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THE WHITE HOUSE
WASHINGTON

October 23, 1975

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: HONORABLE EDWARD H. LEVI
Attorney General

FROM: JAMES M. CANNON *JMC*

SUBJECT: Reconsideration of Position
Regarding No-Fault Insurance

Attached for your review and comment is a draft memorandum to the President outlining Secretary Coleman's request for reconsideration of the President's earlier decision not to support Federal no-fault legislation. Attached is a copy of Secretary Coleman's letter to the President along with his back-up material.

Please review this material, giving particular attention to whether your original constitutional question has been adequately answered with the alterations to the bills before Congress.

I would appreciate your response by noon Tuesday, October 28. Thank you very much.

Attachment



DRAFT

DECISION

October , 1975

MEMORANDUM FOR:

THE PRESIDENT

FROM:

JIM CANNON

SUBJECT:

No-Fault Insurance

Secretary Coleman has requested reconsideration of your earlier decision not to support Federal no-fault insurance legislation. The Secretary cites as reasons for reconsideration the resolution of a constitutional issue raised earlier by the Attorney General, additional evidence that under certain conditions rates will decline with a no-fault system, and the increasing likelihood of Congressional approval of no-fault legislation.

In reaching your earlier decision not to back no-fault legislation, you indicated support for the concept but expressed your belief that it was an issue for the States to resolve. In addition, key Minority members were opposed to Federal legislation and standards at that time. Therefore, the issue at hand is whether, based on Secretary Coleman's information and other factors, you wish to reopen this issue for possible Administration action and support.

With regard to the constitutional issue, the Attorney General originally questioned the constitutionality of requiring States to develop and implement at their expense a Federally imposed program. The Attorney General testified before the Congress on this issue and Secretary Coleman indicates that the major bills currently under consideration have been changed to permit States not enacting no-fault statutes of their own to have Federal officials administer the Federal standards, thereby avoiding the constitutional issue.

With regard to cost savings for the consumer, it is fair to say the jury is still out. Evidence submitted by Allstate and State Farm indicates that reductions up to 10% could occur under certain circumstances, e.g. \$5000 minimum survivor benefits and minimal inflation. However, these companies have cautioned against expectations of significant savings. While no-fault does reduce the "non-coverage" cost element of premium payments, experience has shown that the legislated standards often raise the average level of coverage, thereby causing premiums to remain the same or in some cases rise. As a result, the cost savings appear to remain an uncertain factor.

With regard to Congressional action, it is expected that the House and Senate committees will report out a bill for consideration in November. However, there appears to be continued



opposition to Federal legislation among key Minority members. There is in their minds the lingering question of why Federal action is needed if States have the opportunity to enact their own insurance laws.

Clearly Secretary Coleman urges reconsideration and support for no fault at a time when he feels outcome of the bill can still be affected to your advantage. OMB has suggested that you not proceed until a clearer sign is given by the Congress and the Minority as to where they stand. If a decision is made to reconsider, there is also the option of withholding your support until the State of the Union message. However, anticipated action by the Congress before the end of the year would negate this option.

Based on this information and these circumstances, your guidance is requested on how to proceed.

OPTION A

_____ Maintain current position of non support.

OPTION B

_____ Informally contact Minority members to clarify their position and assess possibility of compromise, then determine how to proceed.



OPTION C

_____ Reconvene a White House meeting to review the issue
and structure a firm proposal.





THE SECRETARY OF TRANSPORTATION

WASHINGTON, D.C. 20590

September 24, 1975

RL
The President
The White House
Washington, D.C. 20500

Dear Mr. President:

Encl.
For the reasons outlined in the enclosed memorandum, I urge you to reconsider the Administration's position respecting no-fault automobile insurance.

Respectfully,

Bill

William T. Coleman, Jr.

Enclosure

cc: Attorney General
Secretary, Department of
Housing and Urban Development
Director, Office of Management
and Budget
Roderick M. Hills, Counsel to
the President





THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

September 24, 1975

MEMORANDUM FOR THE PRESIDENT

SUBJECT: No-Fault Automobile Insurance

I strongly recommend that the Administration support the enactment of S. 354 and the similar H.R. 9650, bills to establish minimum national standards for State auto insurance plans. As you know, I recommended that we support S. 354 in my memorandum of April 23 of this year, and at that time you decided not to change the Administration's position. Since then, however, there have been two significant developments.

First, the bills have been altered so as to provide those States not enacting no-fault statutes of their own the option of having Federal officials administer the Federal standards. This change was suggested by the Attorney General in order to allay a constitutional problem he had with the earlier versions.

Second, important new data has come to light that bears on the question, which had earlier given some people trouble, whether no-fault would result in a reduction or an increase in premiums. The evidence, which this memorandum will summarize, is now strongly to the effect that it will result in a reduction.

We are all aware of the basic reasons for supporting no-fault: The present third-party system is uncertain, unfair, discriminatory and wasteful. I might add that it is a blight on the legal profession. Thus the Administration has always strongly supported the no-fault principle.

Heretofore, however, the Administration has taken the position that action in this area is best left to the States. The problem with that approach, however, is that State action in this area, thanks in large part to pressures from the trial bars which tend to wield power in



State legislatures, has been noticeably slackening in recent years. If there is to be movement, it must take place at the Federal level: the longer we hesitate, the more we open ourselves to the charge that our opposition to the Federal minimum standards approach is actually covert opposition to the no-fault principle itself.

No-fault legislation is, of course, comfortably within the Federal Government's constitutional power to regulate interstate commerce--much more comfortably so, I might add, than many of the laws that have been passed and upheld under that rubric. (I would add that both the Senate and House bills leave wide discretion to the States in tailoring the benefits to their individual needs and are thus modest intrusions into State authority: they are true minimum standards bills.) Moreover, no-fault should prove a politically popular cause, and one that is consistent with the goals of other initiatives of this Administration. No-fault is pro-consumer and anti-waste. It will provide substantially increased benefits to the average accident victim. Like our various regulatory reform initiatives, it is calculated to provide a much more equitable and rational system while at the same time saving the ordinary citizen money and resulting in significant monetary savings system-wide.

The Administration can justly take credit for having made contributions to the development of S. 354 and H.R. 9650. Besides financing the development of the model State bill on which these two bills are 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 and H.R. 9650.

The question of costs. Unfortunately, the waters have been muddied by false before-and-after comparisons which purport to show increased premiums after the adoption of no-fault but which fail to explain that the increase is due to inflation or the provision of more benefits. In the last analysis, and after discussing this matter with the people in the Department who have extensive involvement in no-fault, I believe that the clear weight of the evidence is to the effect that adoption of no-fault will reduce insurance premium costs below what they would have been without no-fault.



There never has been a truly comprehensive before-and-after analysis of no-fault, but I believe we can point to the following as evidence that the adoption of no-fault will save consumers money:

(1) The present system is highly inefficient, and it is difficult to believe that a better system cannot be devised. Only 44 cents of each premium dollar paid to the insurance companies is returned to the consumer in the form of benefits. Some of the other 56 cents is used for legitimate administrative expenses, but a great deal is wasted for lawyers fees, nuisance claims, and unnecessary adjustment expenses.

(2) The independent study performed by Milliman and Robertson at the behest of the State insurance commissioners and funded by the Department, and updated by the Senate Commerce Committee, indicates that adoption of no-fault will not raise the average premium in any State, and will lower premiums in many States. This study was first done in 1972 and although it has been widely discussed, it has never been convincingly attacked.

(3) The reports from most States that have adopted true no-fault plans have indicated cost savings to the average motorist. For instance, New York, which has a very sophisticated insurance department and a broad no-fault law, recently announced that insurance rates for personal injury insurance had fallen 19% after the adoption of no-fault. The Massachusetts commissioner of insurance has estimated that compulsory auto insurance rates would be 100% higher if no-fault had not been adopted. The Connecticut commissioner is the only commissioner from a State that has adopted no-fault who has said it would result in rate increases. (I might add that the Connecticut plan is not consistent with the standards prepared in the Senate and House bills.)

(4) Both the Senate and House asked State Farm and Allstate to project the effects of no-fault on rates on a State-by-State basis. In the Senate, using the same techniques developed by Milliman and Robertson, Allstate projected increases and State



Farm projected decreases. One of the reasons for this disparity was a difference in choice of assumptions. Although S. 354 and H. R. 9650 required only a minimum of \$5,000 in survivor's benefits, Allstate assumed that the States would adopt more than the Federal minimum and in fact would require minimum payment of \$15,000 in survivor's benefits.

The House Subcommittee requested Allstate and State Farm to "review" their figures and to base their projections on a standard \$5,000 for survivor's benefits. Using these figures both Allstate and State Farm produced cost savings in almost all States. (See attachments.) Nationwide the Allstate figures indicated, according to Chairman Van Deerlin, a saving of 9.3 percent or \$800 million a year. *

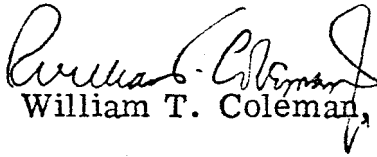
Allstate did show increases in certain rural States, but the number was limited and was due to increased coverage. At present, many accidents in rural areas involve only one car; a drunken driver goes off the road and smashes into a tree. There is no one to sue, and the injured party's insurance often does not cover work loss or survivor's benefits. No-fault, on the other hand, would cover this injury and pay benefits; that is why it would increase rates.

In summary, I think the evidence strongly points to substantial premium savings. These savings, plus the increased benefits and equity of a no-fault system, all justify Federal intervention in view of the lack of recent State activity. I think that the most recent State Farm-Allstate projections really should put an end to the cost argument especially when one considers the "hostile witness" nature of Allstate. I am sure that Allstate was unduly pessimistic and State Farm unduly optimistic with respect to results, but if one discounts both projections appropriately, there are still very substantial cost savings.

This is therefore a just cause, one entirely consistent with other of our legislative efforts, and into the bargain is likely to prove politically popular. S. 354 and H.R. 9650 were borne of the efforts of this Administration, and it would be a pity were we not to get the credit for them (or, indeed, to get the blame for dragging our feet.) There is every



chance the Senate will again pass no-fault, and we have heard that a no-fault bill will be reported out from committee in the House and that there is a very good chance of passage in the House. If we moved now we could certainly aid the House action and thereby obtain credit for passage. I strongly recommend that the Administration support these measures.


William T. Coleman, Jr.

Attachments



STATE FARM AND ALLSTATE

PROJECTIONS^{1/} OF

EFFECTS OF NO-FAULT AUTO INSURANCE

AS PROPOSED IN S. 354^{2/}

ON AVERAGE PRIVATE PASSENGER CAR PERMIUMS

INCLUDING

COMPANY RANK AND MARKET PERCENTAGE^{3/}

AUGUST, 1975

LEGEND: * - RANKED FIRST IN STATE
 + - RANKED SECOND IN STATE
 = - RANKED THIRD IN STATE

(Note: Generally, the larger a company's market share, the more representative (or credible) its projection. Where market shares are equivalent, differences in projections may reflect differences in underwriting experience or inadequate (too low) rates under current auto insurance system.)

<u>STATE</u>	<u>STATE FARM</u>	<u>% OF MARKET</u>	<u>ALLSTATE</u>	<u>% OF MARKET</u>
Alabama	-19	25.5*	- 1.9	12.2=
Alaska	- 7	17.4*	2.7	16.2+
Arizona	-18	17.4=	2.5	18.3*
Arkansas	- 9	18.3*	- 6.8	—
California	-14	14.8*	- 9.7	12.8+
Colorado	- 3	18.2*	16.0	9.4=
Connecticut	- 1	—	-10.6	9.5=
Delaware	-13	19.6*	-17.3	—
District of Columbia	-21	7.6=	-20.0	—
Florida	8	16.2+	- 3.7	16.5*
Georgia	-11	18.8*	29.1	11.9+
Hawaii	-10	12.2=	- 8.9	14.0*
Idaho	- 9	16.2+	8.4	—
Illinois	-11	19.8*	-17.4	17.4+
Indiana	-12	19.4*	5.5	7.0=
Iowa	- 7	15.0*	3.7	—
Kansas	- 3	19.6*	45.5	—
Kentucky	-11	18.2*	-22.6	5.9=
Louisiana	-18	21.9*	-12.3	15.1+



Maine	-12	—	-18.0	0.4=
Maryland	-17	16.1+	-23.4	10.0=
Massachusetts	15	—	-20.0	—
Michigan	-7	12.5+	-25.0	9.0=
Minnesota	-12	21.4*	26.4	6.3=
Mississippi	-7	22.4*	-18.4	—
Missouri	-6	20.5*	-16.0	—
Montana	-11	21.6*	9.4	6.7=
Nebraska	-11	20.5*	14.2	5.4+
Nevada	-1	20.9+	-0.7	13.2=
New Hampshire	-2	—	-24.0	7.4+
New Jersey	3	6.5=	-8.6	19.0*
New Mexico	-10	22.6*	1.0	12.6+
New York	4	—	-20.8	15.6*
North Carolina	0	9.3+	-8.9	8.8=
North Dakota	-5	12.1+	11.7	—
Ohio	-13	10.0+	-6.6	8.3=
Oklahoma	-13	14.9*	-19.8	9.7=
Oregon	-14	14.6+	3.6	11.0=
Pennsylvania	-11	14.5*	8.4	9.0=
Rhode Island	-9	—	-23.4	10.0+
South Carolina	-6	16.6*	-2.0	11.6+
South Dakota	-1	17.0*	8.8	—
Tennessee	-3	20.8*	-18.7	9.2+
Texas	-26	15.2*	-8.4	10.7+
Utah	-2	23.1*	16.0	8.2=
Vermont	-10	—	11.5	—
Virginia	-3	17.2*	12.4	—
Washington	-15	12.4+	2.8	10.0=
West Virginia	-8	26.5*	-16.4	7.3=
Wisconsin	-5	10.7+	-10.8	—
Wyoming	-9	28.3*	2.5	—
Countrywide	-10	14.5*	-9.3	9.1+

1/ State Farm's projections are set forth on page 163 of the Senate Commerce Committee's Report (S. Rept. No. 94-283) on S. 354, the National Standards for No-Fault Insurance Act, dated July 15, 1975. Allstate's projections are set forth in a letter from Michael J. McCabe, Assistant Counsel for Allstate to Peter Kinzler, Counsel to the House Interstate and Foreign Commerce Subcommittee on Consumer Protection and Finance, dated July 28, 1975.

2/ The State Farm and Allstate projections assume that each State has a no-fault auto insurance law meeting the minimum standard in S. 354 (unlimited benefits for medical, hospital and rehabilitation expenses; \$1,000 for funeral expenses; \$15,000 in wage loss protection) and providing for \$5,000 in survivor benefits.

3/ Data on the ranking of State Farm and Allstate and their respective private passenger automobile liability insurance market shares in each state may be found at page 20 of the August, 1975, edition of Best's Review (Property/Liability Edition, Vol. 76, No. 4).



FOR IMMEDIATE RELEASE

The nation's two largest automobile insurance companies now agree that no-fault auto insurance applied nationally would save consumers upwards of \$800 million a year, Rep. Lionel Van Deerlin, D-Calif., reported.

Van Deerlin said the Allstate Insurance Co. now finds that pending no-fault legislation would result in a 9.3 percent lower cost to the average driver for bodily injury liability coverage.

Van Deerlin is chairman of the House Subcommittee on Consumer Protection and Finance, which has held nine days of hearings on no-fault bills. Under the no-fault concept, auto accident victims would usually be compensated by their own insurance companies regardless of who was to blame for the mishap.

Allstate, the second largest auto insurance underwriter, earlier had predicted a slight increase in premiums if a no-fault bill were enacted. At the request of Van Deerlin's subcommittee, the company revised its criteria to make the new study showing the decrease in premium costs.

Van Deerlin said he is "delighted" that Allstate and the nation's number one automobile insurer, State Farm Insurance Co.,



now agree no-fault insurance would be less costly. "We can go ahead and draw up our own bill with confidence about its cost impact," the San Diego lawmaker added.

While the Allstate comments were directed at S. 354, a Senate no-fault bill, Van Deerlin said they are also applicable to similar legislation pending in his subcommittee.

He said the main benefits of no-fault would be the faster settlement of claims and more equitable distribution of payments to victims. "But in these inflationary times, anything that saves money is also a big plus," he added.

"Much of the more than \$1 1/2 billion of plaintiff attorney fees consumed by the present system would be returned to the motorist under no fault legislation," he said.

"If State Farm and Allstate are correct in their estimates Van Deerlin continued, "then the American consumer could reasonably anticipate a savings of \$800 million or more on a total annual bill for bodily injury liability protection of more than \$8 billion."

Van Deerlin said the subcommittee hopes to prepare a no-fault bill in mid-September for consideration by the full House Commerce Committee. Companion legislation also is moving ahead in the Senate.

. # # # # #



Alabama	1.9
Alaska	2.7
Arizona	2.5
Arkansas	6.8
California	9.7
Colorado	16.0
Connecticut	10.6
Delaware	17.3
District of Columbia	20.0
Florida	3.7
Georgia	29.1
Hawaii	8.9
Idaho	8.4
Illinois	17.4
Indiana	5.5
Iowa	3.7
Kansas	45.5
Kentucky (2)	22.6
Louisiana	12.3
Maine	16.0
Maryland	23.4
Massachusetts	20.0
Michigan	25.0
Minnesota	26.4
Mississippi	18.4
Missouri	16.0
Montana	9.4
Nebraska	14.2
Nevada	0.7
New Hampshire	24.0
New Jersey	8.6
New Mexico	1.0
New York	20.8
North Carolina	8.9
North Dakota	11.7
Ohio	6.6
Oklahoma	19.8
Oregon	3.6
Pennsylvania (3)	8.4
Rhode Island	23.4



South Carolina	2.0
South Dakota	8.8
Tennessee	18.7
Texas	8.4
Utah	16.0
Vermont	11.5
Virginia	12.4
Washington	2.8
West Virginia	16.4
Wisconsin	10.8
Wyoming	2.5

Countrywide	9.3
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- (1) This pricing is based on those insureds who carry bodily injury liability, uninsured motorist coverage, medical payments, or personal-injury protection coverage (PIP) in no-fault states, and any excess medical payments or excess PIP coverages. While these coverages are representative of approximately 85% of Allstate insureds, they substantially exceed those coverages required by law in most states. Thus, that group of insureds which carry only the minimum required by law, which presumably would include most low-income persons, will experience even greater price increases or lesser price decreases, depending on the state in question.
- (2) Kentucky cost projections are based on Kentucky premium levels under that state's tort system. Optional no-fault program becomes effective in Kentucky July 1, 1975.
- (3) Pennsylvania present premiums are based on projected no-fault costs as of July 19, 1974.



AL	-11.9
AK	-4.3
AZ	-4.8
AR	-14.9
CA	-16.1
CO	5.2
CN	-17.0
DE	-26.9
DC	-24.9
FL	-10.1
GA	17.5
HI	-15.0
ID	-4.4
IL	-22.4
IN	-4.1
IA	-6.4
KS	30.3
KY (2)	-30.1
LA	-18.0
ME	-25.5
MD	-29.5
MA	-24.0
MI	-30.2
MN	16.9
MS	-26.5
MO	-23.5
MT	-1.9
NE	2.9
NV	-8.1
NH	-31.4
NJ	-15.5
NM	-8.7
NY	-26.1
NC	-17.5
ND	-2.4
OH	-13.7
OK	-29.7
OR	-5.5
PA (3)	0.1
RI	-29.5
SC	-12.0
SD	-4.8
TN	-25.1
TX	-17.9

UT	4.2
VT	2.9
VA	3.2
WA	-4.9
WV	-25.2
WI	-18.5
WY	-11.6

Countrywide -15.8

(1) This pricing is based on those insureds who carry bodily injury liability, uninsured motorist coverage, medical payments, or personal injury protection coverage (PIP) in no-fault states, and any excess medical payments or excess PIP coverages. While these coverages are representative approximately 85% of Allstate insureds, they substantially exceed those coverages required by law in most states. Thus, that group of insureds which carry only the minimum required by law, which presumably would include most low-income persons, will experience even greater price increases or lesser price decreases, depending on the state in question.

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(3) Pennsylvania present premiums are based on projected no-fault costs as of July 19, 1974.



Allstate Plaza
Northbrook, Illinois 60062
312 291-6353

Michael J. McCabe
Assistant Counsel

July 28, 1975

Mr. Peter Kinzler, Esq.
Counsel, Sub-committee on
Consumer Protection and Finance
Room 14, First Floor
House Office Building No. 2
Second and D Streets, S.W.
Washington, D. C. 20515

Dear Mr. Kinzler:

Pursuant to your telephone request, I am enclosing a copy of two sets of cost projections. The costing contained in Attachment 1 assumes Congress would mandate a maximum survivor's benefit of \$5,000, and that contained in Attachment 2 assumes that Congress would mandate a maximum survivor's benefit of \$1,000, which in practical terms would represent the elimination of all survivor's benefits other than a funeral stipend.

The assumption that Congress will impose a maximum survivor's benefit is essential because, unless the Federal government preclude independent state action, few states will, in our opinion, establish such benefits at a level as low as \$5,000.

A \$5,000 or a \$1,000 maximum survivor's benefit assumption runs afoul of two of the fundamental policy goals of S. 354. The first is to provide the states with some leeway in establishing necessary benefit levels, and the second is to guarantee that victims of automobile accidents, including the survivors of deceased victims, will receive adequate benefits to compensate them substantially for their economic loss. Furthermore, to enact Federal legislation, which essentially requires the large population of survivors of deceased automobile accident victims to turn almost entirely to the tort system for compensation, would appear to reflect strong Congressional confidence in that tort system and to undermine the fundamental policy of S. 354.



Notwithstanding these facts, we appreciate and respect the sub-committee's desire to review all of the possible alternatives available to them and to consider carefully the important question of consumer cost stemming from each of these various alternatives. To this end, we hope the enclosed materials are helpful.

However, I urge the utmost caution in the utilization of this data. Care should be taken to guarantee that neither the sub-committee members, nor any other persons, reach the conclusion that either of these sets of data represent what will happen in the real world should S. 354 pass in its current form. Absent Congressionally imposed maximums on the survivor's benefit component, the assumptions underlying these projections are, in our opinion, totally unrealistic, and to that extent the enclosed cost data is at best useless and at worst dangerously misleading.

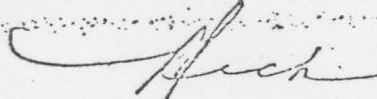
Furthermore, as we have said frequently in the past, these cost projections are just that -- estimates based largely on actuarial assumption and cannot be relied upon as what will in fact result in the real world operation of state no-fault plans should S. 354 become law. Moreover, these projections do not attempt to account for factors, such as inflation, which have and which will continue to place substantial cost pressures on the automobile insurance system.

One patently obvious fact that is documented by the enclosed data is that it is possible to reduce costs simply by reducing benefits. However, from a fundamental policy standpoint, it is questionable whether Congress should single out the survivor's group to bear the burden of cost reduction. This is particularly true, in view of the fact that on the other end of the spectrum S. 354 provides for unlimited medical benefits. The resultant imbalance in benefit structure, and the fact that even the staunchest supporters of S. 354 admit that unlimited medical benefits will create competitive and administrative problems for the insurance industry, and cost problems for the policyholder, lead logically to the conclusion that a reduction in medical benefits, coupled with a more generous benefit for survivors, might represent a more equitable approach to the cost reduction problem.



We appreciate the opportunity to be of assistance to the sub-committee and if you have any questions concerning the enclosed materials, please do not hesitate to contact me.

Sincerely yours,



Michael J. McCabe

MJM:dd

Encs.

cc: D. L. Schaffer
J. L. Howell



Firms Say Fed No-Fault Rules Could Cut Cost

Journal of Commerce Staff

WASHINGTON /— The nation's two largest auto insurance firms have concluded that the pending federal no-fault insurance standards could result in insurance cost reductions.

Assuming a \$5,000 average survivor benefit, State Farm projects a decrease of 10 per cent and Allstate a 9.3 per



THE WHITE HOUSE
WASHINGTON

Copy sent to Dick Parsons

and to Mr. ⁴/₂ Conaghan?

17 - Ask Mr. Conaghan
to see me.
Thursday

No Fault Insurance



Office of the Attorney General
Washington, D. C. 20530

October 28, 1975

MEMORANDUM FOR: James M. Cannon

FROM: Edward H. Levi *EL*
Attorney General

SUBJECT: No-Fault Insurance

I have reviewed the materials you furnished with your memorandum of October 23, 1975 regarding Secretary Coleman's request that the President reconsider his decision not to support Federal legislation to establish national standards for no-fault motor vehicle insurance. As you recall, earlier this year the Department of Justice opposed S. 354, a bill to establish such standards, for three related reasons. We believed that S. 354 as then drafted was of questionable constitutionality, would contravene the basic tenets of Federalism by injecting the Federal government into an area which has traditionally been reserved to the states, and would not provide clear or compelling benefits to consumers to justify the proposed erosion of state responsibility. Although S. 354 has since been amended to respond to the major constitutional question raised by the bill, the other concerns we expressed are not diminished. Thus, the Department of Justice continues to recommend that the President not support S. 354. In my view the Department of Justice's interest, however, has to center on the constitutional question and the related issues of Federalism.

As I testified in June, 1975, S. 354 raised serious constitutional questions because it would have compelled a state failing to adopt a no-fault plan acceptable under Title II of the bill to act as agent of the Federal government in administering a Federal plan through state agencies, officials and facilities. Since then, S. 354 has been amended to include language suggested by the Department of Justice providing that if a State has failed to adopt an acceptable no-fault plan, the alternative Federal plan will be implemented, administered, operated and maintained exclusively by the Federal government, unless the State enacts legislation authorizing the assumption of these functions. This amendment does answer the major constitutional question raised by the bill. I do not know whether a decision has been made to



include this provision in the House of Representatives version of the bill. There are other constitutional challenges which it has been suggested might be made to the bill, including whether the discrimination imposed by the differences between Title II and Title III is unconstitutionally coercive. However, I do not regard these as strong arguments. Assuming that the House adopts the relevant language now in S. 354, we do not believe that the principle questions concerning the bill are constitutional questions.

Rather, there remains a substantial question of the wisdom of the measure from the standpoint of Federalism. The issue of constitutional Federalism is not a frivolous one. It is close to the protection of diversity, creativity and freedom within our system. The importance of protecting and promoting these values should be a compelling consideration in determining whether a Federal uniform automobile insurance law is desirable.

There are today many difficult questions concerning the balance of power among the branches of government and between the Federal government and the states. Unbalancing almost always occurs in what is regarded as a good cause. However, in each case, as in this one, it is appropriate to ask two questions. First, is it necessary to take this step to institute the proposed program? Second, is the cause good enough to justify the impairment which accomplishing it in a particular way causes to the intricate structure of our Federal system? In the case of no-fault insurance, we believe that the answer to each of these questions is negative. We recognize that the Department of Transportation may have the view that economic studies which have been made may justify this intrusion. I am personally doubtful that these studies reach that level of persuasiveness, but this seems to me to be less a matter for the Department of Justice to argue.

Federal action is not, of course, the only means of implementing the no-fault concept. Sixteen states now have no-fault insurance plans of various types in effect. If the predictions about the economic advantages of no-fault are proven true in the states which have adopted them, the example of their experience should have a powerful effect on the remaining states. The assertion that the normal course of the political processes of the states is not to be trusted in this area, in part because of the influence of well organized interests, should be examined carefully. This argument should place a heavy burden of proof on those who make it, particularly in an Administration which has generally favored a restoration of resources and responsibilities to the states.

It is our view that the President's current position of not supporting S. 354 should be maintained. At a minimum, however, we believe that further consideration of both the merits of the no-fault concept and the implications of Federal legislation in this area should precede an alteration of the President's position. If this matter is to be reconsidered, I would be pleased to arrange in the immediate future meetings with some of the experts in this area who might assist us in proceeding in a well-informed manner. This is a matter which has long been discussed in academic and judicial circles and perhaps it would be helpful if the Department of Transportation heard a view somewhat different than the one it appears to have adopted.

THE WHITE HOUSE

WASHINGTON

File Transp.
INFORMATION

March 31, 1976

MEMORANDUM FOR: JIM CANNON
FROM: JUDITH RICHARDS-~~HOPE~~ *RH*
SUBJECT: No-Fault Insurance

By vote of 49-45, the Senate voted to recommit the no-fault bill today. Odds are its dead for the rest of this Session.



THE WHITE HOUSE
WASHINGTON

file
Insurance

September 13, 1976

MEMORANDUM FOR: MAX FRIEDERSDORF
FROM: JIM CANNON Jmc
SUBJECT: No Fault Insurance

Here is the background on the substance of no-fault insurance.

You might want to respond to the accusations in the Anderson column.

attachments



THE WHITE HOUSE

WASHINGTON

September 9, 1976

MEMORANDUM FOR: JIM CANNON

FROM: ART QUERN

SUBJECT: Inquiries Re White House and
No Fault Insurance

The attached letters inquire about the Jack Anderson column regarding the White House lobbying against No Fault Insurance.

I believe these letters should be handled by Max or Jack Marsh. I have attached also the pages from the Issue Book regarding our position on No Fault. But the point at issue in the letter is the "lobbying".



Attachment



091002

ISSUE: No Fault Insurance

Administration Position

In a meeting in May of 1975 with Senior White House Staff, Secretary Coleman and the Attorney General, the President indicated support for the "concept" of no-fault insurance, but indicated opposition to federal legislative standards because in his opinion it is an item for the individual States to determine.

"The issue of Federalism is not a frivolous one. It is for the protection of diversity, creativity and freedom within our system. The importance of protecting and promoting these values should be a compelling consideration in determining whether a federal uniform automobile insurance law is desirable and particularly whether requiring State agencies to implement such a law is appropriate."

Attorney General Levi's
Testimony before the
Senate Commerce Committee
June 5, 1975

Background

On March 22, 1976, Senator Ted Stevens, (R), Alaska, wrote to the President expressing his views for minimal federal standards with regard to no-fault insurance. As the bill was recommitted on March 31, Jim Cannon wrote Senator Stevens a letter of April 2, thanking him for his views on behalf of the President. In his letter, Mr. Cannon reiterated the President's position of support for the concept of no-fault, but that he felt it was a matter for the States to determine.

Legislative Action

On March 31, 1976, the Senate voted 49-45 to recommit S.354 (no-fault insurance) to the Senate Commerce Committee. This will probably kill the bill for the remainder of this session.

JRH
4/9/76





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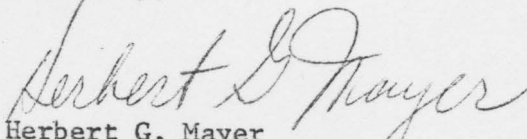
Judith
Hope
September 3, 1976

Gerald R. Ford
President of the United States
1600 Pennsylvania Avenue
Washington DC. 20500

Dear Mr. President:

I would like a comment from you regarding the enclosed article by mid October.
I believe it will influence many undecided votes.

Sincerely,


Herbert G. Mayer
Vice President - Investments

HGM:ms

encl.



Herbert G. Mayer
Vice President-Investments
Member of the President's Council

Member New York, American and other Principal Exchanges



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halts no-fault bill

Septen

WASHINGTON — The White House and the trial lawyers joined forces behind the scenes, it can now be reported, to block no-fault insurance.

The official record shows only that the Senate, by a 49-to-45 vote, recommitted S-354. But the story behind this routine development dramatizes how the people get their pockets picked by their own elected officials.

Senate bill S-354 would provide quick compensation for auto victims and would lower insurance premiums. For under no-fault, each insurance company would simply pay off its own policyholders without going to court.

This would cost the trial lawyers an estimated \$1 billion in legal fees. The lawyers' loss would be the customers' gain, since the cost of litigation is passed on to the policyholders in the form of higher premiums.

BUT THE TRIAL LAWYERS had no intention of losing all that money. They hired the lobbying firm of Timmons and Co., which has more connections on Capitol Hill than the

ticle by mid October.

Gerald
Preside
1600 Pe
Washing

Dear Mr

I would
I belie

Sincere:

Herb
Herbert
Vice Pre

by Jack Anderson

Chesapeake and Potomac Telephone Company. Its stars are
White House lobbyists, William Timmons and

initial
GEORGE D. MINASSIAN, REALTOR

103 East Mission Street • 110 West Mission Street
Santa Barbara, California



Real Estate Broker
Insurance Broker
Notary Public

Judith
Hope
All mail to home office: 103 EAST MISSION STREET • SANTA BARBARA, CA 93101 • (805) 965-4101 (If busy you may use 962-5022)

September 1, 1976

Hon. Gerald R. Ford
White House
Washington, D.C.

Dear Mr. President:

Is the enclosed allegation by Jack Anderson correct?
If not, please write me. If he is right, all I can
say is "ALAS" and cry. Our Republican Party will
continue to shrink. When will Washington straighten
itself out?

Respectfully yours,

George D. Minassian
George D. Minassian



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ANDERSON AND WHITTEN

White House vs. no-fault

The White House and the trial lawyers joined forces behind the scenes, it can now be reported, to block no-fault insurance.

The official record shows only that the Senate, by a 49-to-45 vote, recommitted S-354. But the story behind this routine development dramatizes how the

intention of losing all that money. They hired the lobbying firm of Timmons and Company, which has more connections on Capitol Hill than the Chesapeake and Potomac Telephone Co. Its stars are two former White House lobbyists, William Timmons and Tom Korologos, who used to pull wires on Capitol Hill for ex-President Rich-

insurance and that he had conferred with Korologos. But Jenckes insisted that the White House and trial lawyers had not coordinated their efforts. Jenckes, Korologos and Timmons, nevertheless, pulled the switches that sidetracked S-354.

The best way for the special interests to show their appreciation for members of Congress