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Attached for your information are several editorial
comments from some of today's newspapers.

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Florio takes charge

Plan to overhaul auto insurance is bold, fair

Asbury Park Press 1-26-90

After just one week in office, Gov. Florio has taken on one of New Jersey's most intractable problems, overpriced auto insurance. With refreshing energy, Florio convened a special joint session of the Legislature Monday and presented a comprehensive reform plan. No more cosmetic remedies, he said. The current system is "totaled" and must be put on "the junk heap where it belongs" to start fresh with fundamental changes.

Florio did not ask legislators to consider his proposals. He sternly told them they have to act. The people of New Jersey want relief, he said, and those who stand in the way of "the people's will" shall lose. The new governor then hit the road, going around the state to meet people, explain his plan and muster support for it. He wants the legislation enacted by April so rate reductions can take effect early next year.

The new governor's confidence is admirable. So is his determination to overcome the nitpickers and naysayers. Some say Florio is shifting insurance charges, not cutting them. That shift is essential, however, to erase within seven years the \$3 billion debt of the Joint Underwriting Association. A state creation that was supposed to insure the worst drivers but became a mismanaged, fraud-ridden dumping pool, the JUA now covers more than 40 percent of New Jersey's motorists. And all insured drivers are being forced to prop the JUA up with excessive surcharges.

Florio seeks to pay off the JUA debt with a \$1.4 billion assessment on insurance companies, higher auto registration fees, surcharges on demonstrably bad drivers and higher licensing fees for doctors, lawyers and body-shop operators.

Only by retiring the JUA debt can the state get a fresh start on total insurance reform. Under Florio's plan, the JUA would be scrapped. Good drivers would be guaranteed insurance in the voluntary, or private, market. The worst drivers would be put in a high-risk pool, formed and paid for by insurance companies.

Florio's proposal could succeed where others have failed because it attempts to be equitable. No one is spared some part of the pain. The insurance industry, doctors, lawyers, body shop owners, motorists — everyone has to make some sacrifices, he says, because no one group is solely responsible for making New Jersey auto insurance among the most expensive in the nation.

To stop industry price-fixing and to encourage free market competition, the governor would abolish the state's anti-

trust exemption for insurance companies. Premiums would have to be calculated according to what people drive and how they drive — not their age, sex or marital status. He also promises a Division of Motor Vehicles crackdown on uninsured motorists, and new rules to detect fraudulent vehicle-repair claims.

The Florio plan undoubtedly will attract a chorus of complainers. Motorists who have enjoyed artificial discounts on their policies would be charged more. Physicians and therapists, some of whom have unduly profited from auto-injury cases, would have their fees limited. Lawyers will gripe about higher premiums for policyholders who opt for an unlimited right to sue over any accident injuries.

Right now, insurance industry leaders are upset over the prospect of having to pay off half of the JUA debt and being prohibited from passing on any of the losses to policyholders. The new governor is confident that these objectors cannot derail his initiative, in court or in the Legislature. During his first week in office, Florio met with top insurance executives. He says the "sensible" ones like his long-term objectives, and they knew the industry would have to pay a sizable sum to junk the JUA.

One of the weaker links in Florio's chain of reforms is letting policyholders make their health insurance policies cover medical claims arising from traffic accidents. Florio says this can save drivers \$40 a year on their Personal Injury Protection (PIP) coverage. This practice is common in other states, and it makes sense: Health insurers are more efficient at handling medical claims than auto insurers. But skyrocketing health insurance costs are as much a problem in New Jersey as auto insurance, and Florio cannot dismiss lightly what the PIP shift could do to further inflate health insurance bills.

New Jersey auto insurance will never be cheap. Population density and traffic congestion guarantee a high accident rate, regardless of how well we drive. And Florio's plan does not address every factor that inflates insurance premiums. But he promised to make this his first order of business, and he quickly delivered a thoughtful, well-assembled package.

Cynical New Jerseyans — and most are cynical about auto insurance — will say, "I'll believe he's made a difference when I see it on my bill." They'll have to wait. But Florio's plan promises rate relief for deserving drivers, and it could keep future rate increases within reason. Now it's the Legislature's turn to maintain the momentum on insurance reform.

The Florio plan

Its virtue is its boldness: Auto insurance in New Jersey is too messed up for half-measures.

This week Gov. Florio unveiled a sound, politically astute plan to cut the cost of driving in the nation's most car-packed state. His proposal tackles the most pressing issue — the \$3-billion debt of the Joint Underwriting Association — plus a range of legal and regulatory weaknesses that let insurance costs soar. And it recognizes that the status quo is too fouled up (and unpopular) to be fixed with modest changes.

At the center of the current mess is the JUA, which now insures about 40 percent of the state's drivers even though it was created for bad, uninsurable drivers. Naturally, insurance companies kept their favorite customers and tried to dump everyone else into the JUA. Its \$3 billion debt grew from wasteful management by the JUA, whose leadership was dominated by the insurance industry. But the debt also came from the Kean Administration's willingness to let the JUA pay bills as they came due, instead of sticking with the industry practice of building up reserves for expected costs.

How to handle the \$3 billion? Although a blue-ribbon commission this month advocated letting it ride for a while, Mr. Florio's plan is more responsible: He would drive it down to zero in seven years, while terminating the JUA. The biggest chunk — \$1.4 billion over seven years — would come from new fees on the insurance industry.

That's the iffiest part of the proposal. If the insurance industry can't defeat it in the legislature, it will surely challenge it in court. And if it wins in either arena, that likely will put more of the cost on the average New Jersey motorist, who already stands to pay off about one-third of the debt (\$900 million) through higher auto-registration fees. Still, the average motorist would win financially because the Florio plan would stop him from continuing to pay JUA-related charges that total \$212 per year.

While sensibly paying off the debt, the Florio plan also would reform the insurance system to prevent a similar mess in the future. The JUA, which is as sore a subject as Pennsylvania's defunct fund for catastrophic auto-accident injuries, would be scrapped and replaced with a standard, "assigned-risk" plan for truly bad drivers. This would provide insurance, but at rates that fairly reflect the high risk posed by a small minority of drivers. Companies couldn't put more than 10 percent of all drivers in that category. This

works in other states and can work in New Jersey.

Even though most of the potential savings to the average motorist would come from scrapping JUA-related charges, the Florio plan also would give a money-saving option to motorists who have health coverage where they work. By agreeing to send accident-related medical bills first to the employer-paid plan, someone could pay \$40 less per year for the injury-protection part of his auto insurance. In part, that's cost-shifting rather than cost-cutting. Still, there are two sound arguments for the change. Health-care specialists such as Blue Cross are better than auto-insurance experts at detecting padded medical bills — and when a business pays more for an employee health benefit, it gets to write it off with the IRS.

Since this option seems sure to be opposed strongly by business organizations and labor unions, the legislature could do better at lowering costs via a policy sure to inflame the state's trial lawyers (who got off very lightly under the Florio plan). Currently, New Jersey motorists have an option of a premium reduction in exchange for limiting their right to sue for pain and suffering in case of non-severe injuries. But that voluntary limit, which 83 percent of the drivers agree to, isn't strict enough. It doesn't bar anyone with a simple fracture, for example, from suing. Instead, New Jersey should adopt Michigan's tough definition of the kind of damage that would justify a suit for pain and suffering: serious impairment of body function, permanent, serious disfigurement or death.

Finally, the Florio plan includes some items to force real competition in the insurance industry, but the legislature should go further. For example, Mr. Florio proposes to end the industry's current exemption from antitrust laws — a reform that was unanimously endorsed this month by the state's Automobile Insurance Reform Study Commission, whose diverse members had split on many other policies. If legislators really want to inject competition into this industry, they should adopt other reforms as well, such as letting auto-insurance agents offer discounts.

Mr. Florio has offered a strong, comprehensive reform package that would vastly improve the current situation. The legislature should adopt its framework, while strengthening some of its specifics.

Influence

Another promise kept

Home News 1/26/90

Governor Florio kept another one of his campaign promises this week, and he got a two-fer out of it. Taking the appointment ceremony for his new environmental prosecutor to the Elizabeth Marina, the governor attracted a big media crowd for a press conference at which he lashed out again at Exxon for the big New Year's fuel oil spill in the Arthur Kill. It couldn't happen to a more deserving polluter. But judging by Exxon's hapless and ineffective performance over this environmental blow, the company is untouched by criticism. Now, however, Exxon will have to deal with Environmental Prosecutor Steven Madonna if a state investigation turns up violations of the law.

The Exxon spill provided the governor with a compelling backdrop for what is believed to be the nation's first environmental prosecutor. In New Jersey, alas, there is plenty of business for an environmental law enforcer, and Florio believes the new prosecutor's post — which will have broad authority to coordinate all environmental law enforcement — will send a strong message to polluters. Now it will be up to Madonna to demonstrate that the new position results in better, more cost-effective prosecution of polluters under the state's tough environmental laws.

A pollution watchdog . . .

Berge Record 1-26-90

AGENDA
'90
ENVIRONMENT
One of six subjects
The Record considers
crucial to the future
of our state. Editorials
on these topics will
appear periodically
during the year.

As a backdrop for introducing the state's first environmental prosecutor, Governor Florio picked the dirty brown waters of the Arthur Kill. The locale was appropriate — only a few hundred yards from the Exxon Bayway Refinery, where an underwater pipeline spewed out 567,000 gallons of heating oil on Jan. 2. On Wednesday, globs of congealed oil still

Madonna's reputation for toughness, intelligence, and honesty. Even more important than the choice of prosecutor is the symbolic significance of the new post and the gains that can be expected from it in terms of more effective monitoring and protection of New Jersey's natural resources.

Mr. Madonna has broad new powers to coordinate enforcement across every environmental front. He can override the various state agencies whose control over potential polluters is bogged down in turf protection and conflicting rules. An executive order signed Wednesday by Mr. Florio requires the state Board of Public Utilities and the Departments of Health and Environmental Protection to give full support and cooperation to the special prosecutor. Of course, the power concentrated in the environmental prosecutor's hands should be focused on major offenses, not used to harass those earnestly trying to comply with the law.

bobbed in the water and continued to soil the nesting sites of water birds on the shore. State and federal inquiries are under way on Exxon's response to the spill, which was too slow and too casual.

The new special prosecutor, Steven Madonna, is an experienced pollution fighter, having served for more than a decade as deputy state attorney general for environmental prosecutions and corruption probes of the trash hauling industry.

Since 1988, he has been counsel to a firm that runs garbage-transfer stations for Morris County and out-of-state landfills for Passaic County. Mr. Madonna's firm has been providing information to help convict the dumping firm whose fire caused the collapse of part of Interstate 78 last summer. That fits with Mr.

Mr. Madonna's long experience equips him to pinpoint the bureaucratic snags and bottlenecks that have interfered with vigorous enforcement of the state's strict laws to protect air and water quality and to punish the illicit dumpers of trash, toxic wastes, and raw sewage. Mr. Madonna also knows from bitter experience the statutory loopholes that have let New Jersey's most egregious illicit dumpers go scot-free. Now he has power to help close those loopholes.

This is an excellent initiative. It is a timely response to people's heightened anxiety about what their world will look like in 10 years. Mr. Madonna appears to be just the right candidate for the job.

. . . and a bureaucratic mutt

President Bush, who initially opposed the idea, has given his support to legislation that would make the Environmental Protection Agency a Cabinet-level department. If nothing else, the designation would have symbolic value in emphasizing the importance of environmental issues. But the move also raises serious questions.

The agency would become the 15th Cabinet-level department. Originally conceived as a small group of top advisers to the president, the Cabinet is now an unwieldy group that includes officials as powerful as the secretary of state and as obscure as the secretary of commerce. The last department to attain Cabinet status

was the Department of Veterans Affairs, hardly one of Washington's indispensable agencies.

By simply adding the EPA, Congress and the president would add to the confusion characterizing the jurisdictions of Cabinet departments. The Departments of Interior and Energy already have key roles regarding the environment. Instead of adding yet another department, it would make more sense to consolidate the Departments of Interior and Energy and the EPA into a single Cabinet agency. Elevating the status of the EPA certainly would make the environmentalists feel good. Whether it would result in better, more efficient government is doubtful.

Over the years, New Jerseyans have heard many promises that this plan or that plan would reform auto insurance and lower the rates they pay. Their rates are still the highest in the country and the system is still, in many ways, extravagant and illogical. So we wouldn't blame them for approaching Gov. Jim Florio's comprehensive proposal, formally introduced in the Legislature yesterday, with caution and some skepticism. We can't help approaching it that way ourselves.

We well remember, for instance, when Tom Kean, Mike Aduabato, Alan Karcher, Carmen Orechio et al collaborated in 1983 to invent the Joint Underwriting Association. The JUA was hailed as the instrument that was going to isolate New Jersey's bad drivers, make them pay the full costs they imposed on the system and stop the good drivers from subsidizing them. In practice, of course, the JUA turned out to be so zanyly designed and so poorly monitored that it insured more than half the drivers in the state at one point and gave the participating insurers a guaranteed profit with no incentive to challenge claims or reduce costs. JUA became, in Gov. Florio's phrase, a cash cow for the industry — and a \$225-a-year liability for every motorist in New Jersey.

Despite previous disappointments, however, there's a lot to admire about the Florio plan and the Florio approach. The governor believes he has a mandate to reform the system and he's moving quickly to exercise it. He has obviously poured a lot of thought, study and personal knowledge into his legislative package. Now he's sparing no effort to sell it to the public. The heart of his plan — and the most iffy part — is his proposal to junk the JUA and replace it with an assigned-risk pool that would cover a maximum of 10 percent of the drivers and charge them up to 60 percent more. He would eliminate the JUA's anticipated \$3 billion cash shortfall with a combination of assessments and taxes on insurance companies — none of which could be passed through to the motorist — and hikes

in financing. But if the governor can make it stick it will be a huge and well-deserved victory for the consumer. His proposal to shift personal injury protection (PIP) from auto insurers to health insurers makes sense in the broad perspective. Health insurers can cover PIP more cheaply because of group-plan efficiencies. Holders of individual health policies will see little if any savings, and some employers who provide health coverage will seek to pass their cost hikes on to their employees. Even so, the governor estimates the average saving to each motorist at \$40. Drivers would be rated on their personal driving records, not by arbitrary factors such as age, sex and marital status. The existing but ineffective medical fee schedule would be made more stringent. Insurers would be required to photograph damaged automobiles as a safeguard against fraud, and would also be required to submit enforceable anti-fraud and anti-theft plans. Each of these proposals would improve the system. Assembly Republicans have criticized the lack of a mandatory verbal threshold that would cut down lawsuits. That would be a valid and powerful criticism — except for the fact that Gov. Florio proposes to achieve a similar effect by increasing the surcharge now paid by those who opt to retain an unlimited right to sue. Only about 15 percent of drivers buy that option now, the administration says, and that number will diminish as the price is raised to reflect its true cost. ***
All in all, it's a comprehensive and internally consistent plan. By spreading around the pain of undoing yesterday's mistakes, it will make nobody completely happy. But it holds out the prospect of bringing about a more efficient system — a system in which ordinary mortals can afford to drive and still enjoy the security of adequate insurance coverage. Gov. Florio deserves credit for putting the program together, and he serves a chance to put it into effect.