translate into lower premiums. (Intermediary agents now average 12% commissions.)

A beneficial result of requiring all motorists to have insurance is that the present burden to society which uninsured accident victims now often become would be eliminated.

Although experience has been limited and influenced by such factors as the gas shortage and the 55 m.p.h. speed limit, no-fault does not seem to adversely impact safe driving habits. The accident rates in Puerto Rico and Massachusetts, the jurisdictions with the longest no-fault experience, have declined under no-fault in amounts similar to comparable jurisdictions without no-fault.

Rural states have had satisfactory experiences with no-fault. Rural inhabitants of mixed urban-rural states have experienced premium reductions, although smaller than their urban counterparts.



Objections to Federal No-fault

## I. Objections raised concerning federally mandated no-fault are:

The Attorney General has questioned the advisability of any Federal no-fault bill and the constitutionality of S. 354, which seeks to compel the states to act as sovereigns and use their distinctively governmental powers to administer a federally-enacted program rather than having states lose Federal funds or have the Federal Government administer its own plan. S. 354 may broach the Tenth Amendment's guarantee of state sovereignty.

Federal no-fault is an incursion into state responsibility. Under the 1946 McCarron-Ferguson Act, each state is charged with responsibility for regulating insurance within its jurisdiction. The states are already experimenting with a variety of no-fault plans, and that makes Federal intervention even less desirable at this moment.

The states are enacting substantive no-fault laws at an acceptable rate, rendering Federal action unnecessary. Considering the 16 states with some tort action threshold, six of these passed their laws in 1973, four last year and three thus far this year. Chances are good for passage in 1-3 more states in 1975.

Federally-imposed benefits may be in excess of what some states need or want. Medical costs, wage rates, accident frequency and other factors vary from state to state and therefore benefit levels should be allowed to vary also.

## II. Objections to the no-fault concept which have been raised are:

Elimination of the right to sue deprives people of a basic right and lets the negligent driver go "unpunished".

No-fault may cause unfair premium payment redistributions. No-fault can require some persons to pay more for their insurance, as in the case of high income persons who wish protection against the loss of their income and can no longer look to the tort system for recovery. The first year's experience with New York no-fault showed that high risk drivers have received larger premium reductions than low-risk drivers. Certain other classes, e.g. large commercial truck operations, may benefit disproportionately due to their propensity to be involved in accidents and/or be damaged.

For those individuals without auto insurance in the approximately 12 states which do not require it, costs would rise because of the mandatory self-coverage requirement.

Some small insurance companies which deal only in auto insurance may have their businesses adversely affected since the larger concerns are likely to write most uniform group coverage plans. Experience with state no-fault thus far has been inconclusive in this regard.

III



Minimum Benefit Standards in S.354

1. Medical and rehabilitation expenses without any limit.
2. Loss of income benefits subject to \$15,000 over all limit with a maximum weekly benefit of \$1,000.
3. Funeral expenses up to \$1,000.
4. Survivors loss subject to reasonable limitations set by each state.
5. The Federal Standard would abolish tort liability except for uncompensated economic loss (excluding deductible, waiting periods) intentional injury, general damages (non-economic) in cases where the accident resulted in death, serious and permanent disfigurement or injury or more than 90 days of continuous total disability.



Status of State Action on No-Fault Auto Insurance

Sixteen states, plus Puerto Rico, have enacted no-fault automobile insurance laws that meet the tough definition adopted by the Department of Transportation.

To qualify under the Department's definition of no-fault, the state law must have two essential elements: (1) the substitution (not simply the addition of) "first party, no-fault"\* insurance for third party liability insurance; (2) some significant degree of restriction on tort recovery.

The following have such a law:

Puerto Rico	(1969)
Massachusetts	(1970)
Florida	(1971)
New Jersey	(1972)
Michigan	(1972)
Connecticut	(1972)
New York	(1973)
Utah	(1973)
Kansas	(1973)
Nevada	(1973)
Hawaii	(1973)
Colorado	(1973)
Georgia	(1974)
Minnesota	(1974)
Kentucky	(1974)
Pennsylvania	(1974)
North Dakota	(1975)

There are, however, vast differences among the laws adopted in the above states in terms of benefit levels, tort threshold and other factors.

These laws cover over 42% of all licensed drivers and will rise to well over 50% if California passes a no-fault law. However, only the Michigan law (covering 5.7% of drivers) conforms with all the standards in the DOT proposed federal law.

Nine other states have adopted auto insurance reform, which are sometimes called "no-fault". In some cases, these plans require that first party insurance be carried by drivers in addition to

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\* "First party" means that there should be a contractual relationship between the victim and his insurer as to the kind and amount of benefits to be received. "No-fault" means that the loss is not to be shifted by inter-insurer subrogation according to the existing loss transfer rules of tort liability.

liability insurance and in other cases the law simply provides that no-fault be offered to the driver at his option. None of the plans restrict the right to sue and in most cases there is no restriction against the victim collecting from both his own first party insurance and the party at fault by suing in court. The following states fall into this category:

Delaware	(1971)
Oregon	(1971)
South Dakota	(1971)
Maryland	(1972)
Virginia	(1972)
Wisconsin	(1972)
Arkansas	(1973)
Texas	(1973)
South Carolina	(1974)

### Outlook

Every State legislature has had no-fault reform before it at least once. Illinois enacted a no-fault law in 1971, but that was later declared unconstitutional. A no-fault law was passed by the legislature in New Hampshire but was vetoed by the Governor.

Most states not having no-fault will consider proposals during this year's legislative session. Maine and North Carolina may pass no-fault laws this year but it is not likely that they will meet the DOT standards.

California is the key state in terms of the number of licensed drivers covered and there is likelihood that action by California would set a trend. Many other western states would be likely to follow California's lead if action is taken. Due to a change in the leadership in the California legislature the no-fault bills are moving slowly but nevertheless there is movement and considerable behind the scenes activity. No one can predict when California will act but the prospects for action this year are good.



Description of First-Year Experience with Michigan's No-Fault Law

(Excerpts from a paper prepared by the Michigan Association of Insurance Companies for the Michigan Legislature)

- The provision of unlimited no-fault medical and rehabilitation benefits (similar to S. 354) has been a dramatic improvement over the fault system, especially for the seriously injured. In the first year of no-fault, more than 135,000 persons were injured and 1,800 killed in Michigan as a result of motor vehicle accidents. In all of these injuries and deaths all medical and hospital costs plus income loss benefits have been paid, except to the extent that other benefits (e.g. health care, social security) were involved. Under the fault system about half of those injured would have been able to collect from someone else.
- Michigan motorists have had considerable premium cost savings, although the actual cost effect of the law cannot be established because of the uncertainties regarding whether or not the law will be upheld under the state's constitution and the resulting reluctance by companies to completely adjust premiums to no-fault.
- Those drivers with smaller income loss exposure (e.g. young drivers, those with low incomes and retirees) enjoyed larger than average premium reductions.
- Some motorists who have been in accidents and have been prevented from suing negligent drivers have reacted angrily to the no-fault law.

## NO FAULT

Conservatives see federal no-fault as encroachment on states responsibilities. Half the states have already enacted no-fault laws.

Senate opponents of no-fault are among the best hard core supporters of the President on most legislative issues.

Nineteen committee chairmen and ranking Republicans voted against no-fault legislation last fall:

Baker *	Allen
Brock	Bentsen
Bartlett	Byrd (Va)
Buckley	Chiles
Curtis *	Church
Dole *	Eagleton
Domenici	Eastland *
Fannin *	Hartke *
Goldwater *	Hollings
Hansen *	Huddleston
Helms	Johnston
Hruska *	Long *
McClure	McClellan *
Scott (Va)	McGovern
Thurmond *	Montoya
Tower *	Nunn
Young *	Randolph *
Bellmon *	Sparkman *
	Stennis *
	Talmadge *

\* Chairmen or ranking Republicans

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Law -  
Doing  
work on  
No Fault -  
Send to  
Comments  
to the all  
for inclusion  
in their paper.



## THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: May 1, 1975

Time: 6:00 p.m.

FOR ACTION: Phil Buchen  
Jim Cannon—  
Robert T. Hartmann  
Jack Marsh  
Bill Seidman—*to send copy*

~~cc (for information):~~  
Alan Greenspan

FROM THE STAFF SECRETARY

DUE: Date: Friday, May 2, 1975

Time: noon

SUBJECT:

Lynn memo (5/1/75) re: Federal No-  
Fault Motor Vehicle Insurance

## ACTION REQUESTED:

☐ For Necessary Action☒ For Your Recommendations☐ Prepare Agenda and Brief☐ Draft Reply☒ For Your Comments☐ Draft Remarks

## REMARKS:

5/2 w/P

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Jerry H. Jones  
Staff Secretary

THE WHITE HOUSE

WASHINGTON

ACTION

May 2, 1975

MEMORANDUM FOR: THE PRESIDENT  
FROM: JIM CANNON *Jim*  
SUBJECT: NO-FAULT AUTOMOBILE INSURANCE

Secretary Coleman is scheduled to testify on no-fault automobile insurance on Monday, May 5.

The purpose of this memorandum is to seek your guidance on this issue.

Background

At the consumer meeting in April, you asked me where we stood on the no-fault automobile insurance issue.

Jim Lynn has prepared a memo discussing the issue (Tab A).

Issues and Options

Two basic issues are presented:

Issue #1 Should the Federal Government mandate State Governments to adopt mandatory automobile insurance coverage using a no-fault system?

Arguments for:

- The only way in which the remaining States that do not now have mandatory coverage and a no-fault system will adopt such a system is through Federal mandate.
- There are likely to be significant dollar savings to the consumers through the adoption of a no-fault system.

- . The establishment of uniform minimum Federal standards will ease the administrative burdens imposed on insurers by virtue of the current patchwork quilt of differing State laws and will simplify recoveries by insureds.

Arguments against:

- . Insurance regulation, automobile and drivers registration, enforcement of traffic laws and court adjudication of automobile-related disputes have traditionally been a responsibility of the States. Federal legislation establishing minimum standards for no-fault would encroach upon State responsibility and run counter to your philosophy relating to the decentralization of government.
- . Sixteen States now have a no-fault system covering 42 percent of all licensed drivers. Nine other States have adopted "add-on" laws which provide some form of no-fault coverage. Most States not now having no-fault will consider no-fault proposals this year. If California adopts a no-fault law, over 50 percent of the Nation's licensed drivers will be covered by no-fault.
- . The National Governors Conference opposes the adoption of national no-fault or mandated standards for automobile insurance.

Options

1. Support Federal minimum no-fault standards.

Those favoring this option include Secretary Coleman, Secretary Hills, Virginia Knauer and Jim Lynn.

2. Continue to favor State action and oppose Federal no-fault legislation.

Those favoring this option include the Attorney General, Phil Buchen and Jim Cannon, and Bill Seidman.

## Recommendation

I recommend you select option 2.

## Decision

Option 1 \_\_\_\_\_ (Coleman, Hills, Knauer, Lynn)

Option 2 \_\_\_\_\_ (Attorney General, Buchen, Cannon)

## Issue #2

If you decide to support some Federal involvement in no-fault automobile insurance, what approach do you favor?

## Options

There are essentially two alternatives being actively considered.

### 1. Alternative One

The Magnuson-Hart Bill (S.354). This sets minimum no-fault standards, and each State must pass laws conforming to these standards. If the Secretary of DOT determines that the State does not meet the standards, the Federal law automatically pre-empts the State insurance laws.

### Arguments for:

- . This is the bill which passed the Senate last year. It is the stronger of the two alternatives and has very strong labor support. (The unions see no-fault as a future bargaining objective as part of a package of employer-financed coverage.)

### Arguments against:

- . This involves the most direct Federal involvement and could well lead to an increased Federal role in the future (e.g., in setting rates or coverage requirements). The Attorney General questions the constitutionality of requiring the States to administer a Federal insurance law if they fail to adopt a similar one of their own.

## 2. Alternative Two

Amended S.354 (Kemper Plan) provides that the Governor of each State must certify to the Secretary of DOT that his State law meets the Federal no-fault standard. If the Secretary questions the certification, he must submit the issue to the courts, which would then determine whether or not the State law conformed with the Federal standards. If the court determines that the State law does conform, there would be no further Federal role. If the court determines that the State law does not conform, the Secretary must (no discretion) withhold Federal highway funds from that State.

### Arguments for:

- . Limits Executive Branch involvement to essentially a passive role and, therefore, the Federal role is less likely to increase in the future.

### Arguments against:

- . Will likely be opposed by highway program advocates. Gives the courts responsibility for determining whether complex State insurance laws conform to Federal standards.

Decision (If you decide to support some Federal no-fault law)

Option 1 Support Magnuson-Hart Bill (S.354):

Those favoring this option include Secretary Coleman and Virginia Knauer.

Approve \_\_\_\_\_

Disapprove \_\_\_\_\_

Option 2 Support highway fund cut-off approach.

Those favoring this option include the Attorney General, Phil Buchen, Jim Lynn.

Approve \_\_\_\_\_

Disapprove \_\_\_\_\_

THE CHAIRMAN OF THE  
COUNCIL OF ECONOMIC ADVISERS  
WASHINGTON

May 2, 1975

MEMORANDUM FOR JERRY JONES

RE: Federal No-Fault Motor Vehicle Insurance

Essentially this issue involves matters and choices about which the Council of Economic Advisers has little to say. We do see some merit, however, in the Justice Department's reservations regarding the proper role of the Federal government in this matter.

  
Alan Greenspan



## THE WHITE HOUSE

5/2/75

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: May 1, 1975

Time: 6:00 p.m.

FOR ACTION: Phil Buchen  
Jim Cannon  
Robert T. Hartmann  
Jack Marsh  
Bill Seidman  
FROM THE STAFF SECRETARY

~~cc (for information)~~  
Alan Greenspan

AP  
Comments by  
noon?  
JWD

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Time: noon

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Jerry H. Jones  
Staff Secretary



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

MAY 1 1975

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FROM: JAMES T. LYNN

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Since 1971, the Administration has opposed Federal no-fault legislation. It has endorsed the concept of no-fault but has recommended that action be left to the states. At present, 25 states have some form of no fault (although the laws of nine of these states do not eliminate the tort remedy).

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OPTION A: Support the Magnuson-Hart bill with certain amendments such as providing for implementation through withholding Federal-aid highway funds.

OPTION B: Continue to oppose Federal no-fault in favor of state action. Reassess if House begins to move on legislation containing minimum benefits standards that assure substantial net savings.

### Decision

Option A: Support Federal minimum standards no-fault \_\_\_\_\_

Favoring Option A are DOT, HUD, the Office of Consumer Affairs, and OMB.

Option B: Continue to favor state action but oppose Federal no-fault legislation \_\_\_\_\_

In favor of Option B is Justice.

### List of Attachments:

- I - Summary of Benefits of No-fault
- II - Objections to No-fault
- III - Minimum Standards of S. 354 (Hart-Magnuson)
- IV - State Legislation and Experience
- V - Description of first-year experience with Michigan's No-fault law

Summary of Benefits of  
Proposed No-fault Legislation

Under no-fault motor vehicle insurance every vehicle owner is required to obtain first party insurance coverage up to certain minimum benefit levels. Individuals are free to obtain greater protection levels if they wish. The right to sue for damages incurred under a specific dollar threshold is eliminated. Premium costs under no-fault in part depend on the level of benefits established.

In 1971 DOT released a study of automobile insurance which pointed to a number of deficiencies in the present tort liability system. It found the present tort arrangement to be slow, inefficient and inequitable.

I. The following benefits identified by the DOT study have been consistently confirmed by state experience:

States which have had significant no-fault laws for several years have had sizeable declines in premium costs, depending upon the tort thresholds and benefit levels set. The higher the level of benefits the better the insurance coverage. However, premiums also rise in relation to benefits. For example, Massachusetts has realized a 60% premium savings, but has a low guaranteed benefits level (\$2,000 for economic losses), while New York, which has realized a 19% savings in its first year, has a \$50,000 benefit guarantee. (See Attachment IV for more details.)

No-fault eliminates a large portion of the attorneys' fees and claims adjustor costs and permits a greater percentage premium return in the form of benefits than at present. Experts estimate an immediate 50% efficiency gain (from the present 44% return to premiums into benefits to a 65-70% return) is realized.

The DOT study found that as the extent of victims' economic losses and injuries grow, the amount of recovery received under the tort system declined (e.g., 55% of those seriously injured in auto accidents, or the families of those killed, receive no recovery under the tort system). Conversely, those with low losses actually are over compensated (those with economic losses under \$500 receive 4-1/2 times their loss). No-fault rectifies this situation by requiring all to have insurance covering them up to specific benefit levels (e.g., \$50,000 of medical expenses). Thus every citizen involved in motor vehicle accidents would be guaranteed recovery of losses up to basic levels. The over-recovery of damages would be curtailed because intangible losses under specific limits would be denied and "nuisance" payments by insurers (to avoid administrative and legal costs) to those threatening to file suit for small claims would be eliminated.

By eliminating lengthy legal delays and requiring prompt payment, the slowness of the current process would be eliminated (over 40% of all claims now take longer than six months to settle).

High-risk drivers and those pedestrians and bicyclists not belonging to insured-driver families receive better coverage as follows: 1) Motorists who cannot get insurance are now placed in assigned risk plans in many states, where they are randomly assigned to insurers and are charged high premiums. These persons include many who are looked upon by society in a somewhat negative light, and/or are perceived by insurers as being poor prospective defendants in a court trial (e.g., those obviously affluent, divorcees). No-fault has diminished the number of people placed in this category (since most trials are eliminated) and reduced their premiums (since how they appear to a jury becomes irrelevant). 2) Those pedestrians and others who are accident victims but who do not belong to an insured-driver's family receive compensation under no-fault from a fund especially established for this purpose and paid for by the premiums of all insured drivers.

## II. The following arguments have also been put forth on behalf of no-fault:

The threshold and liability removal aspects of no-fault mean it is much more conducive to group sales and mass marketing techniques than the present system. The inherent overhead cost savings of these techniques should translate into lower premiums. (Intermediary agents now average 12% commissions.)

A beneficial result of requiring all motorists to have insurance is that the present burden to society which uninsured accident victims now often become would be eliminated.

Although experience has been limited and influenced by such factors as the gas shortage and the 55 m.p.h. speed limit, no-fault does not seem to adversely impact safe driving habits. The accident rates in Puerto Rico and Massachusetts, the jurisdictions with the longest no-fault experience, have declined under no-fault in amounts similar to comparable jurisdictions without no-fault.

Rural states have had satisfactory experiences with no-fault. Rural inhabitants of mixed urban-rural states have experienced premium reductions, although smaller than their urban counterparts.

Objections to Federal No-fault

## I. Objections raised concerning federally mandated no-fault are:

The Attorney General has questioned the advisability of any Federal no-fault bill and the constitutionality of S. 354, which seeks to compel the states to act as sovereigns and use their distinctively governmental powers to administer a federally-enacted program rather than having states lose Federal funds or have the Federal Government administer its own plan. S. 354 may broach the Tenth Amendment's guarantee of state sovereignty.

Federal no-fault is an incursion into state responsibility. Under the 1946 McCarron-Ferguson Act, each state is charged with responsibility for regulating insurance within its jurisdiction. The states are already experimenting with a variety of no-fault plans, and that makes Federal intervention even less desirable at this moment.

The states are enacting substantive no-fault laws at an acceptable rate, rendering Federal action unnecessary. Considering the 16 states with some tort action threshold, six of these passed their laws in 1973, four last year and three thus far this year. Chances are good for passage in 1-3 more states in 1975.

Federally-imposed benefits may be in excess of what some states need or want. Medical costs, wage rates, accident frequency and other factors vary from state to state and therefore benefit levels should be allowed to vary also.

## II. Objections to the no-fault concept which have been raised are:

Elimination of the right to sue deprives people of a basic right and lets the negligent driver go "unpunished".

No-fault may cause unfair premium payment redistributions. No-fault can require some persons to pay more for their insurance, as in the case of high income persons who wish protection against the loss of their income and can no longer look to the tort system for recovery. The first year's experience with New York no-fault showed that high risk drivers have received larger premium reductions than low-risk drivers. Certain other classes, e.g. large commercial truck operations, may benefit disproportionately due to their propensity to be involved in accidents and/or be damaged.

For those individuals without auto insurance in the approximately 12 states which do not require it, costs would rise because of the mandatory self-coverage requirement.

Some small insurance companies which deal only in auto insurance may have their businesses adversely affected since the larger concerns are likely to write most uniform group coverage plans. Experience with state no-fault thus far has been inconclusive in this regard.

Minimum Benefit Standards in S.354

1. Medical and rehabilitation expenses without any limit.
2. Loss of income benefits subject to \$15,000 over all limit with a maximum weekly benefit of \$1,000.
3. Funeral expenses up to \$1,000.
4. Survivors loss subject to reasonable limitations set by each state.
5. The Federal Standard would abolish tort liability except for uncompensated economic loss (excluding deductible, waiting periods) intentional injury, general damages (non-economic) in cases where the accident resulted in death, serious and permanent disfigurement or injury or more than 90 days of continuous total disability.

Status of State Action on No-Fault Auto Insurance

Sixteen states, plus Puerto Rico, have enacted no-fault automobile insurance laws that meet the tough definition adopted by the Department of Transportation.

To qualify under the Department's definition of no-fault, the state law must have two essential elements: (1) the substitution (not simply the addition of) "first party, no-fault"\* insurance for third party liability insurance; (2) some significant degree of restriction on tort recovery.

The following have such a law:

Puerto Rico	(1969)
Massachusetts	(1970)
Florida	(1971)
New Jersey	(1972)
Michigan	(1972)
Connecticut	(1972)
New York	(1973)
Utah	(1973)
Kansas	(1973)
Nevada	(1973)
Hawaii	(1973)
Colorado	(1973)
Georgia	(1974)
Minnesota	(1974)
Kentucky	(1974)
Pennsylvania	(1974)
North Dakota	(1975)

There are, however, vast differences among the laws adopted in the above states in terms of benefit levels, tort threshold and other factors.

These laws cover over 42% of all licensed drivers and will rise to well over 50% if California passes a no-fault law. However, only the Michigan law (covering 5.7% of drivers) conforms with all the standards in the DOT proposed federal law.

Nine other states have adopted auto insurance reform, which are sometimes called "no-fault". In some cases, these plans require that first party insurance be carried by drivers in addition to

---

\* "First party" means that there should be a contractual relationship between the victim and his insurer as to the kind and amount of benefits to be received. "No-fault" means that the loss is not to be shifted by inter-insurer subrogation according to the existing loss transfer rules of tort liability.

liability insurance and in other cases the law simply provides that no-fault be offered to the driver at his option. None of the plans restrict the right to sue and in most cases there is no restriction against the victim collecting from both his own first party insurance and the party at fault by suing in court. The following states fall into this category:

Delaware	(1971)
Oregon	(1971)
South Dakota	(1971)
Maryland	(1972)
Virginia	(1972)
Wisconsin	(1972)
Arkansas	(1973)
Texas	(1973)
South Carolina	(1974)

### Outlook

Every State legislature has had no-fault reform before it at least once. Illinois enacted a no-fault law in 1971, but that was later declared unconstitutional. A no-fault law was passed by the legislature in New Hampshire but was vetoed by the Governor.

Most states not having no-fault will consider proposals during this year's legislative session. Maine and North Carolina may pass no-fault laws this year but it is not likely that they will meet the DOT standards.

California is the key state in terms of the number of licensed drivers covered and there is likelihood that action by California would set a trend. Many other western states would be likely to follow California's lead if action is taken. Due to a change in the leadership in the California legislature the no-fault bills are moving slowly but nevertheless there is movement and considerable behind the scenes activity. No one can predict when California will act but the prospects for action this year are good.



Description of First-Year Experience with Michigan's No-Fault Law

(Excerpts from a paper prepared by the Michigan Association of Insurance Companies for the Michigan Legislature)

- The provision of unlimited no-fault medical and rehabilitation benefits (similar to S. 354) has been a dramatic improvement over the fault system, especially for the seriously injured. In the first year of no-fault, more than 135,000 persons were injured and 1,800 killed in Michigan as a result of motor vehicle accidents. In all of these injuries and deaths all medical and hospital costs plus income loss benefits have been paid, except to the extent that other benefits (e.g. health care, social security) were involved. Under the fault system about half of those injured would have been able to collect from someone else.
- Michigan motorists have had considerable premium cost savings, although the actual cost effect of the law cannot be established because of the uncertainties regarding whether or not the law will be upheld under the state's constitution and the resulting reluctance by companies to completely adjust premiums to no-fault.
- Those drivers with smaller income loss exposure (e.g. young drivers, those with low incomes and retirees) enjoyed larger than average premium reductions.
- Some motorists who have been in accidents and have been prevented from suing negligent drivers have reacted angrily to the no-fault law.

## THE WHITE HOUSE

## MEMORANDUM

WASHINGTON

May 1, 1975

Time: 6:00 p.m.

FOR ACTION: Phil Buchen  
Jim Cannon  
Robert T. Hartmann  
Jack Marsh  
Bill Seidman

~~xxxxxxxxxxxx~~  
Alan Greenspan

FROM THE STAFF SECRETARY

DUE: Date: Friday, May 2, 1975

Time: noon

SUBJECT:

Lynn memo (5/1/75) re: Federal No-  
Fault Motor Vehicle Insurance

## ACTION REQUESTED:

☐ For Necessary Action☒ For Your Recommendations☐ Prepare Agenda and Brief☐ Draft Reply☒ For Your Comments☐ Draft Remarks

REMARKS:

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Jerry H. Jones  
Staff Secretary

THE WHITE HOUSE

WASHINGTON

May 2, 1975

MEMORANDUM FOR JIM LYNN

FROM: L. WILLIAM SEIDMAN

SUBJECT: Federal No-Fault Motor Vehicle Insurance

The President has a long record of supporting the position that no-fault motor vehicle insurance is a state issue. Since, as a general policy, we are attempting to reduce federal regulation, I see no reason to change or transcend that policy in this case.

If the citizens of a state wish to adopt or reject no-fault insurance, they can do it without the help of those of us in Washington, D.C. All too often, what begins as a good idea ends up as federal regulation, encrusted with barnacles.

THE WHITE HOUSE  
WASHINGTON

May 2, 1975

MEMORANDUM FOR THE PRESIDENT

FROM: PHILIP BUCHEN  
RODERICK HILLS R.H.  
KENNETH LAZARUS

SUBJECT: No-Fault Motor Vehicle Insurance Act (S. 354)

Although data is still incomplete, the following observations can be made about a no-fault system:

- (1) No-fault does deliver a larger part of each premium dollar to accident victims than does the more traditional tort system.
- (2) No-fault does distribute dollars more equitably and faster to accident victims.
- (3) While no-fault does appear to be a better system on the basis of experience to date, S. 354 provides for broader coverage than traditional tort systems. Thus, it is not at all clear that the premiums under S. 354 would be reduced over the long run.
- (4) Also, only one state, Michigan, has a no-fault statute with coverage as broad as that contemplated by S. 354.

There are several reasons, under the present circumstances, why S. 354 can be regarded as an unwarranted, or at least a premature, intrusion of the Federal Government into the affairs of the states:

- (1) The National Governors Conference strongly opposes a federal no-fault statute and the Governors of several states with no-fault have actually opposed the imposition of federal control.
- (2) Other states (e. g. , California) seem to be close to enacting their own statutes.
- (3) Much of the public support for no-fault is based on the unwarranted belief that it will reduce premiums substantially.
- (4) The experience of the states having no-fault is still sufficiently mixed as to cloud a final appraisal of what kind of coverage was the "best".
- (5) The Attorney General feels strongly that imposition of a federal standard of no-fault now would be an unprecedented intrusion in a traditional state matter.

The Department of Transportation has encouraged states to adopt no-fault and has provided considerable technical assistance to the states. One can conclude that that is a better form of federalism at this time. The Administration can again issue strong support for no-fault on a state by state basis, and it can consider other ways to help the states help themselves.

Finally, it should be noted that informal observers expect a substantial increase in insurance premiums for auto insurance next year. This fact (if it occurs) together with the fact that the House has not yet considered the matter in depth may speak for an Administration position such as that set forth above, i. e. ,

Oppose S. 354 at the present time, but  
await the development of further facts  
in Congressional hearings before taking  
a firm position.

## THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: May 1, 1975

Time: 6:00 p.m.

FOR ACTION: ☒ Phil Buchen  
Jim Cannon  
Robert T. Hartmann  
Jack Marsh  
Bill Seidman

~~cc (for information):~~  
Alan Greenspan

FROM THE STAFF SECRETARY

DUE: Date: Friday, May 2, 1975Time: noon

SUBJECT:

Lynn memo (5/1/75) re: Federal No-  
Fault Motor Vehicle Insurance

## ACTION REQUESTED:

☐ For Necessary Action☒ For Your Recommendations☐ Prepare Agenda and Brief☐ Draft Reply☒ For Your Comments☐ Draft Remarks

REMARKS:

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Jerry H. Jones  
Staff Secretary

Message from Jim Jura

*No fault*

- 1) In Staffing the paper out, copies have been sent to all the players, if this helps.
- 2) Discussed with the President this afternoon. He knows ~~he~~ has to decide on this by tomorrow.
- 3) If Anything hold it up, please call Jim Jura because Lynn wants to know.

THE WHITE HOUSE

WASHINGTON

Sequence of Events on No-fault Insurance Memo:

Memorandum from Roy Ash at Tab A was staffed by Staff Secretary's office. See comments at Tab B. Domestic Council asked that Ash memo not go in until the President had seen their memo, Tab C. Called Wally Scot who asked that entire package (including Domestic Council memo and comments) be sent to him. Called Scott's office twice during the month of December -- they indicated the memos would not be going in.



---

THE WHITE HOUSE  
WASHINGTON

Mr. Scott:

Per our discussion.

Dianna  
Jerry Jones' office

12/18 - Since w/ Scott

THE WHITE HOUSE

WASHINGTON

Comments:

Buchen (Areeda) -- Agrees with Ash memo -- do not support S. 354, but do not oppose federal standards very strongly.

Cole -- Do not send memo in; Cole has forwarded another memo to be submitted Monday. See comments.

Hartmann -- No position.

Marsh -- Hold to Administration position.

Seidman -- Have already stated I'm for because it will reduce cost of living.

Timmons -- It's too late to change position. Must stick with original position.

THE WHITE HOUSE

WASHINGTON

NOV 19 1974

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: ROY L. ASH  
SUBJECT: NO-FAULT INSURANCE

Last May 6 the Senate passed S. 354, a Federal standards type no-fault insurance bill. The House Commerce and Finance Subcommittee has completed hearings on no-fault insurance but does not intend to issue a report unless the Administration ceases its current opposition to Federal no-fault insurance standards.

Secretary Brinegar has urged that the Administration reconsider its position so that legislation could be enacted this year. The arguments made for now favoring Federal no-fault are:

- . It would combat inflation by significantly reducing auto insurance premium payments while improving the speed and fairness of the system (in about 2 years).
- . It would reduce costs of a national health insurance plan by removing automobile accident victims from coverage under that plan.
- . Even if the Administration continues its opposition, there is a strong chance of approval by the next Congress. We would then be in the posture of reluctantly accepting the bill or of vetoing an anti-inflationary consumer measure in late 1975 to mid-1976.

If the decision was made to support Federal no-fault, it could be made in the context of our review of economically inefficient regulatory procedures.

The major reasons against Federal no-fault remain centered around Federal encroachment upon individual choice and State responsibilities, such as:

- . S. 354 would go beyond the Administration's health care bill's requirement for employers to contribute

to a specified plan if employees wish to participate. It would require every vehicle owner to obtain a minimum level of insurance protection.

- . S.354 would place Federal law in conflict with some State constitutions which forbid laws (such as would be required under no-fault insurance) which restrict the right to sue.
- . It would involve the Federal Government in an area presently within State jurisdiction.

#### RECOMMENDATION

Continue to support the previous Administration's position of strongly endorsing State action but opposing Federal no-fault standards setting.

This position is also favored by Secretaries Lynn and Dent, Bill Timmons and Ken Cole.

Secretary Brinegar, Virginia Knauer and Bill Seidman favor supporting S. 354.

#### DECISION

AGREE, Continue opposition to Federal no-fault \_\_\_\_\_

DISAGREE, Support Federal Standards \_\_\_\_\_

THE WHITE HOUSE

WASHINGTON

ACTION

November 23, 1974

MEMORANDUM FOR

THE PRESIDENT

FROM:

KEN COLE

SUBJECT:

NO-FAULT AUTOMOBILE INSURANCE

Last Spring, the Senate passed a no-fault automobile insurance bill which establishes Federal "standards" which States must adopt. The House Interstate and Foreign Commerce Committee (Moss Sub-committee) is marking up a no-fault bill, but the chances of any final House action during the "lame duck" session are practically nil.

In August you decided that the Administration's position on no-fault would be to urge the States to enact their own no-fault laws, as this system is better for the consumers, but your Administration would continue to oppose any Federal statute, even the "standards" approach in the Senate bill. Secretary Brinegar has recently requested that the Economic Policy Board take a look at no-fault in the context of its anti-inflationary impact and that you then be asked to reconsider the Administration's position. The Secretary now agrees that no decision is needed until after the 93rd Congress adjourns sine die. Any policy change should probably be announced as a part of the State of the Union Message.

RECOMMENDATION

Secretary Brinegar, Bill Timmons, Bill Seidman and myself recommend that you continue your opposition to Federal legislation at this time but undertake a review which will be completed prior to the State of the Union Message.

Agree\_\_\_\_\_ Disagree\_\_\_\_\_

THE WHITE HOUSE

WASHINGTON

November 23, 1974

MEMORANDUM FOR JERRY JONES  
THROUGH: KEN COLE  
FROM: MIKE DUVAL  
SUBJECT: ASH MEMORANDUM ON NO-FAULT  
AUTOMOBILE INSURANCE

We have reviewed Roy Ash's memorandum to the President concerning no-fault automobile insurance. I recommend that the memo not go forward as written because it does not put the right decision before the President.

This is not the time for an up-or-down decision on the Administration's position concerning a Federal "standards" no-fault bill.

The Senate has passed such a bill (S.354). The House Commerce Committee has scheduled hearings to consider a bill similar to the Senate bill and also proposals which involve far greater Federal preemption.

It is true, as the Ash memo indicates, that Brinegar has requested a review of the Administration's current position which was decided, via memorandum, by the President in August. That position is to encourage State action on no-fault but oppose any Federal legislation. However, I have spoken with Secretary Brinegar and he agrees that the review should be done in an orderly fashion but that we probably should not announce any change of position during the remaining days of the 93rd Congress. He is checking on the Hill and will advise us Monday on the timing issue.

Bill Seidman, Bill Timmons and Ken Cole have agreed that we should go forward with the requested review of the no-fault position but in a time frame which will permit the President to announce a change in support of no-fault -- if that turns out to be the decision -- as a part of the State of the Union Message.

There is virtually no chance that the House will act on no-fault this session anyway and, therefore, there is no need to re-decide this issue right now.

Attached is a memorandum to the President which is consistent with the above comments. IT SHOULD NOT BE SUBMITTED TO THE PRESIDENT UNTIL WE HEAR FROM BRINEGAR ON MONDAY.

Attachment

## THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: November 19, 1974

Time:

FOR ACTION:

Phil Buchen  
 Ken Cole  
 Bob Hartmann  
 Jack Marsh  
 Bill Seidman  
 Bill Timmons

cc (for information):

FROM THE STAFF SECRETARY

DUE: Date:

Friday, November 22, 1974

Time:

cob

SUBJECT:

Ash memo (11/19/74) re: No-Fault Insurance

## ACTION REQUESTED:

☐ For Necessary Action☒ For Your Recommendations☐ Prepare Agenda and Brief☐ Draft Reply☒ For Your Comments☐ Draft Remarks

## REMARKS:

marsh - 11/22/74 - "hold to Administration position"

Acorda (Budes) 11/23/74 - "Do not support S. 354, but do not oppose federal standards very strongly."

Seidman - 11/23/74 - "Have already stated I'm for because it will reduce cost of living."

BH - 11/25/74 - It's too late in session to change position. Must stick w/orig. position.

11/27 - Hartmann no position 11/27 Hartmann & Cole - WCB

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Jerry H. Jones  
 Staff Secretary

THE WHITE HOUSE

Washington

NOV 19 1974

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: ROY L. ASH (Signed) Roy L. Ash

SUBJECT: NO-FAULT INSURANCE

Last May 6 the Senate passed S. 354, a Federal standards type no-fault insurance bill. The House Commerce and Finance Subcommittee has completed hearings on no-fault insurance but does not intend to issue a report unless the Administration ceases its current opposition to Federal no-fault insurance standards.

Secretary Brinegar has urged that the Administration reconsider its position so that legislation could be enacted this year. The arguments made for now favoring Federal no-fault are:

- . It would combat inflation by significantly reducing auto insurance premium payments while improving the speed and fairness of the system (in about 2 years).
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If the decision was made to support Federal no-fault, it could be made in the context of our review of economically inefficient regulatory procedures.

The major reasons against Federal no-fault remain centered around Federal encroachment upon individual choice and State responsibilities, such as:

- . S. 354 would go beyond the Administration's health care bill's requirement for employers to contribute



to a specified plan if employees wish to participate. It would require every vehicle owner to obtain a minimum level of insurance protection.

- . S.354 would place Federal law in conflict with some State constitutions which forbid laws (such as would be required under no-fault insurance) which restrict the right to sue.
- . It would involve the Federal Government in an area presently within State jurisdiction.

#### RECOMMENDATION

Continue to support the previous Administration's position of strongly endorsing State action but opposing Federal no-fault standards setting.

This position is also favored by Secretaries Lynn and Dent, Bill Timmons and Ken Cole.

Secretary Brinegar, Virginia Knauer and Bill Seidman favor supporting S. 354.

#### DECISION

AGREE, Continue opposition to Federal no-fault \_\_\_\_\_

DISAGREE, Support Federal Standards \_\_\_\_\_

## THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: November 19, 1974

Time:

FOR ACTION: ☒ Phil Buchen  
Ken Cole  
Bob Hartmann  
Jack Marsh  
Bill Seidman  
Bill Timmons

cc (for information):

FROM THE STAFF SECRETARY

DUE: Date: Friday, November 22, 1974

Time: cob

SUBJECT:

Ash memo (11/19/74) re: No-Fault Insurance

## ACTION REQUESTED:

☐ For Necessary Action☒ For Your Recommendations☐ Prepare Agenda and Brief☐ Draft Reply☒ For Your Comments☐ Draft Remarks

## REMARKS:

Do not Support S. 354, but do not oppose federal standards very strongly  
P. Areeda

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Jerry H. Jones  
Staff Secretary

THE WHITE HOUSE

WASHINGTON

NOV 19 1974

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MEMORANDUM FOR THE PRESIDENT

FROM: ROY L. ASH  
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DISAGREE, Support Federal Standards \_\_\_\_\_

## THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: November 19, 1974

Time:

FOR ACTION:

Phil Buchen  
Ken Cole  
Bob Hartmann  
Jack Marsh  
✓ Bill Seidman  
Bill Timmons

cc (for information):

FROM THE STAFF SECRETARY

DUE: Date:

Friday, November 22, 1974

Time:

cob

SUBJECT:

Ash memo (11/19/74) re: No-Fault Insurance

ACTION REQUESTED:

☐ For Necessary Action☒ For Your Recommendations☐ Prepare Agenda and Brief☐ Draft Reply☒ For Your Comments☐ Draft Remarks

REMARKS:

*I have already stated  
I'm "for" because it will  
reduce "Cost of Living"*

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Jerry H. Jones  
Staff Secretary

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: November 19, 1974

Time:

FOR ACTION:

~~Phil Buchen~~  
~~Ken Cole~~  
~~Bob Hartmann~~  
~~Jack Marsh~~  
~~Bill Seidman~~  
~~Bill Timmons~~

cc (for information):

FROM THE STAFF SECRETARY

DUE: Date:

Friday, November 22, 1974

Time:

cob

SUBJECT:

Ash memo (11/19/74) re: No-Fault Insurance

ACTION REQUESTED:

\_\_\_ For Necessary Action

☒ For Your Recommendations

\_\_\_ Prepare Agenda and Brief

\_\_\_ Draft Reply

☒ For Your Comments

\_\_\_ Draft Remarks

REMARKS:

*It's too late in session to change position. Must stick with original position.*

*BT*

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Jerry H. Jones  
Staff Secretary

THE WHITE HOUSE

WASHINGTON

NOV 19 1974

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: ROY L. ASH

SUBJECT: NO-FAULT INSURANCE

Last May 6 the Senate passed S. 354, a Federal standards type no-fault insurance bill. The House Commerce and Finance Subcommittee has completed hearings on no-fault insurance but does not intend to issue a report unless the Administration ceases its current opposition to Federal no-fault insurance standards.

Secretary Brinegar has urged that the Administration reconsider its position so that legislation could be enacted this year. The arguments made for now favoring Federal no-fault are:

- . It would combat inflation by significantly reducing auto insurance premium payments while improving the speed and fairness of the system (in about 2 years).
- . It would reduce costs of a national health insurance plan by removing automobile accident victims from coverage under that plan.
- . Even if the Administration continues its opposition, there is a strong chance of approval by the next Congress. We would then be in the posture of reluctantly accepting the bill or of vetoing an anti-inflationary consumer measure in late 1975 to mid-1976.

If the decision was made to support Federal no-fault, it could be made in the context of our review of economically inefficient regulatory procedures.

The major reasons against Federal no-fault remain centered around Federal encroachment upon individual choice and State responsibilities, such as:

- . S. 354 would go beyond the Administration's health care bill's requirement for employers to contribute

to a specified plan if employees wish to participate. It would require every vehicle owner to obtain a minimum level of insurance protection.

- . S.354 would place Federal law in conflict with some State constitutions which forbid laws (such as would be required under no-fault insurance) which restrict the right to sue.
- . It would involve the Federal Government in an area presently within State jurisdiction.

#### RECOMMENDATION

Continue to support the previous Administration's position of strongly endorsing State action but opposing Federal no-fault standards setting.

This position is also favored by Secretaries Lynn and Dent, Bill Timmons and Ken Cole.

Secretary Brinegar, Virginia Knauer and Bill Seidman favor supporting S. 354.

#### DECISION

AGREE, Continue opposition to Federal no-fault \_\_\_\_\_

DISAGREE, Support Federal Standards \_\_\_\_\_



## THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: November 19, 1974

Time:

FOR ACTION:

Phil Buchen  
Ken Cole  
✓ Bob Hartmann  
Jack Marsh  
Bill Seidman  
Bill Timmons

cc (for information):

FROM THE STAFF SECRETARY

DUE: Date:

Friday, November 22, 1974

Time:

cob

SUBJECT:

Ash memo (11/19/74) re: No-Fault Insurance

ACTION REQUESTED:

☐ For Necessary Action☒ For Your Recommendations☐ Prepare Agenda and Brief☐ Draft Reply☒ For Your Comments☐ Draft Remarks

REMARKS:

*No position*PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Jerry H. Jones  
Staff Secretary

THE WHITE HOUSE

WASHINGTON

NOV 19 1974

ACTION

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THE WHITE HOUSE

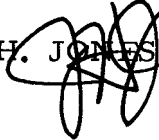
WASHINGTON

April 28, 1975

MEMORANDUM FOR:

DON RUMSFELD

FROM:

JERRY H. JONES 

Attached are the November 1974 memos on no fault insurance which you asked for -- the material did not go forward to the President.

1. Memorandum from Roy Ash at Tab A was staffed by the Staff Secretary's office.
2. Staffing comments received are at Tab B.
3. Domestic Council asked that Ash memo not go in until the President had seen their memo at Tab C.
4. At that point, OMB asked that the memo not be sent forward.



THE WHITE HOUSE

WASHINGTON

NOV 19 1974

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THE WHITE HOUSE

WASHINGTON

Comments:

Buchen (Areeda) -- Agrees with Ash memo -- do not support S. 354, but do not oppose federal standards very strongly.

Cole -- Do not send memo in; Cole has forwarded another memo to be submitted Monday. See comments.

Hartmann -- No position.

Marsh -- Hold to Administration position.

Seidman -- Have already stated I'm for because it will reduce cost of living.

Timmons -- It's too late to change position. Must stick with original position.

THE WHITE HOUSE

WASHINGTON

November 23, 1974

MEMORANDUM FOR

JERRY JONES

THROUGH:

KEN COLE *C*

FROM:

MIKE DUVAL *D*

SUBJECT:

ASH MEMORANDUM ON NO-FAULT  
AUTOMOBILE INSURANCE

We have reviewed Roy Ash's memorandum to the President concerning no-fault automobile insurance. I recommend that the memo not go forward as written because it does not put the right decision before the President.

This is not the time for an up-or-down decision on the Administration's position concerning a Federal "standards" no-fault bill.

The Senate has passed such a bill (S.354). The House Commerce Committee has scheduled hearings to consider a bill similar to the Senate bill and also proposals which involve far greater Federal preemption.

It is true, as the Ash memo indicates, that Brinegar has requested a review of the Administration's current position which was decided, via memorandum, by the President in August. That position is to encourage State action on no-fault but oppose any Federal legislation. However, I have spoken with Secretary Brinegar and he agrees that the review should be done in an orderly fashion but that we probably should not announce any change of position during the remaining days of the 93rd Congress. He is checking on the Hill and will advise us Monday on the timing issue.

Bill Seidman, Bill Timmons and Ken Cole have agreed that we should go forward with the requested review of the no-fault position but in a time frame which will permit the President to announce a change in support of no-fault -- if that turns out to be the decision -- as a part of the State of the Union Message.

There is virtually no chance that the House will act on no-fault this session anyway and, therefore, there is no need to re-decide this issue right now.

Attached is a memorandum to the President which is consistent with the above comments. IT SHOULD NOT BE SUBMITTED TO THE PRESIDENT UNTIL WE HEAR FROM BRINEGAR ON MONDAY.

Attachment



THE WHITE HOUSE

WASHINGTON

ACTION

November 23, 1974

MEMORANDUM FOR

THE PRESIDENT

FROM:

KEN COLE

SUBJECT:

NO-FAULT AUTOMOBILE INSURANCE

Last Spring, the Senate passed a no-fault automobile insurance bill which establishes Federal "standards" which States must adopt. The House Interstate and Foreign Commerce Committee (Moss Sub-committee) is marking up a no-fault bill, but the chances of any final House action during the "lame duck" session are practically nil.

In August you decided that the Administration's position on no-fault would be to urge the States to enact their own no-fault laws, as this system is better for the consumers, but your Administration would continue to oppose any Federal statute, even the "standards" approach in the Senate bill. Secretary Brinegar has recently requested that the Economic Policy Board take a look at no-fault in the context of its anti-inflationary impact and that you then be asked to reconsider the Administration's position. The Secretary now agrees that no decision is needed until after the 93rd Congress adjourns sine die. Any policy change should probably be announced as a part of the State of the Union Message.

RECOMMENDATION

Secretary Brinegar, Bill Timmons, Bill Seidman and myself recommend that you continue your opposition to Federal legislation at this time but undertake a review which will be completed prior to the State of the Union Message.

Agree\_\_\_\_\_

Disagree\_\_\_\_\_

THE WHITE HOUSE

WASHINGTON

May 3, 1975

MR. PRESIDENT:

Attached is a memo from Secretary Coleman on the No Fault Insurance question. You will note that he is recommending federal involvement. He hopes that his view will not become widely known since his ability to carry the Administration's policy on the Hill would be compromised if your decision is to oppose federal involvement. Thus, in today's meeting he may well not make his views known.

Don

A handwritten signature in black ink, appearing to be "DRF", written in a cursive, slanted style.



THE SECRETARY OF TRANSPORTATION  
WASHINGTON, D.C. 20590

April 23, 1975

MEMORANDUM FOR THE PRESIDENT

SUBJECT: No-Fault Automobile Insurance

I recommend that the Administration support the enactment of S. 354, a bill to establish minimum national standards for State auto insurance plans.

The Administration has always strongly supported the no-fault principle and after careful review I believe that the time has come for Federal action to ensure the speedy extension of this proven reform to the entire country.

S. 354 is vastly improved over earlier versions of national no-fault legislation, and I believe that it is a good bill with but only minor exceptions. If my Department were to draft its own bill, it would be quite similar to S. 354. The Administration can take substantial credit for the present form of S. 354 since it takes its essential form from the model State no-fault law, whose drafting was financed by my Department and the Ford Foundation.

Up until now, the basic difference between the Administration and the Senate's no-fault advocates has been on the question of the need for Federal action, with us holding that no-fault should be tested in the "laboratories" of the States. Since the underlying rationale for the Administration's past position is well known, let me concentrate on why I believe that we should now endorse Federal standards for no-fault.

1. Experience. In 1971 when the Administration took its original position, no-fault was still a theory with limited real world experience. Since that time, 16 States have adopted some kind of no-fault law, and no-fault's public and political acceptability has been proven beyond doubt. The experience of these States has heightened our confidence in the increased benefit and cost saving potential of meaningful no-fault reform

2. Improved Legislation. The first bills prepared by the Senate Commerce Committee during the 91st Congress in 1970 had many technical deficiencies and essentially called for Federal pre-emption of the automobile insurance area. S. 354 represents the end of an evolution away from this approach and calls only for minimum Federal standards, leaving the States with their traditional responsibilities for basic administration and regulation of automobile insurance and wide opportunities to shape the form of their individual no-fault plans.
3. State Activity. Since 1967, 24 States have enacted some type of auto insurance reform laws, of which 16 can be considered meaningful no-fault laws in the context of the Administration's original recommendations. While this may seem at first glance like a great deal of activity, the pace of State action on no-fault legislation has slowed. In 1973 six States enacted meaningful no-fault laws; in 1974 only four new States were added to the list. This year only two States passed no-fault legislation, with the prospects for further action slim. All the States have considered no-fault legislation in recent years, but only 16 States passed the type of legislation which approaches the kind that the Administration has said was needed. No-fault has been recently rejected in many States, including California, Maine, North Carolina and Virginia.
4. Nature of the State Plans. Part of the argument for allowing the States to enact individual no-fault plans is that this approach would allow the States to tailor their plans to their individual needs. Our analysis of the State plans adopted, however, reveals that the various State plans do not reflect economic or demographic differences but are rather the result of the strength of various interest groups. In addition, while certain States have adopted no-fault plans which do restrict tort liability, and therefore qualify as basic no-fault plans, a number of the States have enacted pseudo-no-fault plans which do not restrict tort recovery or have provisions in their plans which could be called discriminatory and inequitable. Thus, some State action has actually perverted one of the primary goals of no-fault, i.e., to produce a more equitable motor vehicle insurance system.

5. Political Posture. Support for a Federal standards approach to no-fault reform would clearly identify the Administration with a major advance for consumers in an area to which they are sensitive. It would also give us an opportunity to influence the shape of the legislation to minimize the Federal role.

The Department and the Administration can justly take credit for having made contributions to the development of S. 354. Besides financing the development of the model State bill on which S. 354 is based, it was Secretary Volpe who first discussed the minimum standards approach. The original Department of Transportation Auto Insurance Study and the Department-financed Milliman and Robertson costing model have provided much of the analytical and factual support for S. 354.

It should be noted that the Administration has never foreclosed the possibility of endorsing some type of Federal action to ensure the realization of no-fault auto insurance reform. From the beginning in 1971, various Administration officials have repeatedly and publicly stated that the alternative to timely and reasonable reform action by the States was pre-emption of the reform decision by the Federal Government.

We have publicly maintained that no-fault offers great opportunities to consumers in terms of cost savings, benefit increases and broader coverage of the population. As the pace of no-fault action at the State level slackens, our critics are likely to argue that our continued opposition to the Federal minimum standards approach is actually covert opposition to the no-fault principle itself.

We are aware that Administration support of S. 354 will antagonize certain elements of the bar and the insurance industry--although it will be applauded by other very large parts of the industry, by organized labor, by the auto industry, and by the consumer interest community. We have weighed these risks against the benefits that would accrue to the public and to the Administration. I am convinced that support of S. 354 would be in the best interests of both.

  
William T. Coleman, Jr.