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Statement of Assistant Secretary of Transportation
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Before the Subcommittee on Business, Commerce
and Judiciary of the Senate District Committee
September 29, 1971

"District of Columbia Automobile Insurance
Reform Act, S.2322"

Mr. Chairman and Members of The Committee:

I'm very happy to be here today to give you our thoughts on the proposed District of Columbia Automobile Insurance Reform Act (S.2322).

The Department's views on the general subject of reform of the auto accident reparations system are, of course, largely the outgrowth of the findings of our two and a half year Study called for by P.L. 90-313 and completed about a year ago. Secretary Volpe reported those findings to the Congress last spring together with the Administration's policy recommendations for reform of the present system.

Our Study, as you know, was directed to the performance of the existing system, nationwide, and to the merits of alternative approaches; i.e., the Study did not attempt to analyze in detail the individual situation of each State or other jurisdiction or to prescribe individually tailored solutions for their problems. The sole exception to this general approach was in the case of the Washington, D.C. Metropolitan Area where we took certain data from an earlier study and reanalyzed them for the specific purpose of the auto accident compensation pattern here. You have the results of that effort published as one of the research reports of the Department of Transportation's Study, and those results amply justify the kind of reform you seek in this Bill.

In considering auto accident reparations reform for the District of Columbia, it will be well to keep before us some of this jurisdiction's unique demographic characteristics and the way they are likely to affect the performance of any reform plan.

First, it would appear that while about four-fifths of all District accidents involve at least one District-registered vehicle, almost one-half of all accidents involve at least one vehicle registered in some other jurisdiction. This, of course, simply reflects the very high level of commutation from the Maryland and Virginia suburbs and the heavy tourist visitation to the Nation's Capitol.

Second, because of the small physical size of the District some unknown but nevertheless substantial part of the average District driver's exposure to accidents takes place outside its boundaries. This, of course, results not only because some District residents commute to employment in the suburbs but also because a very high proportion of non-work trips by most District drivers will take them into other jurisdictions.

Both of these characteristics--the high proportion of non-D.C. vehicles in the District and the disproportionately high extra-jurisdictional exposure of D.C. registered vehicles--will serve to limit rather significantly the potential benefits of any D.C. reparations system reform, at least until Maryland and/or Virginia adopt similar or compatible plans.

It is also important to remember that the District presently has a very large uninsured motorist population, perhaps as many as two out of every five drivers. Under any compulsory insurance scheme, many District drivers would find themselves faced with a substantial new motoring expense, albeit one which most of them should probably be incurring anyway.

I raise these three points, not by way of argument against enactment of no-fault reparations for the District but rather to make certain that the question is addressed with an adequate appreciation of some of the real world realities involved.

The fact is that the Administration and the Department of Transportation are already clearly on record as urging that the States and the District of Columbia act promptly to adopt first party, no-fault auto accident reparation systems. We have urged further that in order to avoid the creation of widely different, perhaps incompatible, plans, the States should be guided in their reform efforts by certain broad principles or goals which are contained in the proposed Concurrent Resolution and the Final Report of the Department of Transportation's Study.

In employing these principles as our polestars, we do not insist that States adopt any one specific plan or that complete conformance with all of the principles be achieved immediately. Indeed, there are undoubtedly many different plans which would meet, or substantially meet, our principles, including probably some plans which have not even been designed yet. Moreover, given the very substantial economic stakes involved, the relatively small amount of actual, relevant experience with no-fault insurance plans, and the widely differing levels of openness to reform obtaining in the several states, a phased approach to the introduction of no-fault auto accident reparations plans would seem to be the most prudent and likely course of action for some, if not many, state legislatures. As we can see from the plans chosen by those states who have already acted, there will likely be many paths followed to the ultimate, optimum system.

As long as they move towards and in conformity with the spirit of our principles, the Administration looks with favor on their efforts. We commend your Committee and the Government of the District of Columbia for addressing the problem of auto accident reparations head-on and in conformity with the spirit of the Administration's reform principles.

While I do not wish to comment on the Bill in detail, there is one major point I would like to address: One of our goals calls for auto insurance to be the primary benefit source. In this respect, however, the Bill takes the opposite tack by providing, generally, that other benefit sources be primary and first party automobile insurance be excess. While we understand and appreciate the motivations underlying this decision--i.e., a more effective coordination of benefit sources to prevent duplication and a greater assurance of lower premiums for the motorist--we believe that it will generally prove wiser in the long run to make the first party auto insurance primary, at least among private benefit sources.

Several arguments have led us to this conclusion. First, the auto accident frequently results in several kinds of losses--property damage, loss of vehicle use, medical expenses, hospital expenses, rehabilitation, wage loss, loss of services, etc. It would seem highly efficient to have only one benefit source investigating and administering a claim and very convenient for the victim at the same time.

Second, if, as we urge, the first party, no-fault auto insurance benefit levels are high enough to cover virtually all economic losses for virtually all accident victims, auto insurance coverage will be the most

complete and comprehensive coverage available. It would not seem very efficient or sensible to ask the seriously injured victim to exhaust his benefits from one or more other less comprehensive sources before turning to his most comprehensive source. In other words, if the specialized auto accident reparations insurance--especially one whose universal possession is mandated by law--is capable and willing to handle the entire reparations task, then that should be facilitated, not impeded, by the system.

Third, we are not persuaded that the Bill's approach to the "primary" versus "excess" decision would either achieve the desired premium savings commensurate with other coverages the insured may have or effect such savings in an equitable fashion. The better way we believe is to provide for a wide range and variety of deductibles so that the insured may, if he desires, directly and immediately realize the savings inherent in freeing his insurer from the lower strata of loss under the first party, no-fault coverage, (i.e., the first \$100, or \$200, or \$500, etc.). Actuaries regularly and rather precisely compute the value of such deductibles today for automobile collision, homeowners and other first party insurance coverages. However, auto insurance actuaries, being neither optimistic nor truly prescient, are unlikely to make their rate projections on the assumption that other coverages will in fact be available and willing to absorb future losses. Thus, savings, to the extent they may actually be generated by making the auto benefits excess, will likely be rather slow in coming to the individual insured.

In summary, from the viewpoint of the Department of Transportation, the Bill would seem to constitute one of the ways to move towards reform

principles set forth earlier this year; but we are certainly in no position to advise that the Bill is the way to go. That is a matter for the judgment and skill of those responsible for the affairs of the District of Columbia to decide. The Department's staff have identified a few relatively minor technical points about the Bill's language which you may wish to consider, and which we will make available to your staff.

In addition, as you are probably already aware, the Department has joined with and is helping support the National Conference of Commissioners on Uniform State Laws in drafting a no fault auto accident reparations act which will reflect the Administration reform principles and be designed for implementation by the States. While it will be a few months before the special drafting committee of the Conference completes the first phase of its work and submits a workable draft for the Department's review, much work has been done and a tentative draft is now in circulation. Your staff may want to review this draft and follow the work of the Commissioners as you continue to refine the District's Bill which we're considering here today. In any event, let me assure you of Secretary Volpe's great interest in this entire matter, and extend whatever assistance our Department can provide in helping ensure a good auto accident reparations system for our Nation's Capitol.

Mr. Chairman, I and my colleagues would be pleased to answer any questions you might have.