

STATEMENT OF JOHN W. BARNUM, ACTING UNDER SECRETARY OF TRANSPORTATION  
BEFORE THE SENATE COMMERCE COMMITTEE ON S. 354, THURSDAY, JUNE 7, 1973

Mr. Chairman and Members of the Committee:

I'm delighted to be here today to discuss the important matter of automobile accident compensation and insurance.

As you know, the Department of Transportation's involvement in this subject goes back to the study which it conducted, pursuant to P.L. 90-313, during the 1968-1970 period. The results of that study and the policy conclusions and recommendations of the Administration which flowed from it were reported to this Committee by Secretary Volpe on March 26, 1971. It may be useful at this point to recall those conclusions and the principal recommendation.

Secretary Volpe reported that ". . . the existing [insured tort liability] system ill serves the accident victim, the insuring public and society. It is inefficient, overly costly, incomplete and slow. It allocates benefits poorly, discourages rehabilitation and overburdens the courts and the legal system. Both on the record of its performance and on the logic of its operation, it does little if anything to minimize crash losses."

Speaking for the Administration, the Secretary went on to recommend that ". . . the States should begin promptly to shift to a first party, non-fault compensation system for automobile accident victims. [R]ecovery for 'general' or intangible damages should be drastically limited and carefully circumscribed. [T]he change should take place

at the State level, but . . . there should be general national goals or principles toward which the States will be moving."

These "goals or principles" were further spelled out in the Study's final report, "Motor Vehicle Crash Losses and Their Compensation in the United States," and in a draft concurrent resolution proposed by the Administration. Among the most important of these goals were the following:

- "Basic benefits should be forthcoming to the injured person on a first-party, contractual basis to the end that such person would be receiving benefits from the insurer with whom he has contracted and to whom he has paid his premiums . . . .
- Basic benefits under the reparations system should be payable to all accident victims without regard to fault, excluding, of course, those who willfully injure themselves.
- Such benefits should provide compensation for all economic loss, subject to reasonable deductibles and limits, and the tort lawsuit should be eliminated, at least to the extent first-party benefits apply, avoiding the adversary process for the mass of accidents."

Nothing has transpired in the last 26 months to weaken our confidence in the validity of those conclusions and recommendations.

From our vantage point we believe it is unfortunate that Congress chose not to address our proposed concurrent resolution, but instead proceeded to the consideration of a series of Federal no-fault bills. Adoption of the proposed concurrent resolution would have helped spur the States to greater action. During the past two years the Administration itself has moved to assist the States in meeting the challenge of reforming their auto accident compensation system.

First, in the spring of 1971, the Administration joined with the Ford Foundation in supporting financially the drafting of model no-fault legislation by the National Conference of Commissioners on Uniform State Laws. This effort produced the Uniform Motor Vehicle Accident Reparations Act (UMVARA) which was approved by the National Conference and recommended to the States in August 1972.

The Department also advanced modest financial assistance to the Council of State Governments which sponsored a series of legislative seminars on no-fault reform for the benefit of State legislators, insurance regulators, and others.

Finally, when it became clear that the prospects for many reform proposals were being adversely affected by uncertainties and doubts in legislators' minds created by the widely varying estimates of no-fault's cost and price implications, we joined with the Ford Foundation to contract with the National Association of Insurance Commissioners for the development of a methodology and computer model for costing various no-fault reform alternatives for State legislatures. Cost estimates of reform proposals of special interest to this Committee are also to be provided under the contract.

In summary, over the past two years we have been actively and vigorously working for, not simply talking about, first-party, no-fault automobile insurance reform. In this effort, we have had the wholehearted cooperation and support of the vast majority of the Nation's statehouses, a growing proportion of the insurance industry, significant

and influential elements of the bar, a wide spectrum of consumer, labor and business interests, and, increasingly, the legislatures of the several States.

Following the pioneering, and now successful, experiments of Puerto Rico and Massachusetts which preceded the Administration's endorsement of the no-fault concept, some dozen States adopted reform plans that reflect in major and significant ways the Administration's reform principles. We understand that such progress--and we do view it as heartening progress--can never satisfy those who seek immediate change in the entire auto accident reparations system, even though we may agree on the ultimate objective and even most of the details of true no-fault reform. However, these developments and the bright promise of further progress by the States in adopting no-fault auto insurance provide meaningful support for the soundness of the course we espouse--that of State adoption of no-fault auto insurance in place of the discredited insured tort liability system. Let me list just some of the more obvious reasons for this optimism and confidence:

- Twice as many States have already enacted no-fault reform laws this year than in any previous year and the pace seems to be accelerating.
- Several States--including some very large ones such as California, Illinois, Ohio and Pennsylvania--now have no-fault reform high on their legislative priorities, and are likely to act favorably before the year is out.
- The State statutes recently enacted evidence a trend to stronger and more comprehensive no-fault regimes as experience derived from earlier plans provides better justification and instills greater confidence--Michigan and New York being cases in point.

- The States which have not yet acted now have the proven assurance from Massachusetts, Puerto Rico and Florida -- and soon from other States -- that no-fault does not create an epidemic of carnage on the highways and that it can produce real efficiencies and cost savings.
- Several States which established no-fault legislative study commissions in the wake of the Administration's call for action are now seeing that work completed and should be ready to act on their recommendations.
- The Uniform Law Commissioners' model act, UMVARA, and the National Association of Insurance Commissioners' costing model are now ready and available for those State legislatures who want and need them.
- The motoring public has become increasingly familiar with, and demanding of sound, no-fault reform. State legislators now largely accept both the desirability and inevitability of no-fault and are sincerely pursuing the best approach for their own State.

All of these factors persuade us that the outlook for no-fault reform in the legislatures of the several States is bright. Indeed, half the motorists of this country could soon be covered by some meaningful form of first-party, no-fault automobile insurance. In the historical perspective, such a rapid change in a major and pervasive social institution would be unprecedented. Surely, such an opportunity should not be foreclosed by Federal preemption, no matter how praiseworthy the objective might be.

Mr. Chairman, I recognize that this objective -- the realization of sound, first-party, no-fault reform -- is one that many on this Committee share with the Administration, even though we may differ on how it might best be achieved. The staff has, as the Committee requested, reviewed S. 354 without regard to our fundamental misgivings over the

appropriateness of or present need for Federal legislation on this matter. We will transmit these technical comments to the Committee separately.

This Administration strongly believes in first party, no-fault insurance. President Nixon has personally endorsed it saying, "No-fault insurance is an idea whose time has come . . . . I consider it to be a vast improvement and a genuine reform for the benefit of the consuming public." The Department has devoted considerable time and effort in encouraging State adoption of meaningful no-fault insurance programs. We fully intend to continue our vigorous support for this policy.

Mr. Chairman, this completes my prepared statement. I and my colleagues would be happy to attempt to answer your questions.