AUTOMOBILE INSURANCE REFORM

STUDY COMMISSION REPORT

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State of New Jersey
DEPARTMENT OF INSURANCE

KENNETH D. MERIN
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To: Honorable Thomas H. Kean, Governor

Honorable John F. Russo, President of the Senate

Honorable Chuck Hardwick, Speaker of the Assembly

Members of the New Jersey Legislature

This report on the availability and affordability of automobile insurance coverage is hereby submitted by the study commission which was empaneled pursuant to NJSA 17:30-E23.

The report includes roll call votes on 19 recommendations. Additionally, several members have supplied separate opinions of their own.

The report also includes a historical analysis prepared by the Department of Insurance which examines many of the regulatory and marketplace issues which the legislation requested that this commission address.

In presenting this report to you, the commission members wish to point out that we are keenly aware of and troubled by the auto insurance proposals which have drawn attention during this election year. We believe it is important for us to comment on these proposals.

We acknowledge that quick-fix auto insurance plans have great popular appeal because auto insurance laws are so complicated and premiums are frustratingly high. But to achieve success, we must carefully analyze the current system, pinpoint exactly what the problems are, and then devise solutions addressing those particular problems.

Therefore, we wish to emphasize that it will be unproductive to merely abolish the JUA or to roll back auto insurance rates by 20 percent. Such actions may vent our frustrations, but they won't address the real problems and are likely to present us with new, more formidable ones.

California voters rolled back auto insurance rates in this manner. The California Supreme Court, however, said the rollback cannot be automatically applied if the result of such an application is confiscatory in nature and fails to provide the company with a fair rate of return. In essence, the California Supreme Court established a standard which permits reasonable, not excessive profits.

That is the standard we had in New Jersey for a quarter century. Unlike California, New Jersey has had a prior approval rate system, in which companies have not been able to raise rates without the state's advance permission. However, starting July 1, 1989, New Jersey began a file-and-use-type system permitting insurance companies to establish rates at three percentage points above certain consumer price indices without the prior approval of the Insurance Commissioner.

The Department of Insurance and the Department of the Public Advocate have analyzed data and reviewed filings to protect New Jersey motorists against excessive rates and will continue to do so. Since 1986, New Jersey's Excess Profits Law has required companies to issue refunds if profits exceed a certain level, and that level was made more stringent in 1988. The Department of Insurance annually reviews filings to enforce that law.

The 20 percent rollback ballot question was a gut reaction which assumes that all insurance companies are reaping too much profit. A better way to regulate companies exists in the systematic reviews which have been implemented by the Departments of Insurance and the Public Advocate.

Regarding the JUA, we recognize that it may be possible to devise a better mechanism for delivering insurance to drivers whom insurance companies won't cover voluntarily. We have no argument with any comprehensive, thoughtful, documented plan to replace the JUA with another cost-effective insurance system.

It is important to recognize that the JUA of today is a vastly different organization from the institution which was implemented in 1983. Thanks to adjustments and improvements made in 1987, and major reforms made by law in 1988, the JUA will deliver insurance benefits and collect premiums more efficiently. We recommend further reforms in this report.

January 8, 1990

Kenneth D. Merin, Chairman

COMMISSION MEMBERS

Anthony G. Dickson, secretary and vice president, New Jersey Manufacturers Insurance Company

William Doyle, executive director of the Independent Insurance Agents of New Jersey

J. Robert Hunter, president of the National Insurance Consumers Organization

David J. Jacobs, a public member on the New Jersey Full Insurance Underwriting Association

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Alfred Slocum, Public Advocate

Jack Trope, chairman of the New Jersey Full Insurance Underwriting Association

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Senator Catherine A. Costa

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Glen Paulsen, Director of the Division of Motor Vehicles

Kenneth D. Merin, Insurance Commissioner

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THE COMMISSION'S CHARGE

This study commission began its work in February 1987 and, in the intervening two years, has attempted to learn why both the driving public and the insurance industry have been dissatisfied with New Jersey's automobile insurance system, and whether reforms enacted in 1983 corrected the perceived problems.

To no one's surprise, we learned that rates are perceived by the public as too high, while the industry considers rates too low to provide mandated benefits. More importantly, we also learned that no single reform can effectively solve this system's complex problems.

We consider it important to enact a variety of reforms -- that is, to take a comprehensive, multifaceted approach. In the past, piecemeal approaches have served us poorly.

This report outlines New Jersey's efforts over the past 20 years to make automobile insurance accessible and affordable. This history involves several well-intentioned government actions which achieved their primary goals but also produced unfortunate side effects that still afflict us today.

We recommend taking steps to correct those side effects. Unlike those who propose drastic actions such as eliminating no-fault or abolishing the JUA, we believe the most prudent path is to improve the current system.

This study commission found it difficult to reach a concensus on an entire package of auto insurance reforms. Furthermore, reforms were being enacted in 1988 concurrent with our efforts to finalize this report. It is too soon to evaluate the effectiveness of the 1988 reforms.

But we nonetheless have pinpointed the major problems and have agreed upon major recommendations. We hope our analysis will focus public attention on the steps we feel are necessary to control rates and stabilize the market.

In preparing this report, we held ten full commission or subcommittee meetings, conducted a public hearing, met with JUA officials, conducted research with the cooperation of the Department of Insurance, and communicated recommendations and comments through several exchanges of correspondence.

This study commission was created by Assembly Bill 1696, signed into law by Governor Thomas H. Kean on February 10, 1983.

That bill was codified as the "New Jersey Automobile Insurance Reform Act of 1982," NJSA 17:29A-33 to 17:29A-41, and the "New Jersey Automobile Full Insurance Availability Act," NJSA 17:30E-1 to 17:30E-24.

The law mandated vast changes in the automobile insurance market, doing away with the Assigned Risk Plan (ARP) for handling motorists whom insurance companies did not want to cover, and putting restrictions on rating practices in order to moderate the extreme differentials in those practices.

The law created the JUA to take over ARP policies as they expired during the 1984 calendar year. The JUA began writing all new residual market business January 1, 1984.

This report frequently refers to A-1696 and to reforms enacted in late 1988. Both are explained in **EXHIBIT A**.

The Legislature gave this study commission a broad mandate to evaluate not only the success of the JUA itself but also the effectiveness of virtually all automobile insurance laws, regulations and company practices.

The statute states:

"The commission study shall evaluate market conditions resulting from the implementation of the aforesaid two acts with respect, but not limited, to: market availability, affordability and equity of automobile insurance coverage; the operation and effectiveness of the modified two-tier rating system, including the effectiveness and adequacy of merit rating plans and surcharge systems; the fairness of, and statistical basis for territory and classification systems in use; the effectiveness of the prior approval system; the effectiveness and fairness of the New Jersey Automobile Full Insurance Underwriting Association, including the adequacy and fairness of its funding system; and the creation of genuinely competitive market conditions."

The statute required this study commission to submit its report by January 1, 1988, but it was not completed on time

because of ongoing problems in collecting and compiling the necessary information.

INTRODUCTION

For decades, automobile insurance in New Jersey has been in the forefront of controversy. Since the mid-1970s, the common perception among New Jersey motorists has been that they are paying unusually high rates. That perception was given a boost in late 1982, when the A.M. Best Co. began publishing annual state-by-state rankings of automobile premiums.

Best, based in Oldwick, N.J., is the nation's most widely recognized analyst of the insurance industry. Best receives data from insurance companies, organizes the data, compares and analyzes it, and publishes its conclusions about company solvency and industry trends.

For six years in a row, Best announced that New Jersey's average automobile insurance premium was the the nation's highest. **EXHIBIT B** Best's original 1985 ranking was later revised to place New Jersey at No. 2, behind Alaska. But New Jersey remains pegged by Best as the most-expensive auto insurance state for 1981, 1982, 1983, 1984 and 1986.

The 1987 ranking, announced in January 1989, put Massachusetts at the top for the first time, with New Jersey at No. 2.

So the public perception is that New Jersey's rates are the highest, even though Best itself concedes that the methodology for its ranking is too simple.

Best merely divides the total annual automobile insurance premium paid in each state by the number of registered cars. Obviously this "average" is lower in states where insurance is optional, or where the state requires much less coverage than New Jersey. Best's ranking system does not consider these important factors.

A more accurate comparison is the New Jersey Department of Insurance study of premiums paid through the Insurance Services Office (ISO) rating bureau. These were total premiums paid by motorists whose companies used rates filed in each state by ISO, a private industry-funded statistical organization. ISO is a major rating bureau in most states, and in New Jersey it represents 70 percent of the voluntary market.

That study placed New Jersey's average 1987 premium at $735, the nation's eighth highest, behind five states and the District of Columbia and Puerto Rico. The same Department of Insurance study found residual market rates to be 22nd highest.

EXHIBIT C

Moreover, ISO and most independent filers did not receive a general rate increase in New Jersey for five years, while other states have approved double-digit increases.

It is small consolation, though, to know that rates are even higher in a few other states, or that New Jersey rates were stable for five years. Motorists believe rates have been far too high for a long, long time, and they were outraged when rate increases and a new JUA surcharge took effect in 1988.

If the perception among New Jersey motorists was that rates were too high, the reverse was true for insurers.

It is the industry's position that auto insurance rates have been kept far too low -- except during a few years in the mid-1980s, and that the Department of Insurance responds too slowly to rate increase requests. Also, the industry believes that mandatory auto insurance benefits were increased as part of the no-fault package in 1973 without providing for adequate rates.

The industry, therefore, was selective in whom it would cover voluntarily. And in the mid-1980s, when the JUA took over the residual market, the industry tightly restricted voluntary coverage because it was concerned that insurers would be assessed, based on their market shares, for any JUA deficits.

So the diverse perceptions on rates and on the insurance climate in New Jersey produced a second problem: unavailability of coverage.

New Jersey's residual market -- the cars covered through the ARP or JUA -- has grown at a steady clip since the early 1970s and is now half of the entire market. Except for Massachusetts, New Jersey has the largest residual market for automobile insurance in the nation, in terms of both absolute numbers of cars and market share. **EXHIBIT D**

A major reason for the ARP increase in 1980 was the withdrawal of GEICO and Nationwide from New Jersey. Most of their customers were forced into the ARP.

As the residual market grew, it took on a less homogenous makeup and inevitably included many motorists with good driving records. These "good drivers" were penalized by being forced into the ARP through no fault of their own. They received relatively poor service, they had to pay the higher ARP liability and physical damage rates, and they could not purchase the same liability limits available in the voluntary market. Before 1971, they couldn't buy physical damage coverage at all.

The JUA was seen as the answer to those problems of access and equity. Commencing January 1, 1984, the ARP was abolished and, instead of about 200 auto insurance companies handling residual market business, only 15 insurance companies, called servicing carriers, remained involved.

The JUA became responsible for the residual market. The servicing carriers were hired merely to do the legwork -- writing policies and paying claims with the JUA's money.

Under the JUA, consumers in the residual market have received better service and fair prices. The consumer's local agent or broker deals regularly with only one JUA servicing carrier, preventing the confusion which arose when agents and brokers dealt with many different ARP companies. The servicing carriers generally have provided good service to consumers, as indicated by market conduct investigations by the NJ Department of Insurance. **EXHIBIT E** In addition, the ARP surcharges were abolished; by law, the JUA charges the same rates as the voluntary market.

JUA premium revenues have been buttressed by new insurance surcharges collected from licensed motorists by the Division of Motor Vehicles for convictions of certain moving violations or for the accumulation of six or more motor vehicle points. The DMV keeps some of that surcharge revenue to cover administrative expenses, but 80 percent of the revenue went to the JUA from 1984 through 1988, and 90 percent or more is going to the JUA starting in 1989.

The law also placed "caps" on rates, to moderate the extreme charges to motorists with several negative rating factors (such as single young men in urban areas) because there was insufficient statistical justification for those high rates.

The law also required administrative costs (such as clerical and postage costs, license fees, advertising and other acquisition costs) and taxes to be charged as flat fees rather than percentage of premium. This was because a company's administrative costs are unrelated to rating categories, so there was no justification for charging higher-than-average administrative costs to motorists whose premiums were already higher than average. That old system had compelled high-rated drivers to subsidize other drivers.

At about the same time, the Legislature required insurance companies to offer consumers the choice of buying less than the "basic" package of coverage. The "Automobile Insurance Freedom of Choice and Cost Containment Act" allowed elimination of lost-wage and death benefits, shifting some medical costs to the

consumer's health insurer, partial benefit reimbursement if the consumer collected damages in a lawsuit, a greater restriction on the motorist's right to sue, and a greater range of physical damage deductibles.

These measures have had five years to mature.

The focus of this report is the effectiveness of the 1983-84 reforms in making automobile insurance available and affordable.

HISTORICAL PERSPECTIVE

New Jersey has a long history of consumer dissatisfaction with automobile insurance rates and of tight rate regulation which the industry has found objectionable. **EXHIBIT F**

A major reason for high rates, and consequently tight regulation, are demographic factors beyond anyone's control.

New Jersey has more people, more cars, more roads and, consequently, more accidents per square mile than almost any other state. The population density is the nation's highest, 986 people per square mile, compared with the national average of 64, according to the 1980 census.

New Jersey has the highest number of registered vehicles per square mile (611) and the highest number of vehicles per highway mile (141), according to statistics from the Alliance of American Insurers. And New Jersey is a corridor state, taking on the risks posed by an unusually high amount of out-of-state traffic.

EXHIBIT G shows that, although fewer deaths occur on New Jersey roads than in most other states, more injuries happen. New Jersey's rate of nonfatal injuries occuring per 100 million vehicle-miles of travel was the second-highest in both 1986 and 1987, the most recent statistics from the U.S. Department of Transportation. Only New York had a higher injury rate.

These demographic factors were cited as one of the two major causes of New Jersey's high automobile insurance rates in

a 1983 study commissioned by the Department of the Public Advocate and authored by Joseph Ferreira, Jr., of the Massachusetts Institute of Technology, and J. David Cummins, of the Wharton School, University of Pennsylvania.

(The other major cause they cited was New Jersey's unbalanced no-fault system, which will be discussed later.)

In its regulation of auto insurance, New Jersey operates under a "prior approval" system, requiring companies to receive Department of Insurance permission before increasing rates. New Jersey's rate controls have been perceived by the auto insurance industry as too tight and restrictive for at least two decades.

In the industry's view, the department historically has taken too long to decide rate cases, and usually permits much less than companies really need. Also, companies believe the prior approval system has been slowed down too much since 1974, when the Public Advocate's office gained the right to intervene.

Moreover, the state's tight restrictions on the cancelation or nonrenewal of policies has been cited as a reason for companies' reluctance to write new business in New Jersey. **EXHIBIT H** Companies say they are afraid they will not be able to unload a policy which proves unprofitable.

* * *

As long ago as 1967, there was a heated dispute over ratemaking.

Automobile insurance companies, then represented in rate cases by two now-defunct organizations, filed in January and

February of 1967 for a rate increase from Commissioner of Banking and Insurance Charles R. Howell. In February 1968, Howell denied the applications and thereby challenged the industry's previous assumption that it enjoyed a right to a 5 percent "profit and contingency" factor in auto insurance rates.

The case went to the New Jersey Supreme Court, which sent the matter back to the Department of Insurance for "more information." This provided the opportunity for a frontal assault on industry assumptions about rates and profits, and virtually every aspect of auto insurance rates and investment proceeds were examined in 33 public hearings and an exhaustive study overseen by Insurance Commissioner Robert L. Clifford, who is now a New Jersey Supreme Court associate justice.

On his last day as commissioner, February 6, 1972, Clifford ordered auto insurance companies seeking rate increases to factor in a portion of their investment income as part of their projected underwriting profit.

This was a radical move. Previously, insurance companies projected a profit from premium income alone, after paying claims and administrative expenses. There was no consideration of the profits companies earned from the investment of their reserves.

Under the "Clifford Formula," consumers have enjoyed lower auto insurance rates because companies' investment profits have offset some of the profits previously incorporated in the rates.

The specter of tight ratemaking, and the five-year delay in the rate decision caused by the lengthy litigation, prompted the automobile insurance industry to protect itself by tightening underwriting standards. The ARP population grew steadily as insurance companies became more selective in whom to cover.

During the five-year litigation, the ARP market share nearly doubled -- from 6.5 percent or 138,543 cars in 1967 to 13.4 percent or 362,588 cars in 1972.

The ARP, at the time, was not equipped to adequately cover a major market share. It was a voluntary organization only, created in 1941 by the insurance industry to share the risk of covering motorists who persisted in seeking coverage even after being rejected by one or more companies. At the time, automobile insurance was voluntary for motorists.

But as more motorists were forced into the ARP, there was dissatisfaction that companies handling an ARP application offered only bare-bones coverage: $10,000/$20,000/$5,000 liability coverage and no physical damage coverage.

The Legislature enacted what became NJSA 17:29D-1 (P.L.1970 c.215), requiring the Commissioner of Insurance to establish a plan for "the apportionment of insurance coverage for applicants therefore who are in good faith entitled to, but are unable to procure the same, through ordinary methods."

Pursuant to that 1970 law, Clifford issued a regulation, effective January 1, 1971, which transformed the ARP into a mandatory mechanism. For the first time, companies were

compelled to offer both physical damage coverage and higher liability limits -- $25,000/$50,000/$10,000 and $50,000/$100,000/$10,000.

While all this was happening, the pressure was building in New Jersey to adopt no-fault automobile insurance, which was being considered in many states.

Prior to that, automobile insurance throughout the country was a liability system. Most major claims were paid by the company covering the motorist who caused an accident.

Studies conducted in the late 1960s indicated that individuals hurt in auto accidents did not necessarily receive compensation for medical bills and lost wages.

Ironically, small claims, which were covered by auto medical payment insurance, usually were settled, but more seriously injured persons -- the people who had the greatest need for insurance coverage -- had to prove another's negligence in order to receive compensation from auto insurance. This process often caused long delays in receiving compensation.

Consequently, small claims tended to be overcompensated, while more serious claims tended to be shortchanged. Insurers did not want to absorb the costs of fighting smaller claims but thought it cost-effective to resist larger claims.

Only a small percentage of every loss dollar actually went to pay for the financial losses of injured parties. More than half of total loss payments went to legal fees, general damages, and insurance company administrative expenses.

A further cost paid by auto liability insurance coverage began in August 1973, when a law was enacted establishing comparative negligence as the standard for determining liability. There is no documentation, but it is possible that this law caused the subsequent increase in the number of auto liability claims in New Jersey, because it has allowed people who were partly at fault for accidents to win partial compensation.

When New Jersey implemented no-fault auto insurance in 1973, the primary goal was to improve the delivery of benefits. No-fault was intended to provide faster and more equitable payments to injured parties. There would be higher payments to the seriously injured, but lower administrative and legal expenses.

Development of the New Jersey no-fault system relied heavily on the 1965 study by Professors Robert E. Keeton and Jeffrey O'Connell, which recommended basing an automobile reparations system on the same premise as the workers compensation insurance system. In other words, they said: Eliminate minor liability controversies and lawsuits and utilize that money instead for direct benefits to injured parties.

In New Jersey, the direct benefits were decreed by the Legislature to be full compensation of accident-related medical bills, limited compensation for lost wages, payment for some housekeeping or other personal needs while disabled, and funeral expenses.

Of the 24 states which ultimately adopted some form of no-fault, only New Jersey and Michigan required motorists to buy unlimited no-fault coverage for hospital and medical expenses. **EXHIBIT I**

It was recognized that unlimited medical benefits would increase claim costs, but the increase was expected to be offset by savings from drastically reduced litigation expenses.

Consequently, the legislation included a limitation on the right to sue, a "tort threshold." Professors Keeton and O'Connell recommended prohibiting lawsuits for cases involving less than $10,000 in economic losses and less than $5,000 in general ("pain and suffering") damages.

The original New Jersey proposal was much less stringent. To file suit, the injured party needed to show only a hard-tissue injury (like a bone fracture) or $500 in medical bills exclusive of hospital and diagnostic expenses. With such a threshold, the insurance industry pledged to reduce bodily injury liability rates by 15 percent, and the reduction became part of the plan.

When the bill was passed, however, the monetary tort threshold was set at $200 -- the weakest no-fault threshold in the nation. **EXHIBIT I** By comparison, Hawaii has a formula with a floating threshold that is now $6,000, and Minnesota has the highest stable monetary threshold, $4,000. Michigan was the only state with a strict "verbal" threshold, permitting lawsuits

only in cases of death or serious disfigurement or loss of function, which has stabilized lawsuits.

Compounding the problem in New Jersey, the $200 threshold was especially easy to reach because the list of medical services which applied toward the threshold was broad.

In fact, New Jersey enacted a dual insurance system, layering no-fault benefits atop the essentially unaltered liability system. Costs, therefore, were bound to increase.

The expensive, unbalanced nature of New Jersey's system was detailed in a 1984 report by the U.S. Department of Transportation, "Compensating Auto Accident Victims: A Follow-up on No-Fault Auto Insurance Experiences." **EXHIBIT J**

Nonetheless, the final version of New Jersey's no-fault law mandated the same 15 percent reduction in bodily injury liability rates that was originally proposed.

As a further aggravation to the insurance industry, then-Insurance Commissioner Richard C. McDonough ordered a rate decrease larger than the 15 percent mandated by the no-fault law.

McDonough ordered all auto insurers to submit their loss, expense and financial experience for review, and he ordered various decreases based on conclusions drawn from those documents. As a consequence, instead of the across-the-board 15 percent bodily injury liability rate reduction ordered by the Legislature, those rates actually went down by anywhere from 24.4 percent to 33.1 percent, depending on the driver's rating factors and liability limits purchased.

McDonough also ordered insurers to decrease collision rates by 3.4 percent to 12.4 percent, depending on the driver's rating factors and the type and value of the car covered.

McDonough felt the rate decreases were justified by the data he reviewed. The companies disagreed.

From the insurance companies' standpoint, all of these early 1970s developments doomed the automobile market in New Jersey. Benefits were drastically increased; rates were slashed; lawsuits could continue nearly unabated; and all motorists were required to purchase insurance, including the bad drivers who were undesirable business in any insurance climate.

Eventually, insurance companies responded as they had in the past: Underwriting was tightened, new business was rejected, agents were terminated, and the ARP grew.

The companies made a "good faith" effort to work within the new system during the first two years of no-fault. In 1974, for instance, the ARP was 340,659 cars, or 11.6 percent of the market, down from the 13.4 percent level of 1972. But by 1976 the ARP population was 490,532 cars, or 16 percent of the market, and the residual market continued to grow until by 1987 it comprised half of New Jersey's cars. **EXHIBIT K**

When no-fault took effect January 1, 1973, two other notable changes occurred: Automobile insurance became compulsory, and automobile insurance instead of health insurance became the primary payor for auto-related injuries.

At the time, auto insurance coverage for all motorists was considered integral to the new no-fault system. Without universal medical coverage, it was believed, injured parties would continue suing other drivers for payment of those bills.

The shift to auto insurance policies, rather than health insurance, as primary payor was part of the same thinking. Coverage had to be universal to deter lawsuits, and since health insurance coverage was not as prevalent as it is today, auto insurance was named as primary payor.

The shift was opposed at the time by Blue Cross of New Jersey on the grounds that auto insurance companies were ill-suited to handle large volumes of health claims. Blue Cross argued that health insurance companies could process claims more efficiently and could get better prices from health care providers, thereby giving injured parties better service more cheaply.

The tenure of Insurance Commissioner James J. Sheeran from 1974 to 1982 was marked by unrelenting rate requests and double-digit rate approvals, which drew the ire of consumers yet was viewed by the industry as too little too late. Rate increases granted to the Insurance Services Office, the dominant rating bureau for New Jersey auto insurance companies, are indicative of the trend for all filings. **EXHIBIT L**

The industry complained that Sheeran delayed months in making decisions, and he never approved the full amount necessary to make a profit.

Sheeran, though, accused the industry of soaking automobile insurance consumers to make up for the insurance industry's irresponsible price-cutting in non-automobile lines of insurance and for a disappointing investment portfolio. Sheeran insisted that consumers not be forced to pay because the insurance industry was in a "down" period of its business cycle in 1974-76.

There is a regular "business cycle" which the industry undergoes every seven to nine years that is geared to its earnings on investments.

During an "up" period of the cycle, some insurance companies are fairly flexible about whom they will cover, and prices are comparatively low. This is so the companies can attract as many customers as possible to increase their cash flow for investments.

Inevitably, the stock market and other investments cool off over time, and insurance prices have been slashed so dramatically that the investment income is insufficient to bridge the gap between premium income and actual expenses and produce a profit. Consequently, during this "down" period of the cycle, some insurance companies are low on cash with which to pay claims.

These companies react by raising prices sharply and by refusing to write coverage for customers who are most likely to file significant claims or for whom they believe the profits are marginal. (The 1985 commercial insurance crisis was the worst such "down" period on record.)

Sheeran was aware of the companies' financial problems and blamed the companies, not consumers. He said the companies must bear the brunt of the cost of bad investment decisions, so he granted auto insurance rate increases which were smaller than those requested.

Sheeran's position was buttressed by the Clifford decision, then only a few years old, which gave the companies unrestricted benefits from their investment decisions that produced significant "capital gains," but in turn decreed that capital losses must be suffered by the companies, not consumers. In other words, the insurance companies were held to a standard on investing policyholder reserves. If an insurance company elected to invest in high-risk ventures as opposed to following a safe, conservative investment strategy, they assumed the risk.

The problem which occurred at the same time, though, was rising costs caused by the dual insurance system. The dual system began in 1973, but the full cost was not immediately evident because liability claims can take as long as seven to 10 years to settle. The real financial squeeze caused by the dual system therefore began to emerge simultaneously with the "down" period in the cycle in the mid-1970s.

During this time, the state government took one step to relieve the unusual financial burden which some companies were bearing because of the insurance dual system. The state established a pooling arrangement among all auto insurance

companies for the payment of the most costly no-fault claims, the individuals whose medical bills exceed $75,000.

When no-fault began in 1973, each company was responsible for unlimited medical benefits for each of its insureds. But in 1978, each company became responsible only for the first $75,000 per injured person. The bills above that amount, called the "Excess Medical Benefit," were still paid by the company but were then reimbursed by a state agency, the Unsatisfied Claim and Judgment Fund (UCJF), which previously existed primarily to assure medical care for hit-and-run accident victims.

The UCJF draws its revenues by a formula assessment against all automobile insurance companies based on their market share. So by this system, the companies were sharing the cost of the most expensive claims.

But, <u>most importantly,</u> the UCJF sets its assessments on only a two-year projection of its necessary revenues. So the total cost of long-term care and rehabilitation for an injured motorist is <u>not</u> paid during the year in which the accident occurred. Standard insurance company practice is to set aside reserves for such long-term payments, but the UCJF assessment does not work that way. So the <u>true</u> cost of the <u>dual</u> insurance system was hidden. Costs have been deferred, and now the UCJF says its unfunded long-term liability is at least $600 million, and other estimates have put it at $1 billion or more.

Meanwhile, Sheeran was aware that the insurance industry was in the "down" period of its cycle, and he refused to permit

insurance companies to shift the burden of their bad investment decisions to consumers. In approving rates, he therefore discounted the auto insurance companies' loss and financial experience to eliminate the effects of their bad investment decisions. Sheeran believed the rates were adequate for the genuine losses caused by the dual system.

Some property/casualty insurers kept writing auto insurance only because Sheeran refused to permit a company to turn in its automobile insurance license unless it gave up all its New Jersey licenses.

GEICO and Nationwide did just that, but other companies coped by refusing new voluntary business, even drivers with clean records. So the ARP grew.

By the end of Sheeran's term, when the ARP made up about 35.3 percent of the total market, the public became keenly aware of the stigma attached to the ARP and the unfairness of being placed in the residual market with a clean record.

The ARP base rates for the optional physical damage coverages, comprehensive and collision, were 25 percent and 42 percent higher, respectively, than the ISO's voluntary rates. Also, if the ARP driver became involved in an accident, base rates were 36 percent and 93.2 percent higher, respectively, prior to the application of surcharges. **EXHIBIT M**

In 1980, when the insurance industry sought a 78.5 percent rate increase for ARP business, Sheeran put on the brakes.

The ARP, he said, had so many drivers with clean records that he could not justify a further discrepancy between ARP and voluntary rates. At that point, the ARP comprised about 34.5 percent of the total market, or about 1.2 million cars, 800,000 of which Sheeran estimated were operated by good drivers.

If the insurance industry had not been refusing to write policies for good drivers as a sign of their dissatisfaction with the insurance climate in New Jersey, Sheeran said, those 800,000 good drivers would have voluntary policies with lower premiums.

"It would not be fair," Sheeran said, "to approve a separate rating system for the (ARP) and put a great part of the burden of assigned risk losses on good drivers in the plan, who shouldn't be in the plan at all.

"These losses must be spread among all the drivers in the state, voluntary and assigned."

Sheeran made the comment in a news release **EXHIBIT N** announcing the first "policy constant," a flat charge paid by all motorists to offset residual market losses. Though it's a flat amount, the policy constant is applied to each kind of coverage. So motorists who buy optional coverages (comprehensive and collision) pay more than motorists who carry only liability and no-fault.

In November 1980, Sheeran originally set the policy constant at $42 per car with full coverage, or $30 per car without comprehensive or collision coverage. In June 1983,

Insurance Commissioner Joseph F. Murphy increased the policy constant to $75 per car with full coverage or $49 per car without comprehensive and collision.

When the JUA began in January 1984, Murphy set the per-car policy constant at $70 and $44, respectively, and pursuant to an act of the Legislature, he ordered all companies to remit the proceeds to the JUA. That order remains in effect.

The policy constant was reduced by $5 at that time because Murphy simultaneously ordered a $5 increase in the standard premium for uninsured motorist coverage, from $7 to $12.

At the same time that Sheeran instituted the policy constant in 1980, he was conducting an exhaustive probe into the essence of automobile insurance rate-setting itself -- the factors which determine why some drivers pay much more than others for identical coverage. Sheeran challenged the industry to show a statistical basis for its rating categories.

The industry's data illustrated bottom-line cost differences between categories of insured motorists, but it was insufficient to be statistically credible for rating purposes. In some cases (such as sex) rate categories were instituted initially only because of subjective notions which were later supported somewhat by the aforementioned cost-based data collected <u>after</u> rates were in effect.

Sheeran concluded that the industry used anecdotes, stereotypes and biases for several rating factors and used wholly outdated rating territories drawn in 1946. **<u>EXHIBIT O</u>**

In 1981, his last year in office, Sheeran ordered sweeping changes but his order was challenged in the Appellate Division of Superior Court by the insurance industry. The industry won a stay of Sheeran's order, and the ensuing litigation remains unresolved.

Commissioner Joseph F. Murphy took office in 1982 with a mandate to ease the combative tension which had developed during the Sheeran years between the insurance industry and the Department of Insurance. In 1982, the ARP comprised 37.9 percent of the market.

A reexamination of auto insurance rates was necessary, and Murphy acted quickly to provide rate relief. The need for the increases permitted by Murphy in 1982 and 1983 was confirmed by the Public Advocate's 1983 report. **EXHIBIT P**

Under Murphy, ISO rates jumped 29.7 percent in one year. The increases were:

May 1982	- Allstate joins ISO, getting a 13.1 percent increase
July 1982	- ISO (except Allstate), 15 percent
	- Prupac, 18.5 percent
September 1982	- Travelers, 27.1 percent
October 1982	- Aetna, 25 percent
	- Allstate, 11 percent
	- Colonial Penn, 32.1 percent
January 1983	- ISO, 7 percent
June 1983	- ISO, 5.4 percent

* * *

In summary, the period 1968 to 1983 was one of innovation and frustration.

Drivers who were denied coverage in the voluntary market gained the right to purchase more coverage in the ARP than previously allowed, and the policy constant spread the cost of the ARP system to all motorists.

New Jersey took bold steps, successfully challenging the insurance industry's right to reap investment income without sharing that benefit with consumers, and then implementing a no-fault system which has assured adequate medical payments for automobile injuries regardless of severity.

Controls on the insurance industry were tightened, especially on rates. Consumers, therefore, were protected from the true cost of the dual fault/no-fault system. But a combative atmosphere developed between state government and the insurance industry.

Legislative debate continued over the ever-rising premiums. The insurance industry squared off against the trial lawyers representatives, with the industry arguing that premiums could stabilize if New Jersey's no-fault system had a "verbal threshold" like Michigan's.

The trial lawyers disputed the wisdom of reducing injured parties' rights, and they challenged the industry to prove that

the verbal threshold would reduce insurance premiums. The insurance industry never produced definitive documentation.

So, despite persistent lobbying by Governor Brendan T. Byrne throughout his term, the verbal threshold languished.

The pressure from the governor's office for a verbal threshold continued after Thomas H. Kean became governor in 1982, and it remains a tense political issue to this day.

THE 1983-1984 REFORMS

Despite the dramatic rate increases granted in 1982-83, the ARP continued to grow.

During 1983, the ARP comprised 41.3 percent of the market, and motorists were frustrated at both high rates in general and at the particularly high rates paid by ARP motorists and those in the highest-rated territories or classes.

The Legislature, therefore, passed A-1696 (P.L. 1983, c. 65), which created the JUA, permitted limited automobile rate increases without prior approval, and moderated extreme disparities in rates among different motorists.

The changes are explained in **EXHIBIT A**, which was distributed by the Department of Insurance at the time.

The new rate increase system was never implemented; the Legislature repealed that provision before the first round of increases could have taken place.

Also in 1983, the Legislature enacted the "Automobile Insurance Freedom of Choice and Cost Containment Act." It provided motorists with several options to reduce their insurance coverage, thereby lowering their premiums.

EXHIBIT Q explains the provisions of the act, and it shows that consumer acceptance of the options was limited.

A news release announcing the rate savings for taking the options is attached as **EXHIBIT R**.

As a final step to hold down consumers' auto insurance costs, the Legislature enacted the Excess Profits Law in 1983. Under that law, the state, for the first time, had a system for monitoring auto insurance rates retrospectively, to assure after the fact that rates were not excessive, instead of examining rates only for future use.

The 1983 Excess Profits Law, its 1988 amendments and its historical background and are explained in **EXHIBIT S**.

* * *

The primary goals of the 1983-84 reforms were to reduce premiums for some motorists, make auto insurance available without the hassles inherent in the ARP, and to try to assure more equal treatment of motorists in the voluntary and residual markets.

By the mandate of law, the JUA has assured availability of auto insurance coverage and similar rates in the voluntary and residual markets. Motorists in the JUA can buy coverages which were unavailable in the ARP and which remain unavailable in the residual markets of many other states. **EXHIBIT T**
JUA rates, by law, have been the same as voluntary market rates, even though JUA losses are greater than voluntary market losses.

That was the easy part. Success was assured because the legislation dictated availability and equity, and then set up an organization to provide it.

The necessary funding, though, has proven elusive.

The JUA's single failure -- its towering deficit -- is in fact the failure of the New Jersey auto insurance system as a whole. Coverage is expensive. Losses are great. **The system simply costs more than motorists are willing to pay.**

The JUA's losses reflect the losses of the entire auto insurance industry, which has buckled under the pressures of New Jersey's dangerously out-of-balance dual insurance system.

The dual system has been underfunded since no-fault began. The industry itself endured the losses through 1983, but as soon as the JUA was formed, it became the industry's mechanism for avoiding losses.

In other words, neither the JUA nor its clientele is primarily to blame for its massive debt. The blame lies with the industry's failure to write auto insurance, and with the dual insurance system. The JUA's debt is in fact the price tag for that inordinately expensive dual system.

Motorists are receiving both "fault" and "no-fault" benefits with few limitations. Those benefits are grossly out of proportion with current auto insurance rates.

The 1983 laws correctly anticipated the problem and gave motorists the opportunity to reduce coverage. As noted, few motorists have opted for reduced coverage. Three reasons are probable:

1) Motorists have a sincere desire for the full benefits afforded by the dual system.

2) Motorists don't know what those benefits really cost.

3) Motorists don't understand the options.

The cost has been hidden by tight ratemaking and by deferral of expenses by allowing the JUA and the Unsatisfied Claim and Judgment Fund (UCJF), which pools the industry's no-fault medical claims exceeding $75,000 apiece, to be funded only enough to pay claims as they come due for payment. That's contrary to standard insurance company procedure, under "statutory accounting," which requires setting aside reserves each year to pay claims for all of that year's accidents, regardless of delays in payment of as long as 10 years.

Because they don't collect enough money to set aside "statutory" reserves, the JUA has an unfunded liability of approximately $2.9 billion (as of September 30, 1988) and the UCJF of more than $600 million.

To put it in perspective, that total $3.5 billion unfunded debt equals the total auto insurance premiums paid by all New Jersey drivers in 1987.

The only solution to the dilemma posed by this enormous unfunded liability is to reduce benefits or raise rates drastically.

New Jersey citizens have made clear that the prospect of ever-higher rates is unacceptable. The answer, therefore, must be reducing the benefits -- putting balance into the no-fault system so that injured parties can no longer "double dip" by receiving first-party medical benefits plus sue for pain and suffering regardless of the extent of their injuries. The

verbal threshold limiting lawsuits would eliminate unnecessary pain and suffering losses and related legal and administrative costs.

The Legislature made several stabs at controlling auto insurance premiums in its 1983-84 reforms, but the enacted measures were not enough.

As the Public Advocate's report plainly stated in 1983, "The most important step that could be taken to reform the system would be to raise the threshold ... A verbal threshold similar to the one in Michigan would be most effective and consistent with the original concepts underlying no-fault." **EXHIBIT U**

THE JUA:

GENERAL ASSESSMENT

The rest of this report centers on the JUA, not only because the JUA now constitutes half of the New Jersey auto insurance market but also because of the JUA's duty to handle the risks which the industry has turned down.

The JUA was an innovation, and like any new organization, it was subject to refinements as flaws became evident only after operations were underway.

Because it was new, the JUA's mission was not always clear to the casual observer.

To some motorists, for instance, the JUA is perceived as the "bad driver" pool. In fact, it covers half of the market.

To many people who witnessed the JUA's creation amidst a frenzy of legislative activity aimed at lowering auto insurance costs, the JUA has been misperceived as a cost containment tool. So it is important to emphasize early that the JUA was not intended to be a tool for lowering New Jersey automobile rates. **EXHIBIT V** and **EXHIBIT W**

The JUA is only a mechanism for delivering a product. The mechanism, as the following chapter shows, had some problems when first established and is being improved.

But the mechanism (the JUA) cannot be blamed for costs if the product (dual insurance benefits) is grossly expensive.

JUA improvements have been carried out in recent years, and more are recommended in this report. They will help make the mechanism more efficient, and therefore chip away at the debt. But the debt will grow anyway until rates are increased to be in line with benefits or benefits are reduced to meet the objective of lowering rates.

* * *

When the JUA was created, it held out these promises:

1. Insurance companies would resume writing voluntary business sufficiently to reduce the JUA's population to a normal size for an urban, industrialized state, with consideration for the limits caused by the capping of rates.

2. Auto insurers could expect a period of rate adequacy, having received several recent increases and no longer being liable for residual market losses.

3. There would be economies of scale because only 15 insurance companies became "servicing carriers" instead of the 200 companies which wrote insurance under the ARP. Agents or brokers no longer would have to wrestle with dozens of unfamiliar forms for different companies handling assigned risk business. Instead, each agent or broker would be given one servicing carrier for all of his or her residual market business.

4. JUA rates would be tied by law to the ISO manual, promising motorists standard market rates if they could not obtain voluntary coverage. Motorists also were promised the same coverages and insurance limits offered by ISO companies.

5. With standard market rates available through the JUA, uninsured motorists would be encouraged to obey the law and buy and maintain coverage.

6. Equal treatment, too, would be accorded to drivers with motor vehicle violations on their records. Whether in the JUA or the voluntary market, drivers would pay the same Division of Motor Vehicle three-year insurance surcharges based on their driving records, using flat dollar amounts, no percentages. **EXHIBIT X** This ended the unfairness of motorists with voluntary coverage paying smaller surcharges or no surcharge for the same infractions which prompted stiff penalties for an ARP motorist. The DMV surcharges were originally expected to raise $100 million annually for the JUA, but collections in the first two years did not reach that plateau.

7. The insurance surcharges would help offset the JUA's losses, which were expected to mount because ISO rates would not produce enough revenue to cover residual market drivers. The new insurance surcharges, along with efficiencies and economies of scale, would replace the revenue previously produced by the

ARP's Supplement I and Supplement II rate level differentials and surcharges.

To a great extent, the JUA has fulfilled those hopes, but overall it has two major problems:

A GROWING POPULATION

INSUFFICIENT REVENUES

The problems are interrelated, especially since the composition of its growing population is a major reason for its deficit.

It is interesting to note that the other states with huge residual markets have suffered the same problems that have plagued New Jersey's JUA.

Massachusetts has 55 percent to 60 percent of its motorists in its residual mechanism, the Commonwealth Automobile Reinsurers (CAR). Rates in CAR are the same as voluntary rates, and CAR runs a deficit which is funded by a formula assessment against insurance companies, which is passed on to consumers, plus an average $125 per car surcharge on all motorists in 1987.

The South Carolina Reinsurance Facility, a separate entity which covers 35 percent to 40 percent of the state's market, has a running deficit covered, in part, with an annual surcharge on voluntary policies. For a driver with a clean record carrying full insurance coverage, the surcharge was $73 per car from July 1, 1988 through June 30, 1989, and will be $71 per car starting

July 1, 1989. For a motorist with motor vehicle violations and/or at-fault accidents, the charge is multipled two, three, four or five times depending on the actual driving record.

So in New Jersey, ultimately one of the principal keys to solving the JUA's funding crisis lies in controlling the size and makeup of its population.

* * *

In 1985, in light of the JUA's persistent declarations of a deficit, the Department of Insurance instituted a four-pronged investigation of JUA matters.

The investigation, which is continuing, has involved a financial examination of all JUA servicing carriers, a market performance audit of all servicing carriers, a review to ensure that all JUA funding sources are being fully utilized, and an examination of overall market conditions to identify the factors responsible for the JUA's growth and deficits.

At the same time, the JUA examined its own procedures through audits and surveys conducted pursuant to its Plan of Operation. **EXHIBIT Y**

These audits, surveys and investigations led to enactment of S-2790, which provided an array of JUA reforms aimed at greater efficiency and, therefore, financial stability.

The bill, which was signed into law January 12, 1987, is summarized in **EXHIBIT Z**.

Other proposals resulting from the Department of Insurance's investigation of the JUA became part of the 1988 reforms explained in **EXHIBIT A**.

Both exhibits will be mentioned frequently in subsequent pages during explanations of the JUA's problems and solutions implemented in 1986 through 1989.

THE JUA:

POPULATION GROWTH

There are many reasons for the JUA's growing population.

1. Insurance companies fear being assessed for JUA losses.

The JUA was established as a no-profit, no-loss entity but was not initially understood to be a cash-flow operation. Rather, the common belief within the insurance industry was that the no-profit, no-loss standard would be applied to the Statutory Accounting procedures required of other auto insurers. Therefore, insurance industry officials were concerned very early that the JUA would be seriously underfunded.

If the JUA's income from premiums, surcharges and investments are at optimum levels, yet there is still a deficit, the law gives the Commissioner of Insurance only one option -- to charge New Jersey motorists a per-car fee called the Residual Market Equalization Charge (RMEC). This fee applies to all cars, both those in the voluntary market and in the JUA, except those operated principally by motorists age 65 or over.

The RMEC was ordered for the first time on January 21, 1988, at an average $66 per car. It was increased August 1, 1988, to an average $139.

Nonetheless, companies fear that New Jersey's political climate could force the Commissioner or the Legislature to turn

to the companies, instead of the public, to foot the JUA's losses. Such a move would require an act by the Legislature, because the law has never authorized the commissioner to order an assessment against companies for JUA losses.

The companies have feared that, should an assessment occur, it would be apportioned to companies based on their auto market share in New Jersey; i.e., the companies writing the largest book of voluntary auto business would pay a proportionately larger share of the deficit than a smaller company. So keeping its voluntary market share as small as possible is a company's hedge against such an assessment.

There is an argument that companies should not fear an assessment for JUA losses. The law has never authorized the commissioner to levy such an assessment. When the need arose, the commissioner ordered the RMEC rather than assessing companies. And if an assessment occurred, companies could recoup their money by passing on costs to consumers, which is done in every other state where residual market assessments are made against companies. If New Jersey prohibited companies from obtaining money to pay the assessment, the state's action could be declared unconstitutional.

2. Policies subject to the "caps" were shifted to JUA.

The legislation set limits on how high an individual's premium could go, except for surcharges justified by his claim

record or driving record. The base rate for the highest-rated territory can't be more than 35 percent above the statewide average. An individual driver's base rate can't be more than two-and-one-half times the average base rate in his territory.

At the same time, it ended the practice of computing taxes and administrative expenses by compounding them based on the premium. That system had served to further exaggerate the premium of a motorist already paying high rates because of high rating factors.

With the caps, motorists who had been paying the highest rates received sharp reductions, and the cost of those reductions were spread among the premiums paid by low-rate drivers. **EXHIBIT AA**

Before capping, the highest-rated motorist was charged six times the statewide average rate. Capping reduced that 6-1 ratio to 3.75-1.

Similarly, the ratio of the highest-rated motorist to lowest-rated was 12-1, but capping lowered it to 7-1.

Rates throughout the state were adjusted to compensate for capping, so in total, the new system was intended to produce the same amount of revenue for insurance companies as the previous system. The new rates achieved some of the goals of the stalled 1981 order by Commissioner Sheeran regarding rating factors. There was not sufficient statistical data to support the highest rating factors. Capping lowered those rates and spread the cost more evenly throughout the system.

But the insurance industry believed that it was being forced to undercharge for the riskiest drivers, and that the losses incurred by drivers in the capped territories and classifications would not result in rate adjustments. Consequently, some insurance companies stepped up their pace of declining new business, shifting the vast proportion of high risks and some average risks into the newly formed JUA.

By 1985, about 80 percent of the drivers whose rates were capped by class and/or territory were in the JUA, compared with about 50 percent in 1983. **EXHIBIT BB**

For instance, in Newark the voluntary market shrank from 28.3 percent in 1983 to 17.4 percent in 1985. In Camden, voluntary business decreased from 28 percent of the total market in 1983 to 21.1 percent in 1985.

3. Automatic rate increases never occurred.

This was the part of the JUA bill which had permitted insurance companies to implement annual rate increases equal to the average annual ISO increase over the previous three years without awaiting a decision by the Commissioner of Insurance. Companies saw this as their only safety valve in what was otherwise a risky undertaking.

But this provision was repealed by the Legislature in January 1984, before the first round of automatic increases could take place. In response, the industry continued to shift unwanted business to the residual market. They feared that any

effort to depopulate the JUA would have an adverse effect on their experience, and rate relief to compensate for that effect would not be forthcoming.

The automatic rate increase provision was repealed partly because of the increases authorized by Commissioner Murphy in 1982 and 1983. The official Statement by the Legislature on the bill which repealed automatic rate increases noted that Murphy's prompt action on requests obviated the need for an automatic mechanism.

Another reason, though, was the political furor at that time over a separate proposal to allow insurance companies to keep the proceeds of the "policy constant," even though all the ARP business was being shifted to the JUA.

In November 1983, in preparation for the JUA's first year, Commissioner Murphy approved an ISO rate filing in which the policy constant was, as he put it in a news release, "blended into the rating system." The intent of this provision was to provide revenue to ISO companies to offset the higher losses they would incur by reducing the residual market voluntarily under the new JUA system.

Public attention became focused on this issue. For more than a decade, the residual market had been growing, and there was no reason to believe that the insurance industry would suddenly write more voluntary policies. Murphy's rate approval "blending in" the policy constant gave insurance companies that

money up front, before the companies fulfilled their pledge to reduce the residual market.

Governor Kean and the Legislature responded by requiring by law that companies remit the "policy constant" proceeds to the JUA. Accordingly, Murphy rescinded his previous rate approval. **EXHIBIT N, pages 8-9**

At the same time that the governor and Legislature required companies to send the "policy constant" proceeds to the JUA, they also repealed the automatic rate increase system. The two issues had become intertwined, and both changes were incorporated into the same bill.

Now, five years later, a new automatic rate increase system is being implemented. The new system was part of the reforms enacted in late 1988. **EXHIBIT A** It will allow annual increases to take place without the commissioner's prior approval as long as each increase falls within parameters determined by the medical care and auto repair cost components of the Consumer Price Index for this region.

4. Companies fear inadequate rates in the future.

The history of rate requests in New Jersey has led companies to believe that any increase granted will be too small, and it will be delayed by the Department of Insurance or the Public Advocate or both, further hindering the collection of an adequate premium.

This is not a problem peculiar to New Jersey. Nor was New Jersey particularly unprofitable. In terms of auto insurance profitability, New Jersey ranked among the middle in states nationwide before the JUA, and especially in 1984 and 1985 was one of the more profitable. (The largest profits were returned to consumers under the Excess Profits Law enacted in 1983.)

But companies nonetheless were concerned about the length of time required for prior approval of rates in New Jersey, and this concern was one reason they wrote few new voluntary policies during 1984 through 1988. So in 1988, when the Legislature ordered companies to start writing more business and thereby shrink the JUA population, the Legislature once again authorized a procedure for limited automatic rate increases, starting in the middle of 1989. **EXHIBIT A** If excessive rates occur inadvertantly because of this new procedure, the Department of Insurance is empowered to order refunds later under the Excess Profits Law.

At the same time, the Legislature ordered all companies to make standard informational filings to the Department of Insurance each year, regardless of whether a company seeks to adjust rates. This annual filing was expected to provide the department with a solid base of data for careful review of company profits on a regular basis, thereby speeding up the approval process for future rate increase requests which exceed the parameters in the automatic rate increase system.

5. Cancelation and nonrenewal restrictions are tight.

Insurance companies believe that, by forcing companies to retain customers they don't want, New Jersey is discouraging the writing of those motorists in the first place. With discretion to drop a policy, a company is more likely to accept a new applicant rather than send it to the JUA, the industry believes.

In fact, though, the industry has had a special exemption from this regulation since October 1986. Under the exemption, if an insurance company covers a motorist who previously did not have a voluntary policy in New Jersey, the cancelation/nonrenewal restrictions are less stringent for three years. The company can terminate such a policy for underwriting reasons during the first three years of coverage. **EXHIBIT CC** Despite this provision, the JUA's population remained at 48 percent of the total market in 1987 and 1988.

Because of companies' concern about non-renewal restrictions, the auto insurance reforms of late 1988 will allow a company to non-renew a policyholder for their underwriting reasons as long as the company meets various quotas for depopulating the JUA and writing new business to replace the policies which are non-renewed. **EXHIBIT A**

6. Agents have lost voluntary contracts.

As part of their program to tighten the voluntary auto insurance market for two decades, companies have often

terminated agents. EXHIBIT DD, EXHIBIT EE and EXHIBIT FF When companies are writing less business, they have less need for agents.

Those terminated agents, as well as newly licensed property/casualty producers who have been unable to get contracts with voluntary companies, have relied upon the JUA for all their automobile insurance policies.

If the agent is terminated and therefore cannot get a renewal commission from the voluntary company, he will place it in the JUA to get the commission.

The consumer frequently is unaware of the change. This is an illegal subversion of the JUA law which permits JUA coverage only as a last resort.

These practices are being investigated by the Department of Insurance, which is developing plans to deal with the problem.

7. Some producers get higher commissions from the JUA.

If the JUA pays a higher commission for a policy than a voluntary company, the producer has incentive to place the business in the JUA, even though it is supposed to be the market of last resort.

The industry average in the voluntary market is a 10 percent commission. The ARP, too, had paid 10 percent. The original JUA commission set by law was 13 percent, just for the 1984 transition year from assigned risk to the JUA, and then went to 11 percent in 1985.

As part of the JUA reform of January 1987, **EXHIBIT Z**, the producer commission rate was lowered to 10 percent in 1987 and to 9 percent in 1988.

The JUA commission rate on new business, therefore, is less than the industry average. But the JUA pays the same 9 percent commission on renewals, too, while some voluntary companies pay much less for renewals (i.e., a 7 percent renewal commission by Allstate and 6.5 percent by Prudential), so the JUA remains an attractive source of auto insurance commissions.

(The law mandates a further commission decrease, to 8 percent, if the JUA's share of the auto insurance market falls below 30 percent.)

8. The JUA provided a "fully earned commission."

Pursuant to legislation creating the JUA, N.J.S.A. 17:22-6.14a(b), producers in 1984, 1985 and 1986 argued that they were entitled to be paid commissions by the JUA in a manner which differed from the way automobile insurance companies compensated producers in the voluntary market. If the motorist's one-year policy was canceled mid-term, the producers said they nonetheless should receive the full commission for the entire premium amount. They called it "the fully earned commission."

The fully earned commission was paid if the JUA policy was canceled for any reason -- usually because the motorist failed to pay all installments on the premium.

In the voluntary market, insurance companies don't pay the fully earned commission. They pay a commission which is reduced in proportion to the amount of premium actually paid. The fully earned commission was another attraction for producers to shift business to the JUA.

The JUA board refused to pay the fully earned commission, so producers did not receive it during 1984 or most of 1985. In October 1985, after the Department of Insurance said the JUA law did indeed entitle producers to the fully earned commission, the JUA board started paying it. The producers then sued the JUA seeking backpayment of the fully earned commissions for 1984 and 1985, but the backpayments were denied in a 1988 ruling by the Appellate Division of Superior Court.

The Legislature repealed the fully earned commission in January 1987 **EXHIBIT Z** because of its expense to the JUA treasury and because it encouraged the shifting of motorists to the JUA.

A similarly unusual benefit to producers was repealed by that same law. Brokers originally were entitled to a commission for three years on any motorist they placed in the JUA, even if that motorist at some point obtained voluntary market coverage before the three years were up. In such a case, the voluntary insurer would not only pay its own agent a commission, it would also pay a commission to the broker who had handled that motorist's JUA policy previously. The Legislature repealed

this provision because it strongly discouraged insurance companies from taking motorists out of the JUA.

9. Many motorists have not known they're in the JUA.

From 1984 through 1988, motorists who received JUA coverage were paying ISO rates and were receiving all policies, brochures and correspondence prominently bearing the logo of a well-known insurance company. Only by careful inspection did they see the words, "New Jersey Automobile Full Insurance Underwriting Association."

These motorists usually knew there was a JUA, and they became especially aware of the JUA when the RMEC started appearing on their premium notices in 1988. But many did not know that they themselves were in the JUA, because the JUA acronym was not used. They believed they were covered by a regular insurance company, though in fact that company was only a servicing carrier.

Many also did not know about the JUA's surcharges for bad drivers.

Also, as described above, motorists in the JUA were not getting sales pitches from voluntary market companies. Those companies didn't want new business.

In all, this translated into little incentive for motorists in the JUA to look for voluntary coverage.

The situation may change because of the reforms enacted in late 1988. **EXHIBIT A** With the law's mandatory depopulation

quotas, companies are encouraged to seek new business. Also, four computer companies were about to take over as servicing carriers for most of the JUA's business, which will heighten consumers' awareness that they are in the JUA. And, finally, publicity in 1988 about the JUA and the RMEC has advertised to consumers that they have good reasons to get out of the JUA.

THE JUA:

INSUFFICIENT REVENUE

The JUA deficit is caused by three key factors in addition to the intertwined problem of JUA population growth:

1. The negative interactive effects of the JUA rate law with other laws and market conditions.

The statutory requirement that the JUA use ISO rates has contributed heavily to the JUA deficit. **EXHIBIT GG**

At the time of enactment of the JUA law in 1983, ISO rates were used for 73.5 percent of the voluntary market. The ISO data base still included a representative cross-section of high-to-low-rated risks, and therefore could be viewed as an acceptable surrogate for a standard voluntary market rate.

Also at that time, automobile insurers were predicting that they would write more voluntary policies during the first year of JUA operations. So it was assumed that the loss experience of ISO companies would worsen progressively as they accepted drivers with characteristics indicating a greater likelihood of an accident or loss such as a car theft, which would justify future increases in ISO rates.

In other words, ISO rates would go up as a direct result of depopulation of the JUA, making ISO even more representative of a standard voluntary market.

Higher ISO rates, of course, would mean higher rates for the JUA, pumping more money into the system.

However, this never happened. Instead of depopulating the JUA, insurance companies accepted only the cream of the new business. All other applicants were referred to the JUA. Therefore, companies' loss experience did not worsen.

In fact, ISO companies operated favorably for four years under 1983 rates without even seeking a rate increase. They were able to absorb the effects of inflation (including a 10 percent increase in medical costs each year) by having the JUA handle all risks which were average or higher than average.

The JUA ballooned from the ARP's final level of 41.3 percent in 1983 to about 48 percent of the market in 1986. And as this growth occurred, the JUA buckled under the weight of not only bad drivers but also of the marginal and high risks whose loss experience would have justified frequent JUA rate increases if rates had been based on the JUA's own experience.

By law, however, the JUA's loss experience was not used to set its rates from 1984 through 1988. So the JUA became swamped in debts, inextricably tied to ISO rates which were unrealistic when related to the JUA's experience.

The ISO rates also proved inadequate for some other classes of motorists in the JUA:

SENIOR CITIZENS In 1983, when the JUA law and other automobile insurance reforms were enacted, motorists aged 65 years and older were legislatively provided with a 5 percent

discount. In addition, senior citizens' rates were capped so that no senior's rate could be 25 percent higher than the average senior citizens' rate statewide. As a result, the current senior citizens' rating factors are approximately 20 percent below the base rate for adults.

However, when actual rates paid during 1984 through 1987 are compared, the difference amounts to less than 20 percent because the policy constants and expense fees are constant dollar amounts. For instance, in high-rated territories the average discount is 18 percent, in medium-rated territories 12 percent and in low-rated territories 11 percent.

Starting in 1988, a RMEC has been imposed on all motorists except senior citizens. So, as long as there is a RMEC, the effective discount for seniors is increased.

There was no actuarial justification for these discounts when they were legislatively mandated. However, these discounts began at about the same time that seniors lost a different discount which had been actuarily justified.

This was a 50 percent PIP discount authorized in 1977 by then-Commissioner Sheeran, who believed that seniors previously had been overcharged for PIP because Medicare picked up most of their health care costs -- including auto accident related medical expenses. By 1983, the seniors' PIP discount had been increased to 55 percent. But also in 1983, Medicare refused to continue to provide any medical benefits to seniors in instances where they had other first-party medical benefits. As a result,

the PIP discount was discontinued by the Department of Insurance in August 1983.

The result of these actuarially unjustified discounts was that some voluntary companies stopped writing coverage for seniors. By 1986, about 25 percent of all insured seniors in New Jersey were in the JUA, which ultimately bore those losses. **EXHIBIT HH**.

HOT RODS From 1983 to 1987, ISO's rating factors were inadequate for luxury cars valued at more than $25,000 and for most high-powered sports cars, so the industry relegated those cars to the JUA, which has borne the losses. **EXHIBIT II**

Those factors were adjusted in the ISO relativity filing approved by the Department of Insurance effective September 1, 1987. However, even the adjusted rates remain insufficient for the JUA because they are based on the experience of ISO, while most luxury cars are in the JUA.

Starting in 1989, under the 1988 reforms, the JUA is permitted to set its own comprehensive and collision rates based on its own experience. **EXHIBIT A** and **EXHIBIT II** But these rates, which are an average 24.5 percent higher than ISO's, apply only to bad drivers, comprising about 800,000 of the two million motorists in the JUA.

In most states, the residual market mechanism does not even cover luxury cars because of the potential for very high losses. In those states, the only option left for owners of luxury cars is the very expensive coverage offered by

"non-standard" insurance companies. "Non-standard" coverage is expensive because it reflects the true cost of covering claims for such vehicles. This coverage currently is not permitted in New Jersey.

PHYSICAL DAMAGE The 1983 ISO rates, which remained in effect and continued to affect the JUA through July 31, 1988, proved inadequate for several categories of deductible plans in comprehensive and collision coverages. To the extent that JUA insureds have been more likely to file claims than voluntary insureds, these inadequate rates have adversely affected the JUA more harshly than ISO companies. See **EXHIBIT GG** and **EXHIBIT II** again.

The inadequacy of these deductible rating factors was also corrected in the ISO change on September 1, 1987.

In every category, voluntary companies were able to mitigate their problems of rate inadequacy for certain categories of drivers by stringent underwriting and producer terminations, leaving to the JUA all doubtful prospects. The voluntary companies thus stabilized their losses, or experienced only slight loss increases or actual decreases.

The JUA, meanwhile, was left defenseless against the problem of overall rate inadequacy. Unlike other insurers, the JUA could not limit its losses by refusing to write new policies.

Therefore, JUA deficits were a fact of life as soon as coverage began, and they continue to grow. **EXHIBIT JJ** Even with subsidies from DMV surcharges and the "policy constant,"

ISO rates never produced enough revenue to cover JUA claims. The JUA Board of Directors was keenly aware of the shortfall and lobbied publicly for a RMEC surcharge to offset JUA losses. **EXHIBIT KK** and **EXHIBIT LL**

Today the rate situation is even worse because the ISO data base now is significantly different than ISO's 1983 data base, so that it can no longer be viewed as representative of a standard voluntary market rate. With such low risks, ISO could be viewed as a preferred rate and therefore is extremely inappropriate as a basis for JUA rates.

2. The costly out-of-balance no-fault system

New Jersey's dual automobile reparations system, which provided both no-fault and total liability benefits virtually without limits until reforms took effect January 1, 1989, not only escalated insurance costs dramatically throughout the entire automobile insurance market but also had a particularly onerous effect on the JUA.

Throughout 1983, Commissioner Joseph Murphy, in carrying out his mandate to "ease tensions" in the automobile insurance market, approved rate increases that made the rates adequate (profitable) across the entire market, both the voluntary market and the ARP. The 1983 Profitability Report of the National Association of Insurance Commissioners confirms this. The NAIC's report says New Jersey auto insurers were as profitable

"on average" as those doing business in other parts of the nation.

However, in 1984, when the residual market shifted from the ARP to the JUA, for reasons previously discussed, auto insurers refused to write new business. They let the JUA handle nearly all new policies for high- and marginal-risk business, high-valued luxury and sports cars, and senior citizens. Consequently, the voluntary market's population in 1988 was composed primarily of drivers who represented "the cream" of the system. On the other hand, the JUA had the vast majority of high risks and marginal risks who, along with the truly bad drivers in the system, produced extraordinarily high severity and accident claim frequency when compared to the voluntary market.

This is borne out by **EXHIBIT GG**, which displays the 1985 severity and claim frequency for the JUA and ISO. The JUA's claim frequency, on average, was almost double that of ISO's. Also, the JUA's claim severity (costs) was, on average, about 10 percent higher for liability coverages and about 50 percent higher for physical damage coverages.

Since the monetary tort thresholds contained in the no-fault law from 1984 through 1988 were only minimally effective, the JUA was subjected to large numbers of both no-fault claims and liability (fault) claims. The original $200 medical expense tort threshold was weak initially and was later eroded by 200 percent inflation over 15 years. The higher tort

threshold introduced in 1984 brought some balance to the no-fault system, but it also was too low due to the wide variety of medical expenses which counted toward reaching the threshold, and because only about 34 percent of all motorists selected it. Moreover, the discount provided to motorists who have taken the option was initially too generous, hurting the JUA.

From 1984 to 1987, under a Department of Insurance order, motorists who chose the higher tort threshold option received a discount of 35 percent off the basic bodily injury liability rate. Three years of experience showed that the higher threshold did not justify such a large discount, so the Department of Insurance reduced it to 25 percent.

While all insurance companies were affected by this, the JUA was particularly hard hit because it had the greatest share of motorists who had taken the option. As of January 31, 1988, the higher option was chosen by 41 percent of JUA motorists, compared with 27 percent in the voluntary market.

Essentially, the primary impact of New Jersey's dual auto reparations system fell on the JUA. Since the insurance companies were successful in shifting most of the drivers likely to produce losses to the JUA, the rates in the voluntary market remained adequate "on average" for four years while the JUA's experience worsened significantly each year. In other words, the voluntary market insurers were successful in shifting to the JUA the unbalance between total system income and costs.

Therefore, those claims for benefits from the dual insurance system, together with the obviously inadequate ISO rates for the JUA, were in large measure responsible for the JUA's $1.8 billion statutory deficit which accumulated as of December 31, 1987, just before the RMEC began.

If, instead of imposing the RMEC in January 1988, the Commissioner of Insurance had started to fully fund this dual insurance system on a statutory basis, he would have had to assess both voluntary market motorists and JUA motorists $442 per car and increase rates by about 13 percent annually. That would boosted the 1987 average per-car premium of $735 to almost $1,200, with annual $156 increases in future years.

3. Implementation of JUA operations

The JUA functions under a "Plan of Operation" and a standard "servicing carrier contract," both approved in 1983, which created a decentralized and informal system.

During this crucial startup period, servicing carriers had great leeway to establish their own procedures for underwriting, adjusting, reserving, etc.

By 1985, when the Department of Insurance tried to review JUA operations, it found that the variety of servicing carrier procedures made the analysis of data extremely difficult. Hence, accurate conclusions could not be drawn about the servicing carriers' efficiency and integrity.

Accurate, standardized up-to-date data is essential for both the Department of Insurance and the JUA board to make decisions.

The lack of such data continues to make analysis of what happened in 1984 through 1986 difficult. But, with the start-up of operations by new servicing carriers in 1989, standardized procedures and data collection are being implemented by the department and the JUA board. This study commission encourages that effort.

A host of questions about the propriety or effectiveness of various JUA procedures have been raised by industry critics and by the Department of Insurance investigation which began in 1985. Many such issues are still being investigated by the department.

The commission, however, notes these areas of concern:

(a) Fees initially established for reimbursing servicing carriers for their expenses and compensating them for services proved to be more than adequate.

(b) There is a lack of information about the JUA's early years because its data collection systems did not generate much of the data necessary to measure the quality of performance by the servicing carriers and producers.

(c) The JUA's central office staff has been small and lacks computer equipment.

(d) In early years, servicing carriers exercised too much control over the JUA. Conversely, no one other than servicing carrier officials assumed leadership roles.

(e) There are too many producers, and there were too many servicing carriers until 1989.

(a) Servicing carrier fees

The original fee levels, were based upon industry averages, recognized that servicing carriers would incur substantial start-up costs, and took into account the financial impact on servicing carriers of the anticipated major depopulation of the JUA during its first year. EXHIBIT MM

As time went by, and depopulation did not occur, the Department of Insurance audited servicing carriers. The JUA Board of Directors also reviewed costs involving the servicing carriers and subsequently lowered servicing carrier fees twice. EXHIBIT NN

Originally, servicing carriers received 11.5 percent of earned premium to cover the expenses of writing and renewing policies (in other words, all expenses except those for settling claims). This "non-claim fee" was reduced by the JUA board to 9.5 percent in August 1986 and to 8.5 percent in January 1988.

The actual decrease was even greater than the percentages indicate because the method used to determine the base figure (earned premium) was changed to make the base figure smaller.

Meanwhile, a management control was placed on the "claim fee," which covers servicing carriers' expenses for settling claims. Originally the fee was a percentage of the claim

payment (16.5 percent for liability losses and 12.9 percent for physical damage losses). This was theoretically backwards because the servicing carrier could earn more profit by deciding to pay out large claims, spending the JUA's money, not its own.

It was never shown that servicing carriers had abused this backward system, but there nevertheless was the potential for abuse. So on January 1, 1987, the claim fee was changed to be 12.3 percent of earned premium for unallocated claim expenses and dollar-for-dollar reimbursement for itemized expenses directly attributable to specific cases. The new fee was intended to be revenue neutral, but it removed that backward incentive.

Data from 1984, 1985 and 1986 showed that some servicing carriers including CIGNA, Pennsylvania National and Hanover made substantial profit from the fees they collected, while others had much smaller profits. The data suggested that very efficient operations could service the JUA with lower fees and still turn a reasonable profit. **EXHIBIT OO**

As a major step to lower JUA administrative and claims expense costs, S-2790 authorized the JUA, for the first time, to seek non-insurance entities to serve as servicing carriers through a competitive bidding process. The theory was that competition between insurers and non-insurers would lower costs.

In fact, when the JUA accepted sealed bids in March 1988, the non-insurance companies bid much lower than most insurers.

The JUA announced in November 1988 that it would keep only Hanover as a servicing carrier and would turn over the rest of its business to four non-insurance companies. The new team of five servicing carriers began operations in early 1989.

EXHIBIT PP

The JUA anticipates saving $75 million in the first year of operation of the new servicing carriers, but the true impact of the plan won't really be known for years.

(b) Insufficient data collection for JUA

In its early years, the JUA did not routinely collect certain types of data which the Department of Insurance wanted for the purpose of evaluating the performance of servicing carriers, and which would provide information regarding JUA's financial trends and administrative management. In part, this was because many of the JUA systems are not uniform.

Also, statistical agents' systems are geared to the needs of the insurance companies in the voluntary market, not to the JUA's needs. Therefore, when an insurance company filled two roles -- handling its own policies in the voluntary market and handling business on behalf of the JUA - the company's main concern was to collect the data it needed. The JUA merely piggybacked on that system. As a result, the JUA did not routinely get some of the data which it needed or the Department of Insurance needed, or the data that was collected often was not be refined enough.

Servicing carriers reported the losses and expenses from their JUA business through their own accounting systems, so the JUA received different-style reports from different carriers. Also, servicing carriers had different ways of establishing loss reserves on known claims from JUA-covered motorists.

The incompatible systems produced incompatible data, which impeded the Department of Insurance's efforts to assess the reasonableness of losses and expenses.

This occurred because servicing carriers and many JUA board members argued in 1983 that utilizing servicing carriers' existing systems would be better and more efficient than creating new uniform systems.

Regardless of the merits of that position, the lack of uniformity has led to problems in evaluating the JUA.

Over the years, the JUA board itself has seen that some areas -- such as claims handling practices -- can benefit from standardization.

Even without standardization, there has been some success in monitoring the JUA. Underwriting and claims audit committees have audited servicing carriers on a continual basis.

EXHIBIT Y

The standardization process will be easier with the five new servicing carriers starting in 1989, and continuous audits were mandated by law as part of the 1988 reforms. **EXHIBIT A**

The commission recommends stronger management by the JUA board and the JUA's central office. The JUA, not the servicing carriers, should decide which systems should be uniform.

Meanwhile, the Department of Insurance is reviewing anecdotal reports or questions which have been raised regarding fees for servicing carriers during the early years.

Among the issues are whether carriers properly reported their losses, expenses and reserves, and whether some carriers received higher fees than other carriers because their reporting procedures were different. Also being examined is whether carriers received inappropriate reimbursement for expenses before they actually paid those expenses, and whether carriers retained for themselves the proceeds of investments made with JUA funds.

It is also important to note that financial problems arising out of the JUA's servicing carrier fees and loose management practices pale in comparison to the financial problems attributable directly to the dual insurance system and the legislative tie between JUA and ISO rates.

(c) JUA's small central staff

At the end of 1988, the JUA's central staff was about two dozen people. It has minimal computer capability for data collection or data base management.

The JUA needs up-to-date information, the most recent possible, which requires computerization. It should collect its

own data by computer. The data base provided to the JUA by the Automobile Insurance Plan Services Office (AIPSO) has been insufficient because it does not cover the full spectrum of the JUA's needs.

(AIPSO, a national organization with its headquarters in Rhode Island, is an industry-supported data collection and ratemaking organization which primarily serves companies that provide "assigned risk" residual market coverage in states which still have systems like New Jersey's old ARP.)

(d) Too much control by servicing carriers

With creation of the JUA, insurance companies were relieved of the burden of paying for the losses caused by residual market drivers. Auto insurers, however, were not relieved of responsiblity for the administration and management of the residual market. The original JUA law required all licensed auto insurers to be JUA members, who then nominated JUA board members.

In fact, though, the industry primarily nominated board members who were from the same few companies which were servicing carriers. Non-servicing carrier companies failed to closely monitor the JUA's activities.

Even before the JUA commenced operations, its domination by servicing carriers was criticized by the Public Advocate's report. **EXHIBIT QQ** "The provisions in A-1696 appear more concerned with intercompany or company-agency effects than with

overall control of expenses and claim settlement practices," the report said.

Under A-1696, eight of the 17 voting members of the JUA were insurance company representatives -- two each nominated by the American Insurance Association, the Alliance of American Insurers, the National Association of Independent Insurers, and the remaining two from other insurance companies or JUA servicing carriers. By law, lists of nominees from each group were submitted to the governor, who chose the actual JUA board members from those lists.

During 1984 through 1986, the servicing carriers dominated these eight seats, so essentially the servicing carriers were monitoring themselves. By 1988, servicing carriers held only six of those seats.

In addition to the company representatives, the JUA board had one representative each nominated by the Professional Insurance Agents Association, the Independent Insurance Agents Association and the Insurance Brokers Association.

That left only six of the 17 voting members who were <u>not</u> part of the insurance industry -- three appointed by the governor, one by the Senate President, one by the Assembly Speaker, and one representing the Division of Motor Vehicles. Unfortunately, even those six votes usually were not available because at least one "public member" position was vacant during most of 1984 through 1988.

The result was strong influence by the servicing carrier representives. When seats for public members were filled, those members were at a decided disadvantage because of the complexity of the issues involved. It took one or two years for a new board member without insurance experience to learn enough about the insurance industry to become an effective voice on the board.

This situation will change drastically under the 1988 reforms. **EXHIBIT A** All but one of the previous servicing carriers is being phased out. An entirely new, smaller JUA board without ties to auto insurers is being installed.

(e) Too many servicing carriers and producers

The servicing carrier system in effect from 1984 through 1988, involving 12 to 15 carriers, was infinitely more efficient and less confusing than the ARP system with 200-plus companies, but further economies of scale are expected with the new five-carrier system.

The number of producers, now about 10,000, will be reduced under the authority of S-2790, as previously explained in **EXHIBIT Z**. The JUA board and the Department of Insurance are devising final guidelines for deciding which producers will be retained.

* * *

Resolving these JUA implementation problems, as well as other potential problems being investigated by the Department of Insurance, will result in cost savings.

But these savings are very small compared to the cost of the dual insurance system. Improving the JUA's efficiency is not a substitute for reform of the dual system.

THE JUA:

OTHER ISSUES

Aside from the overriding concerns about the JUA's deficit and population growth, there are these other issues:

High profitability for auto insurance companies

Creation of the JUA relieved most insurers of a tremendous burden because it reversed the 1971 and 1973 state actions which had required <u>all</u> companies to offer a wide array of coverages to all motorists.

When the state made the ARP mandatory, with mandatory offering of higher liability limits and physical damage coverage, and then two years later required all motorists to buy insurance, companies were forced to assume financial liability for damages caused by motorists whom the companies normally would not cover. The JUA relieved them of that obligation. All motorists could buy coverage, but it was the JUA, <u>not</u> the industry, which bore the financial burden.

Consequently, insurers' overall profitability improved, though the Excess Profits Law placed some constraints. Companies were able to compete for and write coverage for only the best drivers in New Jersey. Any doubtful prospects were relegated to the JUA. For a brief period New Jersey became one of the most profitable states for selling auto insurance.

<u>EXHIBIT RR</u>

For example, in 1980 auto insurance profitability was a 5 percent operating loss in New Jersey while it was a 4 percent profit nationwide. But in 1985, auto insurers had a 4 percent operating profit in New Jersey but a 1.8 percent loss nationwide. The figures are from the Profitability Reports of the National Association of Insurance Commissioners.

Despite these overall figures, not all auto insurance companies enjoyed a profit in New Jersey at that time. Profits tended to be concentrated among a few of the larger companies. The majority either broke even or lost money.

Companies with the largest profits kept most of that money because of the technical flaws in the Excess Profits Law.

The true cost of the dual insurance system

Since January 1, 1984, many automobile insurance companies have earned profits while the JUA consistently fell into debt. There is nothing peculiar about the JUA that explains its $2.9 billion statutory debt over its first four years and nine months.

At the core, the debt shows the true cost of New Jersey's gravely unbalanced no-fault insurance system. Prior to January 1, 1989, motorists got the benefit of two insurance systems -- unlimited no-fault medical payments plus pain and suffering damages.

Motorists have not been paying for these extraordinary benefits. Instead, the JUA mechanism has permitted deferral of the true cost of auto insurance, using cash-flow operations

instead of setting aside reserves each year to cover future payouts of that year's incurred losses.

After four years, those delayed costs caught up with the JUA.

The JUA's cash shortage shows how expensive the dual insurance system was for everyone, but especially for the JUA because it writes the risky business which results in claims -- dual claims.

Until 1987, voluntary market insurance companies escaped the problem by referring any new high-risk driver to the JUA. But by 1987, many of those companies, covering only the cream of the market, were feeling the pinch and needed rate relief.

That was why Commissioner Merin ordered several rate increases in 1988 -- and why Merin granted the ISO increase only to ISO members whose individual records indicated they needed the increase. There had been no general rate increase for five years, despite continuing inflationary increases in the costs which insurance companies must pay when claims are filed, so many companies legitimately needed rate increases.

Yet Merin, utilizing the Department of Insurance's new data collection and analysis capabilities, was able to pinpoint the ISO members which did not necessarily need the increase, and he was able to deny those companies all or part of the general ISO increase.

Those 1983-1987 inflationary increases affecting insurers, and the 1988 auto rate increases, are shown in **EXHIBIT SS**.

The only way to avoid perpetuating this cycle of ever-increasing insurance costs is to correct the gravely out-of-balance no-fault system with the "verbal threshold" sharply limiting lawsuits.

THE JUA:

REDUCING THE DEFICIT

From the start, there was alarm over the potential insolvency of the JUA.

Even before the JUA wrote its first policy, the Board of Directors filed for a RMEC to be levied on all motorists to compensate for the JUA's anticipated first-year deficit.

The industry repeatedly made the correct observation that the JUA's annual revenues would not be even close to the level necessary to pay each year's ultimate losses.

The industry believes that statutory accounting -- the setting aside of reserves from each year's revenues to pay off the claims for occurrences in that year, regardless of how many years it takes to settle the claims -- is both prudent management and fair to motorists. Under this system, which insurance companies must observe by law, claims are paid from funds paid by the same pool of motorists who caused the claims -- not by future generations of motorists paying bills arising from old claims.

The history of the JUA's deficit is set forth in **EXHIBIT JJ**.

A-1696, however, has made an exception for the JUA and has permitted a cash-flow operation. In other words, the JUA is required to hold reserves only to the extent that it will have enough cash on hand to pay its bills as those bills become due.

This concept is reasonable because ultimately the entire motoring public is liable for the JUA debt, regardless of when claims arose. Under cash flow, New Jersey citizens are not required to pay a JUA surcharge until it is absolutely necessary to have that money in JUA accounts for the payment of due bills.

There are negative aspects of cash-flow. For instance, the JUA does not earn as much investment income from reserves as it would under a statutory system. Also, as long as cash-flow helps to hold down premiums, it can make people complacent about attacking the causes of the debt.

* * *

Overall, the JUA receives revenue from these sources:

1. Premiums based on rating factors

This money is inadequate because the rates are based at least in part on incompatible ISO experience, even under the 1988 reforms.

2. Premium surcharges based on accidents

If a JUA-covered motorist is at-fault for a claim payment in excess of $300, an annual surcharge will be placed on his policy for three years. The annual surcharge when the JUA began in 1984 was $40 per coverage, or a total of $160 for a motorist with full coverage including comprehensive and collision. In 1987, the per-coverage surcharge was changed to $70, for a total $280 surcharge with full coverage.

The accident surcharges provide equity in the market, so that motorists who generate claims assume part of the financial burden for the risk they bring to the JUA.

3. DMV surcharges

These are different from the premium surcharges, which are imposed only if a $300 at-fault claim is paid. The DMV surcharges are for motor vehicle convictions, regardless of whether there was an accident. All motorists with certain convictions, both in the JUA and the voluntary market, pay the surcharges to benefit the JUA.

4. Driver Improvement Plan surcharges

These surcharges are levied by the JUA for motor vehicle violations which are not covered by the DMV surcharge program, and which are not necessarily associated with accidents.

EXHIBIT TT and **EXHIBIT UU**

5. Investment income

Despite its perilous financial condition, the JUA holds millions of dollars which reap investment income. This revenue, of course, is small compared with what insurance companies can earn from investments because the JUA does not maintain statutory reserves.

6. Policy constant

This per-car surcharge is a holdover from the ARP days. Each car, whether in the JUA or the voluntary market, is assessed a flat surcharge per coverage. The minimum is $44 per

car. Many drivers have full coverage and therefore pay $70. Proceeds go to the JUA.

7. RMEC

This is the ultimate safeguard against insolvency of the JUA, a new per-car surcharge authorized by the JUA law. The Commissioner of Insurance can levy the surcharge to close a JUA deficit. Its underlying purpose is the same as the policy constant -- rate equity between the voluntary and residual markets, as originally explained by Commissioner Sheeran in 1980 (see pages 21 and 22). Like the policy constant, the RMEC applies to all cars, both in the JUA and the voluntary market, with proceeds going to the JUA. But cars operated primarily by senior citizens (65 or older) are exempt. The major advantage of the RMEC is that, unlike the policy constant, its value is <u>not</u> reduced by agents' commissions, taxes and administrative expenses.

* * *

For the first four years of operation, the RMEC was the only untapped revenue source for the JUA, causing frequent bitter battles between the industry and the state government.

Even before writing the first JUA policy, the JUA Board of Directors asked Commissioner Murphy in November 1983 to approve a $90 per-car RMEC in anticipation of the JUA's first-year statutory deficit. The request was based upon the JUA's analysis of data from the about-to-be abandoned ARP.

The Legislature was outraged. The $90 RMEC request occurred at about the same time that Commissioner Murphy approved the ISO rate filing permitting the industry to keep the proceeds of the $75 "policy constant." In essence, the JUA board was suggesting that consumers continue paying the old assigned risk subsidy (the $75 "policy constant") plus pay a new subsidy (the $90 RMEC).

The Legislature prohibited any RMEC in the first year of JUA operation, and it required insurance companies to give the JUA the proceeds of the "policy constant," which was reduced to $70. **EXHIBIT VV**

In June 1985, the JUA filed for a RMEC of $150 (using statutory accounting principles) or $99 (using generally accepted accounting principles "GAAP"). **EXHIBIT WW** Insurance Commissioner Hazel Frank Gluck, however, directed the JUA to make a third filing pursuant to the RMEC filing guidelines contained in the JUA's Plan of Operation, which were on a cash-flow basis. Consequently, the filing proposed a zero RMEC because the JUA had sufficient cash and investment income on hand to meet all its obligations for the next few years.

On May 1, 1986, Commissioner Gluck disapproved the JUA's statutory accounting and GAAP RMEC requests. She said the JUA had enough cash on hand, plus anticipated revenues, to continue to operate safely until the next reporting period without a RMEC.

Commissioner Gluck put the JUA on a cash-flow operating basis for the following reasons:

-- The JUA was in its infancy and all of its revenue sources had not matured at the time of the JUA's statutory accounting and GAAP RMEC requests.

-- Because of the JUA's infancy, the JUA did not yet possess enough data from which to make credible forecasts of its financial condition. The JUA used ARP data to justify its requests. Insurance practice generally recognizes that at least three years of data is required before any useful evaluation of an insurer's financial condition can be made. It also was estimated that the JUA's funding mechanisms would take about three years to fully mature.

-- The Attorney General's Office had advised the Commissioner that the RMEC should be viewed as a "revenue source" of last resort -- to be used only after she had ascertained that all the "regular" revenue sources were at "optimal" levels and were insufficient.

-- In light of all the above, and because the JUA had in excess of $500 million cash and investment income on hand and the experts predicted that the JUA's cash-flow would be sufficient until January 1989, Commissioner Gluck ordered the JUA to continue operating on a cash-flow basis until credible JUA data could be collected and its funding sources had had time to mature and become optimal. She indicated that because the JUA had to make annual filings, adjustments could be made if necessary.

The JUA board challenged the decision in the Appellate Division of Superior Court but lost.

In May 1986, at his Senate confirmation hearing, Commissioner Kenneth D. Merin stated that the JUA funding situation was the most serious problem confronting the Department of Insurance. Later that month, the JUA board asserted that its statutory deficit was running at about $300 million to $350 million a year, and it would total $1 billion by the end of 1986.

The board argued that it was imperative to order a RMEC, even a small one, to demonstrate the state's resolve to cover the JUA's losses without assessing insurance companies.

But the board also agreed that the JUA had $500 million in its accounts and was not in danger of running out of cash until late 1988 or early 1989, so Merin took no action on the RMEC. The board came back in December 1986 requesting a $240 per-car RMEC, and that request, too, was not approved.

In July 1987, the JUA board announced that its previous RMEC requests were too low. For the first time, the JUA said a RMEC was necessary not only on a statutory basis, but also on a cash flow basis. Under statutory accounting, a $490 per-car RMEC was justified, the JUA said. **EXHIBIT XX** Under cash flow accounting, the JUA said it could not get through 1988 without a RMEC. **EXHIBIT YY**

The cash-flow RMEC request was adjusted several times, but on January 21, 1988, Commissioner Merin approved the full

request on file at the time -- $73 on each car with full coverage, $44 for cars carrying only no-fault and liability, or an average statewide of $66.

The public was incredulous, and grass-roots political actions resulted directly from the RMEC. So pressure built even more in July 1988, when Merin announced that the January revenue estimates proved to be incorrect, and the JUA still needed more cash to complete 1988 without bankruptcy. Merin boosted the RMEC to an average $139 per car, where it remains today.

* * *

Throughout 1986 and 1987, the JUA and the Department of Insurance worked together to generate as much revenue as possible without resorting to the RMEC. The steps taken and the revenue impact are summarized in **EXHIBIT ZZ.**

Most of those steps were authorized by S-2790, which was summarized previously in **EXHIBIT Z**. A most notable revenue item for the JUA is the Driver Improvement Plan, which places a heavier burden on JUA motorists who have claims and driving violations on their records. **EXHIBIT TT** and **EXHIBIT UU**

In all, the reforms related to that 1987 law were anticipated to increase annual revenue or reduce expenses by $300 million a year to benefit the JUA fund. However, the full amount is being realized only now because it took time to completely implement all the individual changes.

With a $300 million annual benefit, these reforms were expected to offset the JUA's estimated $300 million to $350

million annual cash-flow deficit. The reforms would not diminish the roughly $900 million debt which had already accumulated from 1984, 1985 and 1986, but the reforms were expected to at least contain the problem. Then, as the JUA was depopulated, it was believed the debt could shrink gradually.

But the estimates provided by the JUA board proved too optimistic.

That is partly because the board had based its projections on both JUA data and old ARP data. ARP data was used because accurate forecasting of liability losses requires examination of seven years of data. Yet the ARP data was imperfect because the ARP population was vastly different from the JUA population in both size and makeup. The ARP had only about 50 percent of the high-rated motorists, but the JUA has 80 percent of them.

* * *

An even more pressing problem was the cash flow. In its first two years, the JUA actually received more money than it spent because many claims remained unsettled. By 1986, though, payments on those old claims were being paid. In the second quarter of 1986, the JUA started paying out more cash per month than it received. By the end of 1987, that negative cash flow amounted to about $27.6 million a month.

In early 1988, it appeared that the JUA would pay out $650 million more that year than it received -- a $650 million

cash-flow deficit. The statutory deficit appeared to be $2 billion.

This was the critical data which prompted Commissioner Merin's approval of the RMEC requests in 1988. Without those surcharges, the JUA would have run out of cash to pay bills within months.

At the same time, public outrage over the recent rate increases and the RMEC prompted legislative action to control auto insurance costs in general and to raise revenue for the JUA in particular. **EXHIBIT A**

The Legislature's actions of 1988 have been mentioned several times before because those bills addressed many of the concerns of this study commission.

The new laws permit motorists to limit lawsuits and require motorists to pay part of their own medical bills, both of which will chip away at the cost of the dual insurance system. The laws will allow companies to implement limited rate increases automatically and to non-renew some high-risk motorists, but companies are also required to depopulate the JUA. The JUA will get higher, more realistic rates, but only for drivers with poor records.

The commission agrees with the steps taken by the Legislature in 1988, but we also recommend doing more.

COMMISSION RECOMMENDATIONS

As the commission was doing its work in 1988 and 1989, major automobile insurance changes were already being enacted by the Legislature and Governor Thomas H. Kean.

Most members of this study commission support the auto insurance reforms enacted in 1988. Some members have significant objections, which they describe in the dissents in the back of this report.

This study commission report documents the problems which occurred during 1984 through 1988, and it points out that the 1988 laws were designed to address many of these problems.

The following recommendations are intended to build upon the 1988 reforms, not to denigrate them. Most of the study commission members believe that the Legislature and Governor went in the right direction but did not go far enough.

We recommend these further actions to make New Jersey's insurance system as cost effective as possible.

RECOMMENDATION #1

Allow the JUA to charge adequate rates <u>immediately.</u>

Commission vote: 8-4

Members in favor: Dickson, Karpinksi, Jacobs, Merin, Slocum, Van Ness, Trope (with one caveat: the rates for the drivers who are in the JUA "not bad driver" pool should be capped until 1993, when companies are required to take all "good drivers." I would provide that "not bad drivers" pay not in excess of 20 percent of the ISO rate in 1991-1992. In that way, some "rate equity" would remain in the system until only bad drivers remain in the JUA. I agree that "bad drivers" should be increased to an adequate rate immediately.), and Doyle (The JUA should charge adequate rates immediately. However, there needs to be a revamping of the dangerous driver definition as outlined in paragraph (a) on page 6. The trigger for a dangerous driver should not be cancellation for nonpayment of premium, but an actual lapse in coverage of some specified period of time, i.e., 30 days. There are many instances when drivers allow a policy to cancel for nonpayment when, in fact, they replace the coverage elsewhere, without lapse. These people should not be classified as dangerous drivers. In addition, a person who is on vacation and inadvertantly misses a payment, should not be classified as a dangerous driver.)

Members opposed: Connors (because this step alone would not create a level playing field between JUA and voluntary insurers), Hunter (because JUA rate increases would be too fast; would be in favor only if JUA were depopulated immediately), Ravin (In view of the fact that there seems to be serious questions as to the JUA's information gathering, rate setting and misplaced reliance on various carriers to settle claims, I do not believe that "adequate rates" is the kind of blank check I could vote in favor of.), and Costa (gradually, and only for bad drivers; rates should be self-sustaining for bad drivers insured by the JUA, consistent with the 1988 enactments)

Abstain: Paulsen

When the JUA was created in 1983, its rates by law were required to be the same as rates used by the Insurance Services Office (ISO). This was the primary cause of the JUA's 1988 financial crisis. None of the JUA's own experience had been considered in any ratemaking decisions.

The goal of using ISO rates for JUA business had been to provide equity for good motorists who, through no fault of their own, were put into the residual market. But achieving that goal has, in turn, produced new problems, which are described in detail in this report.

Because of those problems, and because of the lack of actuarial integrity in setting rates without considering half of

the experience in the state, the JUA should be untied from ISO rates immediately.

The 1988 auto insurance reform legislation addressed the issue by allowing the JUA to begin filing rate requests based for the first time on its own claims experience, but that was only for comprehensive and collision coverages, and it affected only "bad" drivers -- defined as those with four or more motor vehicle points, two or more moving violations or one or more at-fault accidents in the three previous years.

For other coverages, the JUA can charge those same high-risk drivers rates that are 10 percent higher than ISO's in 1989, 20 percent higher in 1990, 30 percent higher in 1991 and 40 percent higher in 1992.

That is an improvement, but the JUA will continue to need subsidies until its rates are adequate for its own experience. Under the current law, that will not happen until 1993. Therefore, the RMEC will continue until at least 1993.

The JUA should have adequate rates as soon as possible so that the RMEC can be reduced immediately and eventually eliminated.

This argument is buttressed by the fact that ISO announced in early 1989 that it would no longer provide advisory rates to its member companies. ISO will, instead, provide members with prospective loss costs or estimates of future loss payments for various insurance products. The member companies will then calculate their own rates.

For the next few years, at least, ISO has agreed to provide the JUA with information which the JUA will use to calculate JUA rates before it begins filing independent rates in 1993. But the ISO action makes it all the more difficult, and pointless, to link JUA rates to the ISO.

Another argument against keeping the current system is that surcharges imposed by the JUA through its Driver Improvement Plan and imposed on all drivers through the Division of Motor Vehicles are arbitrary and insufficient.

There is good reason to look at a driver's eight-year history, instead of only three years, to determine whether he should be paying higher rates. For simplicity, higher rates charged directly by the JUA for high-risk drivers make more sense than a plethora of surcharges.

Specifically, the commission recommends these actions:

(a) The Legislature should enact a law with explicit descriptions of a bad driver. One example is the description in the Essential Insurance Act of Michigan, which states that a bad driver is one who has a suspended or revoked license, or has been convicted of insurance fraud or had a $1,000-or-more claim rejected because of fraud evidence during the past five years, or has been convicted of a motor vehicle felony or leaving the scene of an accident or reckless driving or driving under the influence of drugs/alcohol over the past three years, or if the car does not meet Michigan safety standards, or if the driver's insurance policy in the past two years was cancelled for

non-payment of premium. The important point is that the description be objective, explicit and part of the statutes.

(b) All such drivers (as described in subparagraph (a)) covered by the JUA would constitute their own pool for rates. Their rates would be based on their own experience, and the rates would be adequate to cover all of their pool's losses.

(c) Any other drivers who remain in the JUA would constitute a separate pool. Their rates, too, would be based on their own loss experience and adequate to pay all of their pool's losses. The rates, then, would be similar to voluntary market rates. In any event, the rates would be fair because they would be based on the pool's actual experience.

(d) DMV surcharges and other surcharges aimed at getting money from "bad" drivers should be curtailed. For instance, the DMV should charge only convicted drunken drivers and drivers with six or more motor vehicle points. The system should be simple to avoid confusion and the appearance of unfairness.

RECOMMENDATION #2

Continue to depopulate the JUA and adopt the Michigan Essential Insurance Act.

Commission vote: 6-2-3

Members in favor: Jacobs, Karpinksi, Van Ness, Trope, Ravin, Doyle (Continue to depopulate the JUA. However, make sure that insurance companies could properly charge for people they accept with accidents and/or violations.)

Members opposed: Hunter (because Michigan plan would not be implemented quickly enough) and Slocum (reasons cited in separate opinion)

Special votes: Dickson favors the JUA depopulation plan but opposes the Michigan Essential Insurance Act; Connors favors Michigan Essential Insurance but believes JUA should be abolished immediately; Merin favors Michigan Essential Insurance but believes JUA depopulation should stop at 33%; Costa votes yes for depopulation, but abstains on the Michigan Essential Insurance Act

Abstain: Paulsen

Again, this critical issue was addressed in the 1988 auto reform legislation but it did not go far enough.

The new law gives the insurance department authority to order voluntary market companies to increase their business by a

certain amount each year. The commissioner is authorized to set criteria defining which drivers must be considered eligible for voluntary market coverage. If companies do not meet their quotas each year through their own marketing efforts, the commissioner will assign business to them.

As of September 1988, about 52 percent of New Jersey cars were insured in the voluntary market. The quotas will require that 60 percent of cars be in the voluntary market during a phase-in period generally covering 1989, that 70 percent be phased in during 1990, 75 percent during 1991, and 80 percent in 1992 and thereafter.

As part of the plan to depopulate the JUA, regulations governing voluntary market policy nonrenewals will be eased. If a company meets and maintains its JUA quota, it gets the right to nonrenew drivers for its own underwriting reasons.

Previously, a company could drop a customer only for a few specific reasons stated by regulation, such as failure to pay premium or loss of a driver's license. Now, a company may non-renew as many as two percent of its policyholders, as long as it meets the depopulation quota by replacing that business with other policyholders.

The company may non-renew additional policyholders, but only if it replaces each such non-renewals with two new voluntary policies.

After November 1989, every auto insurer using more than one rate level will be required to file with the Department of

Insurance its underwriting criteria which are then subject to department approval. The new law also prohibits any underwriting rule based solely on the driver's home territory.

The commission believes that this program should proceed as provided by law, but when it is over, the only drivers left in the JUA should be the really high-risk drivers.

So, when the Legislature passes a law defining a bad driver, as proposed in Recommendation #1, that same definition should be used to limit the size of the JUA from January 1, 1993, and thereafter.

From that date forward, the law should require voluntary insurance companies to provide coverage to any motorist who does not fit the bad driver description in the law. Michigan has been very successful with this plan.

The law should state that, starting in 1993, the JUA must cover only drivers meeting that description, and voluntary companies must cover everyone else.

RECOMMENDATION #3

The JUA should stop providing comprehensive and collision coverage.

Commission vote: 4-6-2

Members in favor: Connors, Dickson, Jacobs, Van Ness

Members opposed: Hunter, Slocum, Ravin, Trope (at least not until 1993), Doyle (The JUA should continue to provide comprehensive and collision coverage. However, there should be a cutoff for high-valued vehicles whereby vehicles valued over $40,000, as an example, would not be eligible for physical damage coverage under the JUA because it is too difficult to establish adequate pricing.), Costa (because Recommendation #1 will assure adequate rates for all JUA insurance.)

Special votes: Karpinski believes JUA should provide coverage but only with high deductibles and no towing, labor or rental car reimbursement; Merin favors JUA coverage only for low-priced or moderately priced cars, no hot rods or luxury cars.

Abstain: Paulsen

The JUA exists because the state has an obligation to assure that there is a supplier of the insurance which state law requires motorists to buy.

That means liability, PIP and uninsured motorist coverage.

There is no law requiring motorists to buy coverage for comprehensive or collision, so there is no reason to burden the state with this responsibility.

This argument is compelling because the JUA has become the insurer of first resort for sports cars or other high-priced vehicles. Voluntary market companies have refused to cover expensive cars, especially in urban areas.

This has added to the JUA's already-heavy burden.

The JUA should get out of this market and allow other forces to work. Companies selling only comprehensive and collision coverage may enter the marketplace, or voluntary companies could charge higher rates to cover car models which are stolen frequently. That kind of risk should be insured in the private market.

RECOMMENDATION #4

The state should not rush to pay the JUA's statutory deficit but should instead allow the debt to float while the JUA operates on a firm "cash-flow" basis.

Commission vote: 8-4

Members in favor: Doyle, Hunter, Jacobs, Merin, Ravin, Trope, Van Ness, Costa (The state should not pay the deficit. Any overpayments to JUA carriers should be recouped and used to reduce the deficit.)

Members opposed: Connors, Dickson and Karpinski (who believe JUA debt should be paid off gradually), Slocum

Abstain: Paulsen

As explained in the report, the JUA's deficit is not an overdue bill. It represents the claims which must be paid over the next ten years for the accidents which are happening this year.

It is true that state law requires other insurance companies to be "fully funded," i.e., to collect enough premium each year so it can pay all claims regardless of when the bills become due. But that is a protection against the company going out of business, leaving the state's jurisdiction or stopping sales of that line of insurance.

The JUA is not in that situation, so there is no need for it to bankroll money. Its "deficit" is a paper debt which is of concern only as each bill becomes due.

If JUA rates are adequate, it can continue paying yesterday's claims with today's premium, and today's claims with tomorrow's premiums.

The argument that insurance companies should pay the JUA's approximate $3 billion deficit is a simplistic approach which would ultimately result in consumers footing the bill. If companies pay this deficit, the costs will be trickled down to consumers through actuarily justified rate increases. As these costs trickle down to consumers, there will also be administrative costs, taxes, commissions and other unnecessary expenses added in. As maddening as JUA surcharges are, they are cheaper paid up-front under our current system than disguised as insurance company expenses.

Furthermore, as stated in a previous recommendation, the surcharges can be reduced quickly and eventually eliminated by allowing the JUA to charge high-risk drivers adequate rates immediately. If the JUA becomes a pool for only high-risk drivers, and if they pay the true costs of their claims experience from this point forward, then the JUA's current deficit can be reduced to a manageable level and need not ever be paid in full.

RECOMMENDATION #5

The study commission supports a mandatory verbal threshold in New Jersey.

Commission vote: 8-4

Members in favor: Dickson, Doyle, Hunter, Jacobs, Karpinski, Merin, Van Ness, Ravin (provided there is a concurrent attempt to quantify and limit medical fees and costs as far as possible)

Members who favor keeping the current optional system: Connors, Costa, Slocum, Trope

Abstain: Paulsen

The history of no-fault insurance in New Jersey is replete with references to reducing lawsuits in exchange for speedy payment of auto-related medical bills.

That trade-off was explicit in the original Keeton-O'Connell research in 1965, and it was implied by the $200 tort threshold in New Jersey's original no-fault law.

Indeed, the Automobile Insurance Study Commission empaneled by the Legislature in 1970, which recommended establishing no-fault, devoted extensive space in its final report to an examination of that trade-off. **EXHIBIT AAA** That commission tried to quantify how much no-fault first-party coverage would

increase costs, and how much a tort threshold would decrease costs.

The commission said quite frankly that it had no data on how many personal injury losses occurred but did not receive insurance reimbursement under the tort system in effect at that time. But it noted that authoritative studies, including one by the U.S. Department of Transportation, indicated that only 50 percent to 60 percent of auto accident victims received tort payments. Therefore, it said, under no-fault, claim frequency could nearly double.

There was never a question about the need for a tort threshold. Without it, no-fault would not be a trade-off but instead an additional, expensive benefit.

The only question was what kind of threshold would be effective.

Again and again and again, throughout the history of auto insurance reform in New Jersey, a verbal rather than a monetary threshold consistently has been the preference of those who studied the issue thoroughly.

It was recommended by:

-- the Legislative Study Commission on No-Fault Automobile Insurance Reform in New Jersey, empaneled in 1976 and concluded in December 1977 (page 93 of final report);

-- Brock Adams, when he was U.S. Secretary of Transportation in the Carter administration in June 1977;

-- the Cummins-Ferreira report in 1983 commissioned by the Department of the Public Advocate (See **EXHIBIT U**);

-- the U.S. Department of Transportation again, in the Reagan administration, in its 1984 report, "Compensating Auto Accident Victims";

-- and a verbal threshold as an option to consumers was recommended by the Senate Special Committee on Automobile Insurance Reform in September 1986.

Moreover, the original no-fault concept put forth by Keeton and O'Connell in 1965 proposed a monetary threshold, but it was extraordinary -- $10,000 for economic losses or $5,000 for general damages. That $10,000 threshold would be at least $48,000 in 1987 dollars, based on the Consumer Price Index for medical care costs from 1967 through 1987.

The commission which studied no-fault in 1970 recommended only a $100 threshold, but it also made a significant cost control recommendation: When auto accident victims sue, they should be prohibited from collecting damages for losses already compensated by no-fault insurance. In other words, no double-dipping. That recommendation was never enacted.

The $200 threshold, and even the optional higher threshold effective in 1984 through 1988, did not provide savings equal to the cost of the no-fault medical coverage which motorists are required to purchase.

New Jersey data alone provides enough evidence to prove failure of the $200 threshold, but its failure is most obvious

when compared with Michigan. Like New Jersey, Michigan instituted no-fault in 1973 with unlimited PIP benefits, but it always had the verbal threshold.

The differences are startling.

Prior to no-fault, both states were suffering increases in the number of auto negligence lawsuits filed each year. After 1973, the increases stopped in Michigan but continued in New Jersey. Now Michigan has about the same number of lawsuits filed each year as in 1973, but New Jersey has twice as many. The annual figures are listed in **EXHIBIT BBB**

The lawsuit increase in New Jersey cannot be attributed to more auto accidents. The Department of Insurance compared the number of suits filed each year with the number of people killed or injured each year in auto accidents -- in other words, the percentage of potential lawsuits which actually ended up in court. The percentages are shown in **EXHIBIT CCC**.

In Michigan, the percentage has remained fairly stable under both the old fault system and the current no-fault system with the verbal threshold, ranging from 5.5 percent through 8.8 percent.

But in New Jersey, the percentage increased except for the first few years of no-fault, going from about 14 percent in the late 1960s, down to as low as 11 percent in 1975, and up to 21 percent in the mid-1980s. This means that under New Jersey's dual system, more cases went to court than under the tort system. That was the opposite of the goal of no-fault.

And, finally, the increased caseload translated into higher bodily injury liability insurance premiums. As **EXHIBIT DDD** illustrates, liability premiums in Michigan increased at a far slower pace than New Jersey's.

This conclusion about the effectiveness of the verbal threshold is corroborated by the independent findings of the U.S. Department of Transportation. In its 1984 no-fault report, which has been previously mentioned, the DOT compared the bodily injury rates paid per car in Pennsylvania, New York and Florida with the Consumer Price Index for 1977 through 1980. See **EXHIBIT EEE**.

Rates in Pennsylvania, which had a $750 threshold, increased more than the CPI. Rates in Florida and New York, which adopted verbal thresholds in 1976 and 1978, respectively, increased less than the CPI.

One last argument must be made for the verbal threshold: No-fault benefits without a strong tort limitation actually encourage lawsuits.

Before 1973, when a person was injured in an auto accident, the only way he could pay his medical bills and get reimbursement for his lost wages -- in other words, the only way he could survive economically in many cases -- was to get a settlement from the at-fault driver's insurance company. This victim faced large bills demanding immediate payment. Settling the claim as quickly as possible was important.

Now, though, those pressing bills and lost wages are paid quickly through no-fault. There are no creditors at his door, so there is no pressure to negotiate with the insurance company. Instead, the victim decides at his leisure whether to seek additional compensation for pain and suffering, and he can continue litigation indefinitely. There is not even the hindrance of legal fees because court rules authorize trial lawyers to work on contingency: If the lawyer loses the case, he is paid nothing; if he wins, the payment as set by New Jersey court rules is one-third of the award or a smaller ratio for very large awards.

Without a verbal threshold or some other stringent limit, the system does nothing to encourage settlement of disputes but instead rewards those who litigate the most. This is the danger which existed with the $200 threshold, and this danger persists despite the 1988 reform.

The 1988 reform package took a major step in allowing New Jersey drivers to choose the verbal threshold, but it also allows the choice of a zero dollar threshold, which means drivers do not have to meet any requirements in order to file a pain and suffering lawsuit as the result of an auto accident.

The majority of drivers are now choosing the optional verbal threshold, which means that a person involved in an auto accident may file a tort action only if death or a specific injury occurs. This limit is modeled after New York's law.

But, unlike New York, New Jersey allows drivers to choose to maintain the right to sue and pay a higher premium. The full impact of the verbal threshold savings will be felt only if the tort limitation is universal.

It should be noted that a Department of Insurance report released in April 1989 asserts that approximately 75 to 85 percent of all drivers in New Jersey are expected to take the optional verbal threshold, which went into effect on January 1, 1989.

The report goes on to say that, at this point, there would be little additional savings if the current optional verbal threshold were replaced with a mandatory verbal threshold. Should a mandatory verbal threshold be instituted, the only drivers who would see significant savings are the relatively few who have chosen to pay higher premiums for the unlimited right to sue.

RECOMMENDATION #6

The collateral source rule should be amended to reduce an auto accident victim's court award by whatever P.I.P. compensation he has already received from his auto policy.

Commission vote: 11-1

Members in favor: Connors, Dickson, Doyle, Hunter, Jacobs, Karpinski, Merin, Slocum, Trope, Van Ness, Ravin

Opposed: Costa

Abstain: Paulsen

The collateral source rule bars a defendant from pointing out to the jury that the plaintiff had first-party health, disability, or workers' compensation insurance to draw on. It also prohibits reducing the size of an award due even if the victim has already been paid for medical or other expenses by outside sources.

Continued use of the collateral source rule in New Jersey no-fault auto suits will continue to stymie true no-fault and will keep the cost of insurance high, and by allowing some litigants to, in effect, double dip, the ultimate loser will be those claimants who truly are in need.

The commission recommends that the collateral source rule should still apply at trial. That is,evidence about insurance

compensation should not be introduced during the trial. But, after a verdict is rendered and the amount of damages is determined, the amount of PIP compensation already provided to the plaintiff should be subtracted from the award, and the defendant would pay only the balance. This would prevent injured parties from collecting twice for the same loss.

This reform must be accompanied by an assurance that insurance premiums will be reduced accordingly. The law should require companies and the Department of Insurance to project savings from this reform and adjust rates immediately upon enactment, and then to monitor the actual loss experience resulting from this reform over the first few years and make further adjustments to the rates as the experience warrants.

RECOMMENDATION #7

Establish a catastrophic injury fund, with funds from a gas tax, driver's license fee, auto registration fee or similar source.

Commission vote: 9-2

Members in favor: Connors, Dickson, Hunter, Jacobs, Merin, Ravin, Slocum, Trope, Van Ness

Members opposed: Doyle, Karpinski

Abstain: Costa, Paulsen

Protection for persons suffering a catastrophic injury is an unarguable neccessity; the issue is how to make such protection affordable.

The commission believes that there is a potential savings to be gained by centralizing the responsibility for administering and paying the medical costs associated with catastrophic auto injuries in a single entity, rather than more than 100 individual property/casualty companies. While relatively small PIP coverage may continue to be provided by individual insurers, a streamlined, uniform system would be more efficient for larger claims.

This commission recommends the creation of a catastrophic injury fund which could assume the responsibility for medical bills after a victim's bills exceed a certain dollar level.

Under this proposal, all major injury cases would be monitored and paid by the same organization, which can more carefully monitor quality of care and costs. The goal is better treatment and rehabilitation programs for auto accident victims, which in the long run costs less money.

The most cost-efficient way to provide catastrophic protection for all injured motorists might be to establish a catastrophic injury fund which could be funded via a vehicle registration fee, a driver's license fee, a gasoline tax, some other similar source, or a combination of these sources.

Funding the program through these direct fees is cheaper than funding through the current system of premiums paid to each insurance company because direct collection avoids costs currently paid by the consumer -- taxes, commissions, administrative costs and profit from this part of the premium.

The amount of money which must be collected for the program would depend upon the dollar level at which the catastrophic fund would take over.

For instance, the Department of Insurance report in April 1989 said that a catastrophic fund providing coverage to auto accident victims for bills exceeding $10,000 apiece would cost $350 million to $375 million. If that cost were paid in full by a vehicle registration fee, the fee would be $80 per year. If

that cost were paid in full by a gasoline tax, the tax increase would be 9.5 cents per gallon.

On the other hand, catastrophic coverage only for accident victims with bills exceeding $75,000 would cost $83 million to $88 million. If that cost were paid in full by a vehicle registration fee, the fee would be $19 per car. If the cost were paid fully by a gasoline tax, the tax increase would be 2 cents per gallon.

Any legislation would have to use the best available data to project the program's costs, the revenues to be collected, and the proper level of care for the catastrophic fund to cover.

It should also contain a provision allowing for annual adjustments in the program to recognize the reality that costs of this program will increase each year much more than the general inflation rate. That is because not only do medical costs tend to increase more quickly than other costs, but also because the number of accidents increase each year, and because better technologies and better "medevac" programs assure that more auto accident victims receive more care each year.

RECOMMENDATION #8

Better data collection by the JUA.

Commission vote: 12-0

Members in favor: Connors, Costa, Dickson, Doyle, Hunter, Jacobs, Karpinski, Merin, Ravin, Slocum, Trope, Van Ness

Abstain: Paulsen

From its inception in 1984 until 1989, the JUA had contracted with 12 to 15 insurance companies to act as servicing carriers, performing customer service for the JUA such as writing policies, collecting premiums and adjusting and paying claims. For this work, the insurance companies received fees based on the premium they handled, plus some direct dollar-for-dollar expense reimbursement.

When the servicing carrier contracts were first set up, it was agreed that each insurance company would set up its own system for handling JUA accounts, rather than conform to a uniform system. Without a uniform system for tracking data, it became difficult for the JUA to evaluate the reasonableness of JUA expenses, as well as the adequacy of claim settlement practices and underwriting accuracy.

As an example, one important component of the old insurance company servicing carrier agreements was the proper use and ownership of JUA-designated reserves held by the carriers. Some

servicing carriers credited the JUA with income earned on those reserves; others did not. The JUA Plan of Operation was unclear about the issue, resulting in confusion: Did one company cheat the JUA, or did the other company voluntarily turn over revenue which it could have kept?

This sort of issue may not have occurred had there been uniform procedures in place. An additional problem arises when audits of servicing carrier records are conducted. By allowing this piecemeal approach, audits were time-consuming and confusing.

Recognizing the problems the old piecemeal system caused, a new, uniform method of handling JUA finances was developed.

A more streamlined system is now in place. The 12 remaining insurance carriers were reduced to five, and the contract bid process included non-insurance companies.

Four non-insurance companies and one insurer, Hanover, were selected to handle JUA business at a lower price. The first-year savings are expected to be $75 million.

The changeover to the new system began in the spring of 1989 and is expected to continue into 1990.

All the new servicing carriers must adhere to accounting and underwriting procedures that are set by the JUA.

RECOMMENDATION #9

Modify the makeup of the JUA board, as provided in the 1988 law.

Commission vote: 12-0

Members in favor: Connors, Costa, Dickson, Doyle, Hunter, Jacobs, Karpinski, Merin, Ravin, Slocum, Trope, Van Ness

Abstain: Paulsen

A problem often mentioned by critics of the JUA in the past was that the JUA Board of Directors, as created by law in 1983, was made up primarily of insurance industry representatives, and of that group, most were also acting as JUA servicing carriers. In addition to charges of a conflict of interest, the JUA board was criticized for being too large to be effective.

The 1988 reforms whittled the board from its original 17 members to nine voting members and, to avoid any appearance of a conflict of interest, no employee of a JUA servicing carrier is permitted on the board.

Five board members are nominated by the governor and approved by the Senate. One member each is appointed by the Assembly speaker and Senate president. The last two members include the director of the Division of Motor Vehicle Services and the commissioner of insurance.

RECOMMENDATION #10

Servicing carriers should refund any overpayments they received from the JUA.

Commission vote: 12-0

Members in favor: Connors, Costa, Dickson, Doyle, Hunter (who adds that agents, too, should refund any JUA overpayments they received), Jacobs, Karpinski, Merin, Ravin, Slocum, Trope, Van Ness

Abstain: Paulsen

An independent audit of the JUA and the servicing carrier fees it paid during 1984 through 1988 was completed in August 1989. If it can be proven that the servicing carriers overcharged the JUA, as the auditors concluded, then it is imperative that the servicing carriers make restitution promptly.

It is important to note that the 1988 reform legislation addressed this problem in two ways to assure that it does not reoccur.

First, it required regular field audits of servicing carriers and uniform accounting procedures among servicing carriers to avoid the confusing variety of accounting methods which allowed overcharges to occur.

Second, the law clearly requires that future cases of this kind will result in refunds to the JUA as soon as an overpayment

is discovered. The clarity of this law will help the JUA to actually collect money to which it is rightfully entitled.

That law, codified as N.J.S.A. 17:30E-17.1, states: "If any servicing carrier is determined to have knowingly violated the plan of operation, or any rule of practice or guideline which has been established in connection therewith, with respect to the handling of claims or the underwriting of the policies of the association, or if a servicing carrier has been determined to have overcharged the association with respect to servicing carrier compensation, the servicing carrier shall repay any money owed to the association within 15 business days of notification by the association that such money is due, or shall pay the association interest on the money due at a rate determined by the commissioner. If the servicing carrier is determined to have willfully violated the plan of operation, or any rule of practice or guideline which has been established in connection therewith, with respect to the handling of claims or the underwriting of the policies of the association, or has willfully overcharged with respect to servicing carrier compensation, the servicing carrier shall be liable for treble damages."

RECOMMENDATION #11

Allow auto insurance rates to increase in a streamlined, efficient manner.

Commission vote: 5-2-2

Members for the "CPI-plus-3%" flex rating system: Dickson, Jacobs, Merin, Trope, Van Ness

Members for the "file and use" system: Connors, Karpinksi

Members for "prior approval" system: Hunter, Slocum

Special vote: Ravin, "no"

Abstain: Doyle, Paulsen, Costa (who believes the flex rating regulatory scheme in the 1988 enactments address this recommendation.)

The commission members have significant disagreement about the appropriate process for implementing rate increases, but there is one area of agreement: Justified rate increases should be reviewed thoroughly yet implemented promptly to allow the marketplace to be truly competitive.

In other words, New Jersey should try to shed its image of a state where rate increase requests languish endlessly while the Department of Insurance and the Department of the Public Advocate nitpick for more data.

That is the perception in most of the auto insurance industry. A rate increase which is implemented many months or a year too late is never adequate, they believe.

All the commission members emphasize that New Jersey, unlike most other states, has a safeguard against companies charging excessive insurance rates. New Jersey's strong Excess Profits Law will continue requiring companies to issue refunds if the rates turn out to be too high, generating too much profit. Only Florida has a law like this, and New Jersey's law limits profits more tightly than Florida's.

Aside from that general statement, different commission members proposed these different rate systems:

CPI-plus-3% flex rating system -- This is the reform enacted in 1988 which permits insurance companies to implement automatic rate increases or decreases each July 1 as long as the rate change is within a certain percentage range.

The law limits the maximum statewide average rate increase to certain components of the Consumer Price index (CPI), plus three percentage points. The CPI components used for this purpose are the most recent available figures for medical care services and for automobile maintenance and repair.

If the commissioner finds that the "CPI-Plus 3%" formula permits excessive rates, the allowable rate increase then can be modified.

Insurance companies must make an informational filing before implementing any rate increase under this provision. Larger rate increases still require prior approval by the insurance department.

File and Use System -- This is used in Michigan and many other states for various lines of insurance, including auto. It does not place a direct restriction on rates. A company may implement rate increases merely by filing their new rates with the state insurance department.

This system usually has a safeguard in that the insurance department can still review the filing and order the company to stop using certain rates which are excessive, unfair or perhaps too low for the company's own solvency.

The advantage of this system for the companies is that they can adopt changes quickly, keeping income coming when losses mount, and keeping flexible enough to lower rates when competition demands it.

For consumers, the advantage is better competition in the marketplace. Competition, rather than state regulation, would serve to keep prices low. The competitive marketplace is assisted by consumer advocacy programs, such as buyer's guide and price comparison brochures, helping consumers to find the best deals available. Such programs are also recommended by this commission in a separate item.

Prior Approval System -- This is the system which has been used by New Jersey for the past quarter-century. It requires each insurance company, or many companies filing as a group through a rating bureau, to seek state approval before changing rates.

The advantage of this system is direct state control, which is a safeguard against unreasonable rates ever being implemented. To raise rates, a company must prove that its current rates are not adequate to conduct business.

RECOMMENDATION #12

The insurance rating law, N.J.S.A. 17:29A-1 et seq., should be modified to mandate that the insurance commissioner consider more modern economic, financial, accounting and statistical theories, practices and methodologies in addition to standard actuarial techniques in evaluating rate petitions.

Also, an expense efficiency standard should be established for property/liability insurers.

Commission vote: 7-2

Members in favor: Connors, Costa, Hunter, Jacobs, Ravin, Slocum, Trope

Members opposed: Merin (because current law already allows the commissioner to do this), Karpinski

Abstain: Dickson, Doyle (who thinks the Department of Insurance should always investigate more modern techniques, but can't agree on changing techniques or establishing an expense efficiency standard unless one is proposed and reviewed), Paulsen, Van Ness

Standard actuarial techniques are a blend of principles and techniques developed in the field of economics, finance, statistics and mathematics. State-of-the-art methodologies

developed in these fields have demonstrated that the standard actuarial techniques yield inaccurate estimates of losses, etc.

The statute currently governing the evaluation of insurance rate filings (N.J.S.A. 17:29A-11) predates the 1983 reforms and has tended to reinforce the acceptance of the traditional methods used by insurers in their rate requests and filings.

Insurance rate reviews and proceedings lay much stress on prediction and projection, e.g., of rates of inflation, of various types of costs and of claim losses, of frequency of occurrence of insured events, and of the number and types of new and renewed policies.

New methods of economics, finance, statistics, and mathematics have been developed and used in the regulation and study of other businesses and industries.

A statutory change directing the widening of the field of techniques to be used in the evaluation of rate filings should encourage the appropriate adaptations to obtain the benefits experienced elsewhere and to lead to more accurate predictions and determinations in insurance ratemaking.

Furthermore, regardless of projected losses, one of the ever-present general aims of regulators has been to encourage efficiency. When the product or service is uniform, it is reasonable to compare the costs of the various providers to standards.

Methods for setting standards must recognize factors which give rise to legitimate cost variances between providers. The

regulation of price alone is often insufficient to filter down to the level of expenses and thus fails to put pressure on inefficient companies. For example, when rates are set by a ratemaking organization, or by some other equivalent procedure which bases its rates on average costs, rates set to recover "actual" costs are not set by reference to the efficient companies, but rather, reflect the costs of inefficient companies as well.

Standards are used in New Jersey in the regulation and setting of hospital reimbursement rates. Similarly, performance standards are used in a more limited manner in the regulation of nuclear generating facilities of electric utilities. They should be applied to insurance as well.

RECOMMENDATION #13

Administrative and acquisition expense allowances in New Jersey automobile insurance premiums should be based upon an in-depth analysis of actual or allocated expenses, rather than simply being based on national-average percentages.

Commission vote: 10-1

Members in favor: Connors, Costa, Dickson, Hunter, Jacobs, Karpinski, Merin, Ravin, Slocum, Trope

Members opposed: Doyle (Who feels this statement is too broad. He would agree that national averages are not always proper, but some expense items need to be projected and cannot simply be allocated by actual expense. Maybe some items should be based on a statewide average or a regional average with like-states, rather than on a national basis.)

Abstain: Paulsen, Van Ness

Many administrative and acquisition expenses do not necessarily vary directly with the size of insurance premiums. Yet, insurers tend to apportion these (nationwide) expenses to the states according to the premiums collected in each of the states.

To illustrate the problem, consider, for example, postage. New Jersey has consistently numbered among the highest when states are ranked by average premium. Because in 1987, New

Jersey's average premium was 1.3 times that of the "average" state (See **Exhibit B**), the allocation of postage costs to New Jersey presumes that postage costs are 1.3 times as high in New Jersey as in the "average" state.

However, it should be realized that because of several factors, the overhead costs of doing private passenger automobile insurance business in New Jersey may be higher in dollars per policy than the countrywide average. As an example, the New Jersey excess profits filing required from every company is more than 200 pages. Therefore, it may turn out after a detailed analysis of overhead expenses that a countrywide percent of premium is appropriate.

Nevertheless, for accuracy, for administrative and expense costs which are not properly associated with the premium size, allowances should not be determined by reference to a standard expressed in percent-of-premium terms.

Other allocations indices may be more appropriate, such as allocation on the basis of the number of New Jersey policies written by an insurer compared to the number of policies that insurer sells nationwide. Such alternative apportionment ratios are commonly accepted in the analysis of utility rates falling under the Board of Public Utilities' jurisdiction.

The Commission would point out that to address these issues more fully, the New Jersey Department of Insurance is requiring companies to provide more detailed expense data than has ever been previously requested.

RECOMMENDATION #14

The state should implement insurance education programs for consumers and include insurance training in high school driver education courses.

Commission vote: 12-0

Members in favor: Connors, Costa, Dickson, Doyle, Hunter, Jacobs, Karpinski, Merin, Ravin, Slocum, Trope, Van Ness

Abstain: Paulsen

Auto insurance represents a sizable portion of a family's income and for most consumers it is a product that is hard to understand and intimidating to tackle. The average motorist buying an insurance policy knows very little about what he or she is buying.

Public information campaigns, informational brochures, public service announcements are a few of the ways that consumers in New Jersey could be reached. A special auto insurance education program should also be developed for high school juniors and seniors, in conjunction with driver training courses which are already in place.

Although auto insurance education is the specific concern of this commission, it is true that educational programs about other types of insurance would be equally helpful.

Other states have undertaken such programs, and New Jersey might benefit by looking at the programs operating in Illinois, Iowa, Kansas, Michigan and Nebraska.

RECOMMENDATION #15

Price information should be provided to consumers through shoppers' guides and toll-free telephone services.

Commission vote: 12-0

Members in favor: Connors, Costa, Dickson, Doyle, Hunter, Jacobs, Karpinski, Merin, Ravin, Slocum, Trope, Van Ness

Abstain: Paulsen

Price information on automobile insurance policies is difficult for consumers to obtain. Few automobile insurance underwriters will price a policy over the telephone; most require a written signed application before they will issue a price quote.

This limited shopping method does not lend itself to a full consideration of the various insurance options available to consumers. The task of comparison shopping for automobile insurance becomes even more difficult when you consider variables such as the amount of protection desired by consumers and the availability, or lack thereof, of the various insurance company options.

Additionally, it is argued that, because prices vary little from one underwriter to the other, there exists little incentive for price shopping for automobile insurance since the effort produces only marginal benefits for the consumer.

The ready availability of price information will help alter this situation, whether the current price choices are limited because they are a product of an industry that is highly competitive or an industry that adheres to generally accepted rate schedules. Advance price information is an important price control tool for consumers, especially when there are only small differences in prices.

How the price information is provided to consumers also is very important. It could be presented for review by consumers as raw price data directly by insurance providers or the Department of Insurance; or, it could be compiled and prepared for consumer consumption by the insurance department; or, the insurance department could provide insurance companies with models to price which depict various types of motorists, for example, rural or urban drivers with good to poor driving records requesting a range of insurance coverage, from low to high.

An interesting program is being worked on in California to use computers to compile and update premium comparison information and then distribute the data to companies which would publish it or otherwise disseminate it.

In any format, the consumer must be able to compare overall policies and make informed choices about insurance options. The goal of providing price information is to aid consumers in their choices of an insurance company as a means of maintaining

competitiveness in the industry. This goal must be kept in mind when developing the price information presentation format.

Finally, publicity directed at consumers is necessary to advise of the availability of price information through shopper's guides and toll-free telephone numbers.

The 1988 auto reform legislation required the Department of Insurance to prepare a price comparison for auto insurance. The department requested insurance companies to submit price information for four prototypes in each of the 27 territories. The insurance department compiled the information and made it available to consumers in August 1989.

RECOMMENDATION #16

Repeal the anti-trust exemption

The state anti-trust exemption should be repealed so that insurers operate at arm's length, as all free enterprise entities do in America.

Commission vote: 8-2

Members in favor: Connors, Costa, Hunter, Merin, Ravin, Slocum, Trope, Van Ness

Members opposed: Doyle, Karpinski

Abstain: Dickson, Jacobs, Paulsen

RECOMMENDATION # 17

Repeal anti-group laws

The state anti-group laws should be repealed. Selling auto insurance one-at-a-time is inefficient and unnecessary.

Commission vote: 8-2

Members in favor: Connors, Costa, Hunter, Merin, Ravin, Slocum, Trope, Van Ness

Members opposed: Doyle, Karpinski

Abstain: Dickson, Jacobs, Paulsen

RECOMMENDATION #18

Repeal anti-rebate laws

Why should the insurance retailers not compete? The old fair trade laws cost consumers lots of money and kept us from discount selling. The anti-rebate laws are another vestige of an anti-competitive era that must be eliminated.

Commission vote: 5-4

Members in favor: Connors, Hunter, Slocum, Trope, Van Ness

Members opposed: Doyle, Karpinski, Merin, Ravin

Abstain: Costa, Dickson, Jacobs, Paulsen

RECOMMENDATION #19

Allow banks to sell insurance

This is another way to use competition to benefit consumers.

Commission vote: 4-5

Members in favor: Connors, Hunter, Slocum, Van Ness

Members opposed: Costa, Doyle, Karpinski, Merin, Ravin (who is concerned about permitting banks to operate in a field that should be left to experienced, qualified, licensed professionals who themselves are insured and operating in a competitive environment. Banks have enough problems making loans to qualified borrowers, they should concentrate on that.)

Abstain: Dickson, Jacobs, Paulsen, Trope (does not have enough information to make a decision)

MINORITY RECOMMENDATIONS:

The following recommendations were made by members in an earlier phase of the study commission's work, but garnered fewer than five votes apiece.

Yes-2 No-4 Wait and see how the 1988 law changes work before making more changes.

Yes-1 No-4 Explicity denounce all or part of the 1988 law changes.

Yes-1 No-5 Insurance should be regulated by a board of insurance commissioners rather than the single commissioner now utilized in New Jersey. The commissioners would be appointed by the governor.

Yes-2 No-5 Make property damage liability an optional coverage.

Yes-4 No-2 Limit PIP benefits and make this coverage optional.

Yes-3 No-2 Require insurance companies to pay PIP claims up to $250,000, instead of the current $75,000 ceiling, which

would decrease the number and magnitude of Excess Medical Benefits funded through UCJF assessments.

Yes-2 No-4 Fund the JUA by taxing 10 percent of all auto negligence awards.

Yes-3 No-3 State that the RMEC should have been instituted, as a relatively small charge, in 1984.

Yes-3 No-2 To go with any relaxation of rate controls, there must also be removal of obstacles to competition. The primary obstacles are:

-- the state's anti-trust exemption;

-- the state's anti-group laws which require selling auto insurance one-customer-at-a-time;

-- the state's anti-rebate laws which prohibit discounts on auto insurance policies;

-- entry barriers which prohibit banks or other entities from selling insurance or underwriting insurance;

-- lack of data in a computerized, available, easy-to-understand format for use by the state, brokers, consumers, etc.; and

-- the imbalance of supply and demand, in that motorists are required by law to buy insurance but insurance companies need not sell it no matter how perfect the driver's record is.

Yes-4 No-2 Allow "non-standard" insurance companies to enter the New Jersey automobile market to provide voluntary coverage, at higher rates, to higher-risk motorists. (Note: P.L. 1988, c. 119, will allow voluntary companies to offer a "non-standard" rate beginning in November 1989.)

Yes-4 No-2 On rate filings, hearings should be held and the hearing provisions should: (a) prohibit ex parte communications; (b) require direct and cross-examination of witnesses; (c) require the disclosure of evidence relied upon outside the hearing record prior to the issuance of a final determination; and (d) require findings of fact and conclusions of law, separately stated on all matters in issue.

Yes-4 No-2 The Insurance Commissioner and the Public Advocate should be able to require an automobile insurer to submit any data essential to the reasonable evaluation of rate filings. The Public Advocate requires its own authority to call for data separate and distinct from that granted the insurance commissioner to avoid time-consuming disputes and lengthy court delays.

Yes-2 No-1 The New Jersey Remand Formula should be replaced with a more modern approach for determining the fair rate of return.

Yes-4 No-1 Simple and standardized risk classification plans should be adopted. Companies should not be allowed to use rating factors whose justification is based solely on class-average experience and broad demographic stereotypes (such as sex, age, marital status or "good student" discounts). Moreover, the rating territories should be redesigned to reflect current driving conditions and congestion effects.

GLOSSARY AND SOURCES OF EXHIBITS

EXHIBIT A

A 14-page display of two brochures which were prepared and circulated by the NJ Department of Insurance in 1983 and 1988 respectively, to describe the major automobile insurance law changes being implemented at those times. The first six-page document explains A-1696, the bill signed into law in February 1983 which created the JUA and which capped certain rates and flattened expense factors. The second eight-page document explains S-2637 and A-3702, which were signed in late 1988 providing for an optional verbal tort threshold, deductibles and copayments for PIP coverage, higher basic deductibles for comprehensive and collision coverages, flex rating, higher rates for "bad drivers" in the JUA, mandatory JUA depopulation and other changes. (Reference pages 3, 29, 39, 45, 46, 47, 51, 56, 66, 70, and 84)

EXHIBIT B

A 23-page display of the A.M. Best reports ranking statewide average automobile insurance premiums for 1981 through 1987. (Reference page 4)

EXHIBIT C

A three-page comparison of the average New Jersey automobile insurance premium with those of other states in 1987. The charts were compiled by the NJ Department of Insurance in January 1988 with corroboration from the Insurance Services Office (ISO), the national rating bureau for the voluntary market, and the Automobile Insurance Plans Service Office (AIPSO), the national rating bureau for residual markets.

Exhibit C, page 1, summarizes the average premiums, showing New Jersey as No. 8 in the voluntary market and No. 22 in the residual market.

Exhibit C, page 2 shows the state-by-state ISO rate increases for four years, and page 3 shows the same for AIPSO rates. (Reference page 5)

EXHIBIT D

The size of the automobile insurance residual markets in most states for 1985-86. Source is the Automobile Insurance Plans Service Office, as printed in the 1987-88 Property/Casualty Fact Book published by the Insurance Information Institute. (Reference page 6)

EXHIBIT E

A four-page NJ Department of Insurance memo describing market conduct examinations of JUA servicing carriers and the examiners' conclusions. (Reference page 7)

EXHIBIT F

A two-page historical summary of New Jersey automobile insurance developments. NJ Department of Insurance. (Reference page 10)

EXHIBIT G

U.S. Department of Transportation charts for 1986 and 1987 showing states' accident rates involving deaths and injuries. While New Jersey's fatality rate is low, the rate of personal injury accidents is the second-highest, a major factor in auto insurance rates. (Reference page 10)

EXHIBIT H

A seven-page explanation of New Jersey's auto insurance cancelation and nonrenewal restrictions. NJ Department of Insurance. (Reference page 11)

EXHIBIT I

A six-page chart from the "No-Fault Press Reference Manual," published by State Farm. This chart compares no-fault states, listing their mandated first-party medical benefits and tort thresholds. (Reference page 16)

EXHIBIT J

A three-page display showing pages 86 through 88 of the 1984 U.S. Department of Transportation report on no-fault. (Reference page 17)

EXHIBIT K

A chart showing the size of the residual market in New Jersey from 1967 through 1987. NJ Department of Insurance, drawn from data provided by the Insurance Services Office, the National Association of Independent Insureds, the Automobile Insurance Plans Service Office, and the JUA. (Reference page 18)

EXHIBIT L

The history of Insurance Services Office rate increase approvals 1973 through 1987. NJ Department of Insurance. (Reference page 19)

EXHIBIT M

A three-page comparison of ISO rates with ARP rates and surcharges under Supplement I and Supplement 2. NJ Department of Insurance. (Reference page 23)

EXHIBIT N

A nine-page display of three news releases marking the inception and history of the policy constant. NJ Department of Insurance. (Reference pages 24 and 45)

EXHIBIT O

A five-page summary of the 1981 Sheeran findings on rating factors. NJ Department of Insurance. (Reference page 25)

EXHIBIT P

A six-page display showing pages 32 through 37 of the Cummins-Ferreira report on New Jersey auto insurance, conducted in 1983 on behalf of New Jersey Department of the Public Advocate. (Reference page 26)

EXHIBIT Q

Explanation of the cost-saving options available to automobile insurance consumers from 1984 through 1988, with results of a January 1988 survey of companies to determine how many motorists have used the options. NJ Department of Insurance. (Reference page 29)

EXHIBIT R

A six-page 1983 news release, with charts, explaining how much consumers could save by using the new insurance options being offered for the first time in 1984. (Reference page 29)

EXHIBIT S

A 14-page explanation of the Clifford Formula and the Excess Profits law, and proposed amendments to the law. NJ Department of Insurance. (Reference page 30)

EXHIBIT T

A state-by-state comparison of the coverages offered in the automobile residual markets, showing New Jersey with one of the broadest packages available. NJ Department of Insurance, with data from the American Insurance Association. (Reference page 30)

EXHIBIT U

A two-page display showing pages 100-101 of the Cummins-Ferreira report prepared on behalf of the Department of the Public Advocate in 1983. (Reference page 33 and 98)

EXHIBIT V

A 1983 Associated Press account of the signing of A-1696, which created the JUA and set caps on rating factors. (Reference page 34)

EXHIBIT W

The Star-Ledger of Newark account of the signing of A-1696. (Reference page 34)

EXHIBIT X

A three-page display regarding the insurance surcharges which can be imposed by the Division of Motor Vehicles on drivers' licenses for certain violations or point accumulations. The first two pages are a DMV brochure explaining points and insurance surcharges. The third page lists the revenues generated for the JUA by the surcharges. (Reference page 36)

EXHIBIT Y

A three-page explanation of the investigations and surveys of JUA servicing carriers which are conducted regularly by the JUA and overseen by the NJ Department of Insurance. (Reference pages 38 and 66)

EXHIBIT Z

A two-page summary of S-2790, signed January 1987, to reform JUA procedures and thereby reduce its deficit. (Reference pages 38, 49, 50, 70, and 82)

EXHIBIT AA

A one-page explanation of the impact of "capping" of rating factors instituted in 1984 by A-1696. NJ Department of Insurance. (Reference page 42)

EXHIBIT BB

Chart showing the percentage of motorists with capped rates who were shifted into the JUA. NJ Department of Insurance. (Reference page 43)

EXHIBIT CC

A two-page explanation of revised New Jersey auto insurance cancelation/nonrenewal regulation which tried to encourage companies to insure JUA motorists by easing the cancelation and nonrenewal restrictions during the first three years of covering a motorist who previously was in the JUA or did not otherwise have voluntary market coverage in New Jersey. NJ Department of Insurance. (Reference page 47)

EXHIBIT DD

An Asbury Park Press account of the layoff of Aetna agents in December 1987. (Reference page 48)

EXHIBIT EE

A two-page explanation of how agents are terminated by insurance companies. NJ Department of Insurance. (Reference page 48)

EXHIBIT FF

A one-page explanation of the different methods used in New Jersey of compensating auto insurance producers. NJ Department of Insurance. (Reference page 48)

EXHIBIT GG

Chart showing the impact of ISO rate link to the JUA, showing that claim frequency and severity is much higher in the JUA. NJ Department of Insurance from data submitted by ISO and the JUA. (Reference pages 53, 57, and 59)

EXHIBIT HH

Chart showing experience and other data regarding senior citizen discounts. NJ Department of Insurance. (Reference page 56)

EXHIBIT II

Chart showing impact on the JUA of the inadequate ISO comprehensive and collision rates for luxury cars, followed by a two-page Department of Insurance news release, December 8, 1988, announcing JUA comprehensive and collision rates for "bad drivers." NJ Department of Insurance from ISO and JUA filings. (Reference page 56, 57)

EXHIBIT JJ

History of JUA deficits, on both a statutory and cash-flow basis. NJ Department of Insurance. (Reference pages 57 and 75)

EXHIBIT KK

A resolution adopted by the JUA Board of Directors in December 1984 noting the JUA's first-year deficit. (Reference page 58)

EXHIBIT LL

A two-page summary issued by the JUA Board of Directors in December 1984 describing its early concerns about a deficit. (Reference page 58)

EXHIBIT MM

A two-page explanation of the reasons cited for the establishment of the original JUA servicing carrier fee levels. NJ Department of Insurance prepared this summary using material from the JUA's Accounting and Statistical Requirements Manual. (Reference page 63)

EXHIBIT NN

A three-page chart showing the financial impact of the reductions of servicing carrier fees. NJ Department of Insurance. (Reference page 63)

EXHIBIT OO

A four-page display of fees collected and profits of the JUA servicing carriers, 1984 through 1987. NJ Department of Insurance from JUA annual statements. (Reference page 64)

EXHIBIT PP

A four-page display regarding the competitive bidding for JUA servicing carriers. The first page is the list of the insurance companies and non-insurance companies which submitted competitive bids in March 1988 for servicing carrier contracts. The rest is the November 21, 1988 Department of Insurance news release announcing the contract awards. NJ Department of Insurance. (Reference page 65)

EXHIBIT QQ

A two-page display showing portions of pages 72-73 of the 1983 Cummins-Ferreira report for the Public Advocate. (Reference page 68)

EXHIBIT RR

An 11-page display of the profitability of auto insurers in New Jersey, 1976 through 1986. (Reference page 71)

EXHIBIT SS

A three-page display on rising auto insurance rates. The first page is a chart showing the increasing costs of items which auto insurance companies must pay for, from 1983 through 1987, which the NJ Department of Insurance compiled from sources listed on chart. The next two pages list the rate increases requested in 1988. (Reference page 73)

EXHIBIT TT

A two-page explanation of the Driver Improvement Plan (DIP), followed by a four-page Department of Insurance news

release, August 31, 1988, projecting DIP revenues for 1988. NJ Department of Insurance. (Reference pages 77 and 82)

EXHIBIT UU

A two-page display of the Driver Improvement Plan (DIP) consumer brochure published by the NJ Department of Insurance in January 1988. (Reference pages 77 and 82)

EXHIBIT VV

A two-page explanation of residual market assessments in New Jersey, with explanation of 1984 law prohibiting first-year RMEC and mandating that JUA receive "policy constant" proceeds. (Reference page 79)

EXHIBIT WW

An explanation of the difference between Statutory Accounting and Generally Accepted Accounting Principles. NJ Department of Insurance. (Reference page 79)

EXHIBIT XX

History of RMEC requests, showing how much New Jersey drivers would have been paying to fully fund the JUA during its first four years. Compiled by NJ Department Insurance from the JUA's RMEC applications. (Reference page 81)

EXHIBIT YY

A monthly accounting of the JUA's cash flow for 1987. NJ Department of Insurance from JUA statements. (Reference page 81)

EXHIBIT ZZ

A two-page display of steps taken by the Legislature, the Department of Insurance and the JUA to reduce the JUA deficit during 1987, followed by a third page which lists the anticipated deficit reductions to be accomplished by each step during the three-year period necessary for the actions to have their full impact. NJ Department of Insurance. (Reference page 82)

EXHIBIT AAA

A five-page display showing pages 123 through 127 of the report issued in December 1971 the Automobile Insurance Study Commission which was empaneled by the Legislature in 1970. (Reference page 97)

EXHIBIT BBB

Auto negligence suits filed in New Jersey and Michigan during the first 15 years of both states' no-fault systems, New Jersey with its weak $200 tort threshold and Michigan with the strong verbal threshold. NJ Department of Insurance, compiled from New Jersey and Michigan state court records. (Reference page 100)

EXHIBIT CCC

A chart of the numbers of auto negligence lawsuits filed in New Jersey and Michigan compared with the numbers of reported accidents, for a uniform percentage rate of potential litigants who have sued in the two states. (Reference page 100)

EXHIBIT DDD

A chart comparing the liability premiums of New Jersey and Michigan during no-fault years. NJ Department of Insurance. (Reference page 101)

EXHIBIT EEE

A U.S. Department of Transportation chart from its 1984 report on no-fault insurance comparing per-car costs of bodily injury liability plus PIP for two verbal threshold states, New York and Florida, with a monetary threshold state, Pennsylvania, and the Consumer Price Index for medical costs. (Reference page 101)

EXHIBIT FFF

A three-page display showing the ultimate cost incurred by New Jersey's unlimited PIP benefits, which have not been fully funded on a statutory basis. The first chart shows the actual Excess Medical Benefits (EMB) payments made in 1984 through 1987 by the New Jersey Unsatisfied Claim and Judgment Fund (UCJF), compared with the two-year reserves for EMB payments and the ultimate (statutory) reserves, as provided by UCJF financial

records. The next two-page chart shows the no-fault states and the limits they place on first-party benefits, as compiled by the "No-Fault Press Reference Manual" published by State Farm.

EXHIBIT GGG

A five-page display of an April 1988 letter from the management consulting firm Tillinghast regarding the UCJF's unfunded liabilities. NJ Department of Insurance.

EXHIBIT HHH

A 29-page display of arguments regarding whether auto insurance or health insurance should provide primary coverage for auto-related injuries. The first six pages are three letters written in 1971 and 1972 by Blue Cross of New Jersey arguing against the PIP system which ultimately was implemented in 1973. From Blue Cross and Blue Shield of New Jersey's files. Pages 7 through 18 are an excerpt from the December 1977 report by the Legislative Commission to Study the New Jersey Automobile Reparation Reform Act, which recommended retaining auto insurance as primary payor. Pages 19 through 30 are a paper addressing the same issue prepared by Anthony G. Dickson, a member of this commission, who is a vice president of New Jersey Manufacturers Insurance Co.

EXHIBIT III

A chart comparing average PIP premiums in New Jersey and Michigan. NJ Department of Insurance.

EXHIBIT JJJ

A list of New Jersey court decisions which have required the payment of PIP benefits for injuries with only a minor connection to an automobile.

EXHIBIT KKK

A chart showing the savings possible by utilizing higher deductibles for comprehensive and collision coverages. NJ Department of Insurance.

EXECUTIVE SUMMARY OF A-1696

A1696 is actually two bills in one, the first one being the "New Jersey Automobile Insurance Reform Act of 1982" and the second the "New Jersey Automobile Full Insurance Availability Act of 1982."

The Reform Act provides a miscellany of changes, including, among others, virtually automatic annual rate increases for the companies, uniform surcharge systems for accident involvement and motor vehicle violations, a capping process that will narrow the now substantial differences between the highest-rated and lowest-rated drivers, a flat charge for certain company expenses, and discounts for senior citizens.

The Full Insurance Availability Act creates a Joint Underwriting Association to replace the Assigned Risk Plan and provides for the annual imposition of a per car charge in both the voluntary and residual market to make up any deficit in the previous year's operation.

The following is a detailed exposition of the provisions of the two parts of A-1696.

THE NEW JERSEY AUTOMOBILE INSURANCE REFORM ACT OF 1982

RATE INCREASES - The most significant provision of the Reform Act would modify New Jersey's prior approval system to permit an annual, virtually automatic rate increase for the auto insurance companies. The bill provides that on or before February 1 of each year the commissioner must file the maximum rate increase the companies will be permitted to use without prior approval. This automatic increase will be the average of the increases approved for the Insurance Services Office in the three prior years. The increase for each company will take effect on the date it makes an informational filing with the commissioner. Prior approval will be needed for any increase sought beyond the automatic increase.

MERIT RATING ACCIDENT SURCHARGE SYSTEM - This provision permits the companies at their option to implement a surcharge system tor accident involvement. Surcharges may be imposed for accidents involving $300 in property damage, which is already the rule for those companies using a safe driver plan, but also limits surcharges for accidents involving bodily injury to those instances when a payment is made by an insurer as a result of an auto's striking a pedestrian.

The surcharges, which are to be retained by each insurer, must be uniform through out the state instead of the percentage of premium surcharges now in effect.

MERIT RATING FOR MOTOR VEHICLE VIOLATIONS - The bill takes three approaches to the imposition of surcharges for the accumulation ot motor vehicle points:

1) For those drivers who have accumulated six or more points on or atter the ettective date of the act, (except tor drunk driving), the surcharge will be a minimum ot $100 for six points and a minimum of $25 for each additional point. The commissioner is given discretion to increase the surcharge.

2) Any driver who, in the three years following the ettective date ot the act, accumulates three motor vehicle points, would be surcharged $55 and another $15 for each additional point up to six. For six or more points, the provisions in the paragraph above will apply. This surcharge provision will self-destruct three years from the ettective date of the act.

3) Substantial surcharges would be imposed for drunk driving convictions. The surcharge would be a minimum of $1,000 for each of the first two convictions and a minimum of $1,500 for each subsequent conviction within a three-year period.

The surcharges are collectible by the Division of Motor Vehicles, which shall remit 80 per cent of them to the Joint Underwriting Association, established by Part II of the act, and retain 20 per cent for administrative expenses and updating its computer operations with any remainder in any fiscal year to be transferred to the General State Fund for general state purposes.

CAPPING - The bill would introduce a capping process by territory and classification, which would reduce the difference that now exists between the lowest-rated and the highest-rated drivers. It would also cap the rates charged senior citizens.

1) The territorial cap provides that the base rate in a territory may not exceed 1.35 times a company's statewide base rate for each coverage.

2) The classification cap provides that no rate within each territory shall exceed 2.5 times a company's territorial base rate for each coverage.

3) The rates for senior citizens (65 and older) who are principal operators shall not exceed 1.25 times the statewide average rate for principal operators 65 and older. Additionally, within 60 days of the effective date of the act, the rates for senior citizens would be reduced by at least five per cent.

Surcharges would not be included in these capping processes.

FLATTENING - Miscellaneous taxes, licenses, fees and at least 90 per cent of a company's general expenses and acquisition costs, excluding commissions, would be applied as a flat, uniform charge per car on a statewide basis.

MISCELLANEOUS - The companies would be required to offer both uninsured and underinsured motorists coverage up to the limits of each insured's policy but not to exceed $250,000/$500,000 coverage for bodily injury and $100,000 for property damage.

The commissioner would be empowered to promulgate a regulation requiring insurers to offer deductibles of up to $1,000 for physical damage coverage.

THE NEW JERSEY AUTOMOBILE INSURANCE FULL AVAILABILITY ACT OF 1982

JOINT UNDERWRITING ASSOCIATION - The Joint Underwriting Association to be created by the act would comprise all auto insurers doing business in New Jersey. It would replace the New Jersey Automobile Insurance Plan (Assigned Risk). Its purpose would be to provide auto insurance to those unable to obtain it on the voluntary market.

The bill would empower the JUA to continue the current custom of charging ISO rates for the liability coverage to those drivers without surchargeable motor vehicle points and accidents but it would also extend the ISO rates to physical damage coverage. Currently in the AIP, the rates for physical damage are more or less self-rated, being about 30 per cent higher than the ISO's.

The JUA would be required to maintain its headquarters in New Jersey, unlike the NJAIP, which, along with the AIPs of most other states, operates out of New York.

The JUA's board of directors would be composed of 14 members, eight of whom would represent member companies, three would represent producers and three would represent the public. The appointments of company representatives would be made by the governor from lists submitted by the American Insurance Association, the

Alliance of American Insurers and the National Association of Independent Insurers, each of which would be entitled to two members. Two other company members would be named to represent companies that are not members of any of the three trade associations.

The producer representatives would be selected from lists submitted by the Professional Insurance Agents, the Independent Agents of New Jersey and the Insurance Brokers Association, each being entitled to one appointment.

The insurance would be written by servicing carriers selected by the JUA's board of directors. The bill does not mandate a specitic number ot servicing carriers.

MARKET EQUALIZATION CHARGE - This charge is intended to make the companies whole assuming that losses in the residual market continue unabated. The charge would be a flat charge per car based on the JUA's losses and would be applied to all cars in both the voluntary and JUA markets. The charge would be computed by the JUA based on the previous year's experience and submitted to the commissioner for his approval or disapproval within 60 days. In its first year of operation, the market equalization charge would be based on the experience of the AIP in the preceding year.

Senior citizens (65 years and older) would not be subject to the market equalization charge.

PRODUCERS AND THE JUA - Producers would be assigned to servicing carriers as follows:

1) Producers who are exclusive representatives of a company chosen as a servicing carrier would be assigned to that carrier;

2) Producers who are not exclusive representatives of a servicing carrier may contract with the association to do business through any carrier;

3) Producers who do not fall under (1) and (2) above will be assigned by the JUA to servicing carriers on an equitable basis.

LEGISLATIVE OVERSIGHT - The Commissioner must submit to the Legislature a copy of the JUA's plan of operation drawn up by the board of directors and approved by the commissioner.

One year after the operative date of the act, and annually thereafter, the commissioner must make a "comprehensive" report to the Legislature on the effectiveness of the act in achieving its stated purposes.

STUDY COMMISSION - The act would create a commission of 14 members, eight appointed by the governor and three each by the Senate President and the Speaker of the Assembly, to study the market as it develops under the Reform Act and the JUA Act and to make appropriate recommendations.

COMMERCIAL INSURANCE - A year after the operative date of the act, the commissioner must recommend to the Legislature whether the JUA, or a similar entity, should accept commercial coverages.

# # #

The Insurance
REPORTER

NEW JERSEY DEPARTMENT OF INSURANCE SPECIAL CONSUMER EDITION DECEMBER 1988

Buying automobile insurance in New Jersey could be confusing as major law changes take effect January 1, 1989.

To help consumers understand the law, the Department of Insurance has prepared this summary of what the law means, how it will affect you and how you can save money.

The new law was designed to address some very simple questions: Why are rates so high? And why does the JUA have more than a $2.5 billion deficit?

Why are rates high?

Some causes cannot be changed. New Jersey has more people and cars per square mile than any other state - 986 people per square mile in New Jersey compared with the national average of 64 per square mile, according to the 1980 US census. New Jersey has one of the highest rates of auto theft in the nation. And New Jersey's accident rate is among the worst.

It is true that New Jersey highways are among "the safest" in terms of deaths. In 1986, according to the U.S. Department of Transportion, New Jersey was the sixth-best state in terms of deaths per mile driven.

But, in terms of injuries, New Jersey was second-worst, behind only New York. That statistic translates into higher insurance costs, so New Jersey's rates will be high compared with most states. Also, throughout the country, costs related to auto insurance have risen more sharply than the general inflation rate.

The U.S. Bureau of Labor Statistics reports that the national Consumer Price Index rose a total of 13.6 percent from 1983 to 1987, but medical care costs increased 33.1 percent and auto maintenance and repair costs increased 16.9 percent. Furthermore, auto thefts in New Jersey increased 43.2 percent during that time, according to the New Jersey State Police.

Nonetheless, auto insurance premiums in New Jersey can be reduced, and the new law takes important steps in that direction.

MEDICAL EXPENSES

What the bill does:

For the first time, fee schedules will set appropriate Personal Injury Protection (PIP) charges for medical services. It will take several months for the Department of Insurance to develop the fee schedules, which will vary by geographic region.

In addition, motorists themselves will help pay the first $5,000 of medical bills per accident. PIP deductibles and co-payments will become mandatory. **Under the basic PIP plan, there will be a $250 deductible, and then a 20 percent co-payment for the costs from $251 to $5,000.**

In order to achieve a lower premium, the motorist may choose a deductible of $500, $1,000, or $2,500. Then the 20 percent co-payment will apply to amounts between the deductible and $5,000.

So, under the new law, every motorist will carry some risk of out-of-pocket medical expenses for the first $5,000. On the basic PIP policy, the risk will be $950 in co-payments plus the $250 deductible, or a total of $1,200. On the least expensive PIP policy, the risk will be $500 in co-payments plus the $2,500 deductible, a total of $3,000.

The deductibles and co-payments will apply per accident. So if several people covered by the same policy are injured in the same accident, the total deductible and co-payments will be the same as if one person were injured.

If the motorist has health insurance, that company may pay some or all of those costs. But the health insurer's own deductibles and co-payments must be paid first.

Why these changes were made:

Since 1973, New Jersey has required auto insurers to provide the broadest first-party medical benefits in the nation.

Most states do not provide no-fault auto insurance coverage. In the 24 states with no-fault, 12 states limit medical benefits to $5,000 or less per accident.

But in New Jersey, from first dollar to last, auto insurance has paid all medical bills resulting from an auto accident. Such exhaustive coverage has been

not only expensive, but also an invitation to abuse because of the absence of cost controls.

The new law brings common health insurance cost controls into the auto insurance policy.

In health insurance, companies commonly use fee schedules to assure that medical charges are reasonable.

Deductibles and co-payments also are common in health insurance in order to protect against overutilization of medical services. If a consumer pays part of the cost, he is likely be more careful in deciding whether to seek treatment. And, obviously, deductibles and co-payments directly defray the insurance company's costs, thereby holding down premiums.

However, while New Jersey lawmakers are trying to lower PIP premium rates, they still want to protect the people most in need of PIP benefits - those suffering catastrophic injuries such as lost limbs, paralysis or brain damage. In 1987, for instance, 475 New Jersey auto accidents caused medical bills estimated at more than $75,000 each.

For that reason, lawmakers have limited insurance payments only on medical bills of $5,000 or less per accident, and they have continued full payment of larger bills.

Thus New Jersey's first-party medical coverage remains one of the broadest in the nation.

Consumer Hint:

Health insurance policies sold in New Jersey should provide partial coverage for auto-related injuries not covered by auto insurance. That is, in most cases, health insurance will pay part of the auto insurance deductibles and co-payments.

So you should seriously consider saving money by taking the $2,500 deductible because most of that amount may be covered by your health insurance or health maintenance organization (HMO).

Before choosing the $2,500 deductible, you should contact your health insurance company or HMO, particularly group plans based out-of-state and employer self-insurance plans. Check for two things:

* Make sure the health policy will cover auto-related medical bills not paid by auto insurance. Health policies sold in New Jersey, including Blue Cross and Blue Shield of New Jersey, will cover these expenses the same as non-auto expenses.

* Find out the health policy's own deductibles and co-payments. Those costs will come out of the motorist's pocket if a claim is filed.

LAWSUITS

What the bill does:

For the first time, the "basic" automobile insurance policy in New Jersey will substantially control or limit the right to file a bodily injury "pain-and-suffering" lawsuit.

The law abolishes the "tort thresholds," which permitted lawsuits if certain medical bills totalled more than either $200 or $1,950.

Under the "basic" auto insurance policy, issued in 1989, a suit may be filed only if the party suffers an injury in this list:

***death;**
***dismemberment;**
***significant disfigurement;**
***a fracture;**
*** loss of a fetus;**
***permanent loss of use of a body organ member, function or system;**
***permanent consequential limitation of use of a body organ or member;**
***significant limitation of use of a body function or system; or**
***a medically determined injury or impairment of a non-permanent nature which prevents the injured person from performing substantially all of the material acts which constitute that person's usual and customary daily activities for not less than 90 days during the 180 days immedi ately following the occurrence of the injury or impairment.**

This is a "verbal threshold," because it describes the **Lawsuit Threshold** in words rather than dollar amounts. New Jersey's new **Lawsuit Threshold** is the same threshold as New York's.

But, unlike New York, New Jersey law will give motorists a choice. Motorists may opt for having **No Threshold.** Then, they can sue for any injury . This option, of course, will cost significantly more than the basic plan.

The consumer has this simple choice: Have the Lawsuit Threshold, or pay a higher premium to have the right to sue for any injury.

Why these changes were made:

The concept of no-fault insurance was that injured parties could receive prompt, full payment of medical expenses and other economic losses without resorting to court action. But New Jersey's 1972 no-fault law did not effectively limit lawsuits, so the result has been high rates for **both** no-fault coverage and liability insurance.

New Jersey court statistics document the problem. Auto negligence lawsuits have piled up more rapidly than the accidents themselves. In 1972, before no-fault, lawsuits were filed on behalf of 12 percent of the people killed or injured on New Jersey roads. The percentage has increased steadily through 1986, the most recent year with full statistics, when the lawsuit rate was 22 percent.

Consumer Hint:

Read the **Lawsuit Threshold** carefully. It allows suits for a wide range of injuries. If you suffered an injury less severe than that described, and your medical bills were paid, would you still want to sue?

The **No Threshold** option allows filing lawsuits for any injury without restriction, but your insurance premium will be substantially higher. Ask your insurance producer (agent or broker) how much your premium would increase.

NO "SET-OFF OPTION"

What the bill does:

The "set-off" option will be abolished.

This option provided a premium reduction if the consumer agreed to share with his insurance company part of any proceeds of a successful pain-and-suffering lawsuit.

Why this change was made:

Department of Insurance surveys of all auto insurance companies indicated that only 5 to 7 percent of New Jersey motorists took this option. The "set-off" was confusing to motorists and provided negligible premium savings.

Eliminating this option makes the selection process easier for consumers, allowing them to focus on the major choices.

COMPREHENSIVE & COLLISION

What the bill does:

The bill encourages consumers to take higher deductibles. It makes $500 the "basic" deductible for each coverage, instead of the current $100 for comprehensive and $200 for collision.

Most motorists now take the current, lower "basic" deductibles, so they will get premium savings under the new law. The rates themselves, however, are not affected. Motorists are getting the same premium savings they would have received by choosing the $500 deductibles on their own.

As before, motorists can choose not to carry comprehensive and collision at all, or they can choose deductibles smaller or larger than $500.

Why these changes were made:

The overwhelming concern of New Jersey motorists, as expressed in letters, phone calls and petitions over the past several years, is high premiums. One logical way to reduce comprehensive and collision premiums is higher deductibles.

Consumers have always had the ability to select higher deductibles. Strong pro-consumer organizations such as Consumers Union and Ralph Nader's National Insurance Consumer Organization advocate higher deductibles in order to focus a consumer's insurance dollars on the most necessary kind of coverage - protection against major losses, not bent fenders and minor dents. So, by choosing high deductibles, New Jersey motorists would be making more efficient, effective use of their insurance dollars.

Consumer Hint:

You as a motorist retain the right to buy lower deductibles, but is this decision really worth the cost?

Think about the effective use of your money.

With a low deductible, you will pay higher premiums every year in order to collect an extra $300 to $400 if you have a claim. For most drivers, a higher deductible is likely to be cheaper over the long run.

Ask your insurance producer how much extra you would pay to retain your old deductibles.

Another Consumer Hint:

If your car is older and is paid for, consider dropping comprehensive and collision altogether. This decision may substantially reduce your premium.

Comprehensive and collision coverages will reimburse you only for the market value of your car. This market value is the maximum payout you will ever receive from any comprehensive or collision claim. The actual insurance payment probably will be less than the market value because of salvage costs and deductibles, and because your car will age further during the term of the policy.

Therefore, you should find out the market value or "book value" of your vehicle. Your insurance company has the auto industry books and can give you the approximate value.

UNINSURED/UNDERINSURED

What the bill does:

The basic deductible becomes $500 instead of $250 for property damage liability claims.

That is, if an uninsured motorist damages a car, the insurance company will pay for repairs except for the first $500.

This affects only the property damage claims arising from the actions of uninsured motorists. Bodily injury claims are not affected.

Why this change was made:

The goal is to control costs and hold down premiums.

* * * * * * * * *

NJ Auto Policies written in 1988	*NJ Auto Policies written in 1989*
BODILY INJURY LIABILITY COVERAGE	
Minimum limits are $15,000/$30,000; higher are limits optional.	Same.
Basic lawsuit threshold is $200.	Basic lawsuit threshold is verbal.
Optional threshold is $1,950.	Option is no lawsuit limit. Suits can be filed for any injury.
Set-off option is available.	No set-off.
PROPERTY DAMAGE LIABILITY COVERAGE	
Minimum limit is $5,000; higher limit is optional.	Same.
PERSONAL INJURY PROTECTION COVERAGE	
No limit on total medical benefits; all reasonable medical bills are paid in full.	No limit on total medical benefits, but payments are based on a state-authorized fee schedule.
Basic medical coverage has no deductibles or co-payments.	Basic medical has $250 deductible, then 20 percent co-payment for bills from $251 to $5,000, then full coverage for $5,001-and-up.
Optional deductibles are $500, $1,000 and $2,500.	Same, with the 20 percent co-payment applying to remaining bills up to $5,000.
Basic coverage also includes: $100/week income continuation for one year; $12/day for essential services for one year; $1,000 funeral benefit.	Same.
Options are available to increase the above three benefits, or to eliminate them by getting "medical expenses only" coverage.	Same.
UNINSURED/UNDERINSURED MOTORIST COVERAGE	
Minimum limits $15,000/$30,000/ $5,000; higher limits optional.	Same.
Basic property damage liability deductible is $250.	Basic property damage liability deductible is $500.
COMPREHENSIVE & COLLISION COVERAGE	
Basic deductibles: $100 comprehensive $200 collision	Basic deductibles: $500 comprehensive $500 collision
Optional deductibles are available.	Same.

Auto Questions

Why does New Jersey need the JUA anyway?

The JUA, more correctly called the New Jersey Automobile Full Insurance Underwriting Association (NJAFIUA) is necessary to enable all drivers - both good and bad - to comply with our compulsory auto insurance law. Although recent legislation is intended to spur the availability of automobile insurance coverage, at this time, the JUA covers half of the private automobiles in New Jersey.
The NJAFIUA is the only source of auto insurance for those customers rejected by the private insurance industry. Obviously, the NJAFIUA covers people with bad driving records, who have proven to be poor risks, but it also covers drivers with clean records. In fact, more than three-quarters of JUA motorists are good drivers with clean records who are simply unable to find an insurance company willing to sell them auto policies.

I'm disabled. Do I pay the RMEC?

Yes. The law creating the NJAFIUA and the Residual Market Equalization Charge (RMEC) only excluded cars principally operated by persons 65 years or older from the RMEC.

My policy renewed in June and I turned 65 in July. Can I get a refund on my RMEC?

No. To be eligible for the exemption, you must already be age 65 when your renewal is prepared.
While it may seem unfair that you must wait until your next renewal to take advantage of the RMEC exemption and other senior citizen discounts, re-rating policies mid-term would result in considerable paperwork and expense for insurance companies. These extra costs would inevitably be passed on to policyholders in the form of higher premiums.

I'm 65 with two cars in my name and my spouse is younger. Do I have to pay the RMEC?

Yes, on one car. Even if the policy and cars are in your name, your automobile insurance covers you and any resident relative. Any member of your household that has a driver's license may drive the cars covered under the family's policy. In a "two car/two driver" situation each driver is assigned as principal operator of one of those cars. So while your car is exempt from the surcharge, the car your spouse has been assigned to is not.

I'm old enough to be exempt from paying the RMEC yet I'm told must pay a surcharge to fund the NJAFIUA. Is this correct?

Yes. The NJAFIUA surcharge, more correctly labelled the policy constant surcharge is different from the RMEC even though both are collected to offset the losses in the NJAFIUA. Policy constants have been in everybody's rates since November, 1980, and are paid by all drivers, senior citizens, too. The policy constant is $70 per car for full coverage or $44 if you do not have collision and comprehensive coverage. Other states use similar surcharge systems to subsidize their residual markets. For example, in 1987, Massachuseus' annual surcharge was $125 per car and in 1988, South Carolina's fee is $73 per car for good drivers and two or three fines that amount for drivers with motor vehicle points.

Why does the JUA have a large deficit?

There are several reasons, including:

* The JUA has grown. When it began in 1984, the JUA comprised about 40 percent of the New Jersey automobile insurance market, but it now is about 48 percent.

* There are allegations of excessive servicing carrier fees and of fraud, which would contribute to the deficit problem.

* The JUA's rates, by law, have been identical to the rates charged in the voluntary market.

The JUA's own claim experience was not considered previously in setting its rates, even though the JUA's loss statistics represent the largest single automobile insurance data base in New Jersey.

Because the JUA has most or all of those poor or marginal drivers whom the voluntary companies have carefully avoided, the JUA's rate needs are quite different from the voluntary companies' needs. If the JUA continued using rates based on the better loss experience of the voluntary market, it probably would require ever-increasing subsidies.

The new law tackles the JUA deficit in these ways:

JUA RATES

Motorists in the JUA with certain high-risk driving records will start paying higher rates than other motorists. This new, higher rating structure is in addition to any insurance surcharges they pay for any specific motor vehicle violations.

Rate increases affect only the JUA policyholders with specific high-risk characteristics (substandard risks).

This would be a policyholder whose driving record for the previous three years has any one of the following:

***two or more moving violations**
***four or more motor vehicle points**
***one or more at-fault accidents.**

The Department of Insurance estimates that about 800,000 JUA-covered vehicles will fall in this category and will pay the higher rates.

The remaining JUA drivers, comprising about 1.2 million vehicles at this time, will be considered "standard" risks and will continue to pay normal rates. These people are the most likely to leave the JUA over the next few years as voluntary companies begin depopulating the JUA.

What the bill does to comprehensive and collision rates for substandard risks:

The JUA has filed rates based on its own experience for comprehensive and collision coverages. This will be the first time that the JUA has used any rates based on its own statistics.

What the bill does to JUA base rates for substandard risks:

The JUA's territorial base rates will increase annually until 1993, when the JUA will use rates based entirely on its own experience.

On January 1, 1989, the JUA's rates will automatically be set 10 percent higher than the Insurance Services Offices (ISO) rates, which are the voluntary market rates that have been used by the JUA since its inception.

On January 1, 1990, the JUA's rates will increase 20 percent higher than ISO, unless the commissioner determines a smaller amount.

On January 1, 1991, the JUA's rates will increase 30 percent higher than ISO, unless the commissioner determines a smaller amount.

On January 1, 1992, as much as 40 percent higher than ISO, unless the commissioner determines a smaller amount.

On January 1, 1993, as high as necessary to make the rates adequate for to operate the JUA without any subsidy.

Consumer Hint:

The higher JUA rates will apply only to **substandard risks** - that is, drivers with two or more moving violations, four or more motor vehicle points or one or more at-fault accidents. Therefore, if you are in the JUA, the best thing you can do to keep your insurance premium low is to drive carefully and obey traffic laws.

OTHER PROVISIONS

The new law makes these other changes:

FLEX RATING

What the bill does:

Auto insurance companies may implement automatic rate increases or decreases each July 1 as long as the rate change is within a certain percentage range.

By law, the maximum statewide average rate increase will be certain components of the Consumer Price Index (CPI) plus three percentage points. The CPI components used for this purpose will be the most recent figures available for medical care services and for automobile maintenance and repair.

If the commissioner finds that the "CPI-plus-3% formula" will produce excessive rates, the commissioner can modify the permissible rate increase.

Insurance companies must make an informational filing before implementing any rate increase under this provision.

Larger rate changes will still require prior approval by the commissioner.

Why this change was made:

This procedure will allow some rate changes to be implemented more quickly. The companies need a mechanism for coping with inflation and for handling the increased claims which may arise from covering motorists drawn from the JUA.

As a safeguard against companies charging "rip-off" insurance rates, New Jersey's strong Excess Profits law will continue requiring companies to issue refunds if profits are too high. The law was amended recently and will be stricter in 1989 than ever before.

STAT PLAN: The Department of Insurance is required to devise a standard ratemaking methodology for auto insurance in order to streamline the processing of rate change requests. In the past, without uniform guidelines, the Departments of Insurance and the Public Advocate often had to make repeated requests for additional data from companies seeking new rates. That pattern has resulted in delayed decisions. Any rate increase requests, over and above those permitted under the Flex Rating rules, merit prompt decisions.

GOOD DRIVERS: Companies will be permitted after November 1989 to file good driver discount plans or rating plans with separate rates for standard and nonstandard risks, subject to approval by the Commissioner of Insurance.

UNDERWRITING: Also after November 1989, for the first time, each auto insurance company's underwriting rules - that is, the criteria for deciding whether to cover a certain motorist or to charge him or her nonstandard rates - must be filed with the Department of Insurance and are subject to the commissioner's approval. The law prohibits any underwriting rule based solely on the driver's home territory.

DENIALS: A company which denies coverage to a motorist must state the reasons in writing.

SHRINKING THE JUA: The Commissioner of Insurance is empowered to order voluntary market companies to increase their business by a certain amount each year. The commissioner is authorized to set criteria defining which drivers must be considered eligible for voluntary market coverage. If companies do not meet their quotas each year through their own marketing efforts, the Commissioner will assign business to them.

Currently, about 52 percent of New Jersey cars are insured in the voluntary market. The quotas will require that 60 percent of cars be in the voluntary market during a phase-in period generally covering 1989, that 70 percent be phased in during 1990, 75 percent during 1991, and 80 percent in 1992 and thereafter.

NON-RENEWALS: If a company meets and maintains its quota, it gets the right to non-renew drivers for its own underwriting reasons. Previously, a company could drop a customer only for a few specific reasons stated by regulation, such as failure to pay premium or loss of driver's license. Now, a company may non-renew as many as 2 percent of its policyholders as long as it meets the quota by replacing that business with other policyholders.

Also, the company may non-renew additional policyholders, but only if it replaces each such non-renewed policy with two new voluntary policies.

JUA BOARD: The current JUA Board of Directors has 16 voting members - eight representing insurance companies, three representing producers and five public members. The new JUA Board of Directors will contain seven voting members - five appointed by the governor and one each by the Senate President and Assembly Speaker, all of whom must have insurance experience but may not be JUA servicing carrier representatives, JUA producers or have any JUA connection.

The board will have two advisory boards, one representing the industry and the other representing producers.

DATABANK: The JUA is hiring a private company to establish a computer data base of information about its motorists. This information is to be distributed to all voluntary companies to facilitate the shift of drivers out of the JUA and into the voluntary market.

JUA AUDITS: The Commissioner of Insurance may order an independent examination of the finances and operations of the JUA or its servicing carriers, and he is empowered to pay for the audit by assessing all licensed automobile insurance companies in New Jersey.

FIELD AUDITS: In addition, the JUA is required to establish a Task Force to conduct ongoing field audits of servicing carriers and to issue reports on a semiannual basis.

SERVICING CARRIERS: The Commissioner of Insurance is empowered to order any JUA servicing carrier which has knowingly violated the JUA's Plan of Operation, or violated any JUA rule, or overcharged the JUA, to repay the money plus interest within 15 business days of notification. Also, the servicing carrier could be sued by the commissioner for triple damages.

RMEC: The current Residual Market Equalization Charge (RMEC) may not be increased to fund the JUA deficit unless the JUA first tries an alternative. Either the JUA would have to spread out some of its debt payments by making four

continued on page 8

annual installment payments for bodily injury losses instead of immediate payments, or the JUA would have to delay subrogation payments to voluntary auto insurance companies for 12 months. Or it could do both.

MOTOR VEHICLE SURCHARGES: Since 1984, the Division of Motor Vehicles has collected annual driver's license surcharges from motorists with specific serious convictions such as drunken driving, and the JUA has received 80 percent of this money. The November law permits at least 90 percent, and perhaps more, of the surcharge proceeds to go to the JUA. Motor Vehicles will be permitted to retain only 10 percent, or the actual administrative cost of collecting the surcharges, whichever is less.

PRODUCER ALLOCATION: JUA servicing carriers probably will change dramatically. Non-insurance companies as well as insurance companies now are permitted to handle JUA business. Under the law, the JUA must devise a method of apportioning producers from old servicing carriers to new servicing carriers in order to assure that producers can continue to process their JUA business.

COMMISSIONS: By law, a protion of the producer's commission will be a uniform dollar amount regardless of whether the motorist elects the Lawsuit Threshold or No Threshold.

BUYER'S GUIDE: Companies must distribute to all consumers a new Buyer's Guide written by the Department of Insurance. A matching Coverage Selection Form also must be provided to assist the consumer in making the various choices for his policy.

INDEPENDENT RATES: More of the larger companies will be prohibited from using ISO rates in the future. The immediate impact is on three ISO companies (Selective, Motor Club and Atlantic Employers), each of whom insures more than 2 percent of the voluntary market. After January 1, 1989, these three companies must file for rate increases independently.

After January 1, 1990, all companies with more than 1.5 percent of the voluntary market must file independently. And, after January 1, 1991, all companies with more than 1 percent of the voluntary market must file independently.

FINES: For violating any provisions of the new automobile insurance law, an insurance company or a producer may be fined, suffer a license suspension, or have a license revoked. And the fines for violating the law have been increased. A company can be fined $10,000 for each violation instead of the previous $5,000, and a producer can be fined $5,000 for each violation instead of $1,500.

UNINSURED MOTORISTS: Penalties are toughened for people who break New Jersey's mandatory auto insurance coverage laws. Instead of a $100 to $300 fine, the fine is a flat $300. Instead of a possible 30-day to three-month jail term, there is a mandatory community service sentence to be determined by the judge. Also, the uninsured driver's license is forfeited for one year instead of six months. And, for a second offense, the mandatory penalty is a $500 fine, 14 days in jail and 30 days of community service.

RATE COMPARISON: By the end of 1989, the Department of Insurance must publish a list of sample premiums charged by various voluntary market insurance companies to assist consumers in shopping for insurance.

RATING TERRITORIES: Each New Jersey motorist's premium is determined in part by using geographic territories which were drawn in the 1940s. The new law requires the Commissioner of Insurance to deliver a report by January 1, 1990, with his recommendations about continued use or changes of these territories.

INJ

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EXHIBIT C

page 1

1987 AVERAGE PREMIUMS

PRIVATE PASSENGER AUTOMOBILE

	Voluntary Market Rates		Residual Market Rates
FLORIDA	$ 850	ARIZONA	$ 1,373
PUERTO RICO	829	PENNSYLVANIA	1,333
CALIFORNIA	819	NEVADA	1,166
PENNSYLVANIA	810	WISCONSIN	1,117
ARIZONA	807	D.C.	1,084
MARYLAND	780	ILLINOIS	1,007
D.C.	758	RHODE ISLAND	997
NEW JERSEY	735	WYOMING	959
LOUISIANA	733	CONNECTICUT	948
RHODE ISLAND	726	UTAH	911
NEVADA	679	FLORIDA	889
MINNESOTA	650	COLORADO	874
COLORADO	639	WASHINGTON	854
WEST VIRGINIA	621	OREGON	834
GEORGIA	616	OHIO	821
ALASKA	607	LOUISIANA	805
CONNECTICUT	605	CALIFORNIA	792
DELAWARE	590	IDAHO	782
MICHIGAN	576	IOWA	771
NEW YORK	568	VIRGINIA	744
OREGON	529	SOUTH DAKOTA	740
NEW MEXICO	500	NEW JERSEY	735
SOUTH CAROLINA	499	DELAWARE	732
ILLINOIS	494	WEST VIRGINIA	715
WASHINGTON	491	NORTH DAKOTA	707
UTAH	481	NEW MEXICO	703
VIRGINIA	470	ALASKA	661
ARKANSAS	470	MISSOURI	659
MISSOURI	457	MICHIGAN	639
MISSISSIPPI	448	GEORGIA	616
WYOMING	442	NEW YORK	607
NORTH DAKOTA	441	MONTANA	593
OHIO	438	MAINE	578
ALABAMA	436	INDIANA	570
NEW HAMPSHIRE	434	KANSAS	569
OKLAHOMA	431	TENNESSEE	558
KANSAS	426	MISSISSIPPI	542
TENNESSEE	423	VERMONT	516
INDIANA	417	ARKANSAS	500
VERMONT	406	OKLAHOMA	484
WISCONSIN	403	MINNESOTA	454
MAINE	401	NEBRASKA	442
MONTANA	394	ALABAMA	390
NEBRASKA	381	KENTUCKY	387
IOWA	381		
IDAHO	376		
KENTUCKY	376		
SOUTH DAKOTA	336		

EXHIBIT C
page 2

INSURANCE SERVICES OFFICE MEMBERS
RATE AND LOSS COST INCREASES
PRIVATE PASSENGER AUTOMOBILE

	% 1984	% 1985	% 1986	% 1987	Estimated 1987 Average Premium
ALABAMA	-	-0.3	-	5.7	$ 436
ALASKA	3.9	4.3	5.6	9.4	607
ARIZONA	3.1	14.0	10.3	10.7	807
ARKANSAS	6.5	12.4	3.7	-5.4	470
CALIFORNIA	-0.1	9.6	-	5.6	819
COLORADO	5.5	7.3	11.4	1.5	639
CONNECTICUT	12.3	-	-	2.1	605
DELAWARE	16.8	11.5	-	12.4	590
D.C.	-	6.0	-	11.0	758
FLORIDA	4.2	6.3	5.9	12.4	850
GEORGIA	20.3	7.1	14.0	4.5	616
IDAHO	-2.2	7.7	8.9	4.9	376
ILLINOIS	-	8.9	5.4	-6.8	494
INDIANA	-2.2	2.9	7.2	-	417
IOWA	4.4	3.6	9.5	-	381
KANSAS	6.3	-	-	5.0	426
KENTUCKY	-2.5	4.2	5.2	5.9	376
LOUISIANA	5.5	12.5	8.5	9.9	733
MAINE	5.2	3.7	8.2	9.0	401
MARYLAND	2.4	10.8	4.9	3.2	780
MICHIGAN	2.0	8.9	-	0.8	576
MINNESOTA	-2.7	12.9	12.7	1.7	650
MISSISSIPPI	8.1	1.7	6.6	-	448
MISSOURI	1.2	9.6	5.3	-7.1	457
MONTANA	-0.6	5.5	8.6	-	394
NEBRASKA	3.0	-	9.9	-	381
NEVADA	10.2	3.9	-	-	679
NEW HAMPSHIRE	7.1	-	10.0	-	434
NEW JERSEY	-	-	-	3.4*	735
NEW MEXICO	7.4	3.2	-	9.4	500
NEW YORK	4.9	3.7	3.8	4.0	568
NORTH DAKOTA	1.3	-	0.2	11.9	441
OHIO	-6.7	2.8	7.1	-	438
OKLAHOMA	8.6	3.6	4.0	-	431
OREGON	-3.5	16.6	6.8	-0.2	529
PENNSYLVANIA	8.5	10.5	9.9	-	810
PUERTO RICO	-	20.2	-	-	829
RHODE ISLAND	-	-	13.8	12.0	726
SOUTH CAROLINA	15.0	-	14.0	9.9	499
SOUTH DAKOTA	-0.4	-	3.2	2.7	336
TENNESSEE	-	-	15.0	5.4	423
UTAH	-	-	17.1	-	481
VERMONT	2.3	-2.2	6.5	3.7	406
VIRGINIA	3.1	8.1	-	4.3	470
WASHINGTON	2.8	14.8	5.1	-	491
WEST VIRGINIA	-	16.1	8.1	7.4	621
WISCONSIN	-2.0	7.4	13.8	-8.8	403
WYOMING	4.2	-	-13.2	10.1	442

* Reflects technical changes, no dollar impact on base rates
NJ Department of Insurance study, corroborated by ISO.

EXHIBIT C

page 3

PRIVATE PASSENGER RESIDUAL MARKET INSURANCE RATES

LIABILITY AND PHYSICAL DAMAGE COMBINED

Rate Increases Since January 1, 1984

	1984	1985	1986	1987	Average 1987 Premium
ALABAMA	-	18.5%	20.0%	-	$390
ALASKA	13.1%	12.4%	-	-	$661
ARIZONA	60.1%	-	4.8%	17.6%	$1,373
ARKANSAS	20.7%	4.4%	-	17.7%	$500
CALIFORNIA	5.1%	13.9%	-	31.2%	$792
COLORADO	22.8%	-	9.2%	20.6%	$874
CONNECTICUT	12.2%	11.0%	-	8.4%	$948
DELAWARE	5.6%	5.7%	7.1%	22.1%	$732
D.C.	-	-	15.0%	34.6%	$1,084
FLORIDA	23.9%	7.3%	-	4.8%	$889
GEORGIA	4.6%	12.8%	5.2%	17.6%	$616
IDAHO	-	13.0%	-	39.4%	$782
ILLINOIS	-	-	9.8%	4.9%	$1,007
INDIANA	-	9.9%	-	11.1%	$570
IOWA	5.4%	11.7%	-	14.5%	$771
KANSAS	-	6.6%	6.4%	6.4%	$569
KENTUCKY	25.0%	24.2%	-	40.0%	$387
LOUISIANA	18.1%	4.6%	10.5%	9.5%	$805
MAINE	-	-	4.5%	-	$578
MICHIGAN	7.4%	22.5%	16.2%	3.2%	$639
MINNESOTA	-	-	-	-	$454
MISSISSIPPI	-	3.9%	-	17.1%	$542
MISSOURI	-	-	4.9%	-	$659
MONTANA	8.8%	-	29.6%	10.3%	$593
NEBRASKA	12.0%	8.6%	29.6%	-	$442
NEVADA	-	14.4%	22.6%	-	$1,166
NEW MEXICO	19.3%	-	21.8%	15.8%	$703
NEW YORK	6.8%	-	3.0%	-	$607
NORTH DAKOTA	-	14.1%	-	-	$707
OHIO	-	-	21.4%	20.3%	$821
OKLAHOMA	-	42.0%	-	19.4%	$484
OREGON	1.3%	-	14.4%	24.4%	$834
PENNSYLVANIA	29.9%	-	17.3%	4.8%	$1,333
RHODE ISLAND	2.7%	-	13.8%	24.8%	$997
SOUTH DAKOTA	18.8%	-	-	30.5%	$740
TENNESSEE	5.0%	-	11.0%	16.2%	$558
UTAH	-	-	-	21.5%	$911
VERMONT	-	-	-	0.6%	$516
VIRGINIA	-	-3.9%	18.5%	10.7%	$744
WASHINGTON	-	9.2%	15.3%	10.5%	$854
WEST VIRGINIA	-	9.9%	24.7%	18.4%	$715
WISCONSIN	12.2%	-	10.4%	30.6%	$1,117
WYOMING	30.7%	45.3%	-	-	$959

NJ Department of Insurance study, corroborated by Automobile Insurance Plans Services Office, 2/4/88.

Note: Average premiums are relatively low in Alabama, California, Kentucky, Nebraska and Oklahoma because comprehensive and collision coverage cannot be purchased in those residual markets.

EXHIBIT D

Private Passenger Cars Insured through the Shared Market Mechanisms (Written Car Years), 1985-1986

State	Insured in Shared Market, 1986	Insured in Shared Market, 1985	% Change 1985-86
Alabama	3,308	3,763	- 12.09%
Alaska	4,045	3,070	+ 31.76
Arizona	348	111	+ 213.51
Arkansas	1,710	1,641	+ 4.20
California	423,832	335,109	+ 26.48
Colorado	347	221	+ 57.01
Connecticut	157,553	119,032	+ 32.36
Delaware	18,955	12,582	+ 50.65
District of Columbia	29,657	22,688	+ 30.72
Florida	80,179	36,475	+ 119.82
Georgia	22,736	11,919	+ 90.75
Hawaii	8,060	7,774	+ 3.68
Idaho	475	305	+ 55.74
Illinois	4,487	2,675	+ 67.74
Indiana	1,579	983	+ 60.63
Iowa	620	550	+ 12.73
Kansas	12,275	13,262	- 7.44
Kentucky	36,983	31,255	+ 18.26
Louisiana	13,357	12,027	+ 11.06
Maine	16,193	6,081	+ 166.29
Maryland	84,064	51,111	+ 64.47
Massachusetts	1,772,810	1,524,905	+ 16.26
Michigan	193,323	149,160	+ 29.61
Minnesota	8,856	2,900	+ 205.38
Mississippi	8,147	6,827	+ 19.33
Missouri	4,662	2,790	+ 67.10
Montana	317	202	+ 56.93
Nebraska	730	318	+ 129.56
Nevada	122	135	- 9.63
New Hampshire	131,289*	126,532	+ 3.76
New Jersey	1,697,383	1,638,404	+ 3.60
New Mexico	516	620	- 16.77
New York	1,126,430	942,339	+ 19.75
North Carolina	844,001*	820,327	+ 2.89
North Dakota	164	226	- 27.43
Ohio	663	481	+ 37.84
Oklahoma	5,598	5,334	+ 4.95
Oregon	1,849	623	+ 196.79
Pennsylvania	110,948	88,701	+ 25.08
Rhode Island	47,841	37,043	+ 29.15
South Carolina	564,726	477,726	+ 18.21
South Dakota	343	391	- 12.28
Tennessee	17,914	12,389	+ 44.60
Texas	220,133	183,747	+ 19.80
Utah	54	15	+ 260.00
Vermont	7,008	3,069	+ 128.35
Virgin Islands	(10)	3,794	- 100.26
Virginia	134,757	80,590	+ 67.21
Washington	4,614	3,637	+ 26.86
West Virginia	4,304	3,707	+ 16.10
Wisconsin	1,481	861	+ 72.01
Wyoming	177	264	- 32.95
Countrywide	7,833,893	6,790,691	+ 15.36%

*Estimated.

Source: Automobile Insurance Plans Service Office.

EXHIBIT E

page 1

DEPARTMENT OF INSURANCE

INTER-COMMUNICATION

M E M O R A N D U M

December 9, 1987

TO: Joseph B. Kenney
Assistant Commissioner

FROM: Eugene F. Gery
Administrator, Market Conduct Examinations

Re: Comparison of JUA to Voluntary Personal Auto Business as Found in Our Market Conduct Examinations

This memorandum provides the report you recently requested on the JUA companies. You asked me to indicate what we look for on each exam and to compile any significant findings. We have examined or are currently examining the JUA servicing carriers listed below in the order that the exams were conducted.

Companies Examined

1. Continental Insurance Company of New Jersey - as of February 28, 1986

2. Keystone Insurance Company - as of June 30, 1986

3. Pennsylvania National Mutual Casualty Insurance Company - as of December 31, 1986

4. State Farm Mutual Automobile Insurance Company - as of December 31, 1986

5. Fireman's Fund Insurance Companies - as of December 31, 1986

6. Liberty Mutual Insurance Companies - as of March 31, 1987

7. CIGNA Insurance Companies - as of March 31, 1987

8. Royal Insurance Companies - as of June 30, 1987

Reports, either in draft or final form, have been issued on the first five companies; the other three are near completion. Only the Continental and Keystone reports are final and officially filed with the Commissioner.

Items Reviewed

In reviewing rating, underwriting, nonrenewals/cancellations and claims, the examiners are checking for compliance with all insurance laws and regulations as well as JUA rules. The examiners are also looking for any significant difference in treatment of JUA and voluntary insureds. For this reason, all examination findings are reported in separate JUA and voluntary sections. In particular, a comparison of JUA versus voluntary claims handling is included in each market conduct report.

Rating/underwriting files are also reviewed for accuracy, proper risk classification and adequacy of disclosure to the insured. In reviewing claim files, our examiners check for prompt and proper claim processing. Nonrenewals/cancellations are checked for reasonableness and timeliness. Both JUA and voluntary files are part of each review.

Compilation of Findings

You also asked for a compilation of policy and claim populations and claim error ratios for each company examined. The following is a list containing this information:

	Company	No. of Policies JUA	No. of Policies Voluntary	No. of Claims JUA	No. of Claims Voluntary	Error Ratios (Claims) JUA	Error Ratios (Claims) Voluntary
1.	Continental	69,043	25,188	34,289	7,131	30%	21%
2.	Keystone	17,540	26,621	11,104	9,250	24%	25%
3.	Penn. National	69,654	3,784	29,482	2,441	14%	15%
4.	State Farm	127,736	281,365	53,983	124,207	22%	13%
5.	Fireman's Fund	62,154	13,953	24,110	4,972	39%	49%
6.	Liberty Mutual*	69,923	79,753	35,337	39,597	14%	20%
7.	CIGNA*	53,277	24,566	25,314	11,967	39%	46%
8.	Royal*	48,353	15,208	21,841	7,166	40%	24%

*Preliminary results - report not yet issued to the company.

The results listed above are mixed. In some instances, JUA error ratios are higher than voluntary and vice-versa. Therefore, I cannot conclude that JUA claims are handled better or worse than voluntary. We also did separate time studies on the number of days each company took to settle claims. As with the error ratios, these results were also mixed -- some companies delayed payment on a higher percentage of JUA than voluntary claims and vice-versa. For this reason, we cannot conclude that the carriers are paying JUA claims quicker.

All but two companies had combined units handling JUA and voluntary claims alike. Only Continental and CIGNA had separate units for JUA and voluntary claims. I believe that in combined units, uniformity of claim handling will result. An example of such uniformity is that all carriers are taking dealer preparation deductions on both JUA and voluntary claims alike. On Continental, one significantly different finding was reported. We found that the company failed to subrogate on 16 JUA claims compared to only one voluntary claim. This failure may be the result of the company having separate claim units. An even greater contributor to this problem was the lack of monetary incentive for a carrier to subrogate. We did not, however, find that the other carriers failed to subrogate on more of its JUA business than voluntary.

As for rating and underwriting, we found that all carriers maintain separate units to handle voluntary and JUA business. I believe this may be due to the separate Association rules and procedures which must be followed. The separate rules produced different findings; for instance, we found that a higher percentage of JUA policies had completed coverage selection forms due to the JUA rule that requires the form to be sent in with the application. Unlike laws and regulations covering voluntary business, the JUA has specific rules requiring MVR checks. For this reason, most JUA files we checked contained evidence that these checks were done. The evidence maintained by some carriers was merely a notation on the computer record, as they did not retain the MVR form.

One other difference in handling should be noted. We found that Continental issues notice of termination to its voluntary insureds for nonpayment of the renewal premium. Since the company will accept payment received within seven days after the date of termination, this notice serves as a reminder. As for its JUA business, Continental does not send out either a termination or reminder notice. According to JUA renewal guidelines, a reminder notice should be sent out 13 days prior to the renewal date whenever the premium is not received. Therefore, Continental not only failed to comply with the guidelines, but also elected to treat its JUA insureds less favorably than its voluntary insureds. I believe that its failure to send reminders may also result in more uninsured persons on the road.

Comparison of JUA/Voluntary Rate Classes

Since there are concerns that the JUA is not receiving adequate premium for the risk it is insuring, I directed my examiners to do a quick study of the JUA and voluntary underwriting files of State Farm. They found that 60% of the JUA risks were pleasure rated compared to 78% on voluntary. This smaller percentage of lower rated pleasure use classifications on JUA business is contrary to these concerns of inadequate rating. However, we did find just the opposite during our Penn National exam. In our exam report, we stated that 67% of JUA business was rated pleasure use compared to 52% on voluntary. I spoke to the examiner who reported this; she thought that the different was due to State Farm having a higher percentage of older (retired) voluntary insureds than Penn National. Since retirees are not working, they would usually be rated pleasure use.

In completing the State Farm study, we also found that 16% of the JUA business had accident surcharges compared to only 2% on voluntary business. I feel that the JUA rule requiring MVR's may be one cause of this difference. Further, a JUA bulletin recommends cancellation of an insured for failure to respond to a request for information on an undisclosed accident which was uncovered through an MVR. No such rules exist for voluntary business.

You also asked for some of our findings regarding the placement of insureds who are eligible for voluntary insurance into the JUA. We have only been able to develop some numbers for CIGNA -- only three of 16 or 19% of the JUA policies reviewed were written on risks who had no record of accidents. These risks may have been eligible for voluntary insurance, depending on the insurer's underwriting guidelines.

I believe that the above information summarizes all the significant findings on any differences in JUA compared to voluntary business. If you would like to discuss it, please let me know.

E.F.G.

EXHIBIT F

Page 1

NEW JERSEY AUTO INSURANCE

A BRIEF HISTORY

YEAR	EVENT	RESIDUAL MARKET SHARE
1960s	Auto insurance is optional; Assigned risk offered: no comp or collision, and liability coverage only at 10/20/5.	
1967	ISO's predecessors seeks rate hike; Commissioner Howell tries to include investment income in rates	6.5%
1971	Assigned risk compelled by state to offer liability coverage up to 50/100/10 plus comprehensive and collision coverage.	10.9%
1972	With Supreme Court support, Clifford sets formula on considering investment income in rates.	13.4%
1973	No-fault starts; PIP is provided by auto insurance companies; compulsory auto insurance starts; liability rates reduced by state 24% to 33%; comprehensive and collision rates reduced by state 3% to 12%; (This is base year for measuring ISO rates.) Also, comparative negligence law enacted.	13.7%
1974	Auto rates start to skyrocket; the ISO rates this year are 103% of the 1973 level.	11.6%
1976	ISO auto rates are 147% of the 1973 level.	15.0%
1978	PIP is modified, so that Excess Medical Benefits are provided through Unsatisfied Claim and Judgment Fund; ISO rates are 187% of the 1973 level.	27.3%
1980	Governor Byrne's verbal threshold campaign is waning; GEICO and Nationwide leave NJ; "Policy constant" is instituted at $42; ISO auto rates are 234% of the 1973 level.	34.5%

- more -

EXHIBIT F
Page 2

YEAR	EVENT	RESIDUAL MARKET SHARE
1981	Sheeran orders auto insurers to abandon rating system based on sex, marital status 1946-era territories; Courts halt order. ISO auto rates are 263% of the 1973 level.	35.3%
1983	Assigned risk phased out as Legislature creates JUA; Policy constant increased to $75; ISO auto rates are 341% of the 1973 level.	39.0%
1984	JUA begins, assuring residual market motorists the same availability of coverages at same rates as voluntary market; Rates are capped; DMV surcharges begin; Policy constant lowered to $70; Cost-savings options introduced; ISO auto rates are 341% of the 1973 level, unchanged for one year.	41.5%
1985	JUA seeks $150 RMEC but ordered instead to operate on cash-flow basis; ISO auto rates remain unchanged for two years.	43.9%
1986	JUA reforms planned as board seeks $240 RMEC; ISO rates remain unchanged for three years.	46.5%
1987	JUA reforms enacted; JUA board states $490 RMEC is justified on statutory basis but seeks smaller RMEC for cash-flow needs; ISO auto rates unchanged for four years.	about 48%
1988	RMEC of average $66 per car is approved in January, and increased to $139 in August; ISO auto rates remain unchanged for five years but in August are increased 14.4%, becoming 390% of the 1973 level. Optional verbal threshold, JUA reforms, PIP cost containment and other reforms are enacted.	about 48%

EXHIBIT G

page 1

MOTOR VEHICLE TRAFFIC FATALITIES AND INJURIES - 1986

1986 DATA AS REPORTED BY STATE AUTHORITIES

TABLE FI-1
SEPTEMBER 1987

STATE	VEHICLE MILES (MILLIONS)	FATAL ACCIDENTS		NONFATAL INJURY ACCIDENTS		FATALITIES		NONFATALLY INJURED PERSONS	
		NUMBER 1/	RATE 2/	NUMBER	RATE 2/	NUMBER 1/	RATE 2/	NUMBER	RATE 2/
ALABAMA	34,003	968	2.85	29,186	85.82	1,081	3.18	42,530	125.08
ALASKA	4,008	89	2.22	3,675	91.68	101	2.52	5,432	135.51
ARIZONA	22,665	886	3.91	26,034	114.86	1,004	4.43	40,541	178.87
ARKANSAS	17,555	523	2.98	8,680	49.44	602	3.43	15,421	87.84
CALIFORNIA	214,913	4,683	2.18	233,004	108.42	5,253	2.44	347,351	161.62
COLORADO	26,382	807	1.92	27,863	105.61	603	2.29	41,409	156.96
CONNECTICUT	24,053	427	1.78	35,367	147.03	450	1.87	49,484	205.72
DELAWARE	5,762	119	2.07	5,994	104.02	136	2.36	8,991	156.03
DIST. OF COL.	3,287	44	1.34	3/	4/	44	1.34	3/	4/
FLORIDA	87,273	2,542	2.91	3/	4/	2,831	3.24	3/	4/
GEORGIA	56,833	1,378	2.42	52,928	93.12	1,530	2.69	80,646	141.90
HAWAII	6,971	111	1.59	7,254	104.05	120	1.72	12,893	184.94
IDAHO	7,781	220	2.83	7,187	92.36	258	3.32	10,973	141.01
ILLINOIS	74,144	1,449	1.95	122,880	165.69	1,596	2.15	184,078	248.27
INDIANA	40,780	931	2.28	3/	4/	1,038	2.55	3/	4/
IOWA	20,413	388	1.90	18,522	90.73	441	2.16	26,669	130.64
KANSAS	19,821	413	2.08	20,975	105.82	500	2.52	32,150	162.20
KENTUCKY	29,252	723	2.47	31,019	106.04	805	2.75	46,820	160.05
LOUISIANA	29,861	821	2.75	39,562	132.48	932	3.12	65,366	218.90
MAINE	10,022	190	1.90	11,775	117.49	212	2.12	17,123	170.85
MARYLAND	35,208	716	2.03	50,883	144.52	784	2.23	82,985	235.61
MASSACHUSETTS	40,745	677	1.66	3/	4/	749	1.84	3/	4/
MICHIGAN	71,981	1,431	1.99	106,266	147.63	1,594	2.21	157,377	218.64
MINNESOTA	33,806	505	1.49	27,578	81.58	571	1.69	39,785	117.68
MISSISSIPPI	19,226	670	3.48	13,167	68.48	771	4.01	24,743	128.69
MISSOURI	41,571	970	2.33	3/	4/	1,129	2.72	3/	4/
MONTANA	7,737	193	2.49	5,116	66.12	222	2.87	7,837	101.29
NEBRASKA	12,630	259	2.05	13,508	106.95	290	2.30	19,818	156.91
NEVADA	7,986	203	2.54	9,848	123.31	233	2.92	15,067	188.66
NEW HAMPSHIRE	7,913	162	2.05	7,301	92.26	172	2.17	9,956	125.81
NEW JERSEY	55,350	946	1.71	94,764	171.21	1,039	1.88	147,023	265.62
NEW MEXICO	13,171	436	3.31	15,965	121.21	499	3.79	24,344	184.82
NEW YORK	94,716	1,943	2.05	193,701	204.51	2,115	2.23	281,914	297.64
NORTH CAROLINA	52,866	1,489	2.82	71,156	134.60	1,647	3.12	113,191	214.11
NORTH DAKOTA	5,632	88	1.56	3,673	65.21	100	1.78	5,434	96.48
OHIO	81,348	1,803	1.85	112,160	137.88	1,673	2.06	178,854	219.86
OKLAHOMA	30,833	605	1.96	3/	4/	698	2.26	3/	4/
OREGON	22,741	544	2.39	24,586	108.11	619	2.72	38,737	170.34
PENNSYLVANIA	77,636	1,710	2.20	98,006	126.24	1,894	2.44	148,081	190.74
RHODE ISLAND	5,429	115	2.12	7,942	146.27	124	2.28	9,091	167.44
SOUTH CAROLINA	28,250	944	3.34	22,850	80.88	1,059	3.75	34,689	122.79
SOUTH DAKOTA	6,238	118	1.89	4,105	65.80	134	2.15	6,008	96.31
TENNESSEE	39,521	1,102	2.79	45,939	116.24	1,230	3.11	68,004	172.07
TEXAS	148,348	3,120	2.10	154,814	104.16	3,567	2.40	234,120	157.82
UTAH	12,100	277	2.29	13,794	114.00	313	2.59	21,057	174.02
VERMONT	4,778	91	1.90	3/	4/	109	2.28	3/	4/
VIRGINIA	51,726	1,002	1.94	53,313	103.07	1,126	2.18	80,937	156.47
WASHINGTON	35,993	648	1.80	46,090	128.05	703	1.95	66,707	185.33
WEST VIRGINIA	13,181	386	2.93	17,559	133.21	440	3.34	26,889	203.99
WISCONSIN	38,428	651	1.69	41,551	108.13	747	1.94	60,542	157.54
WYOMING	5,373	146	2.72	3,266	60.78	168	3.13	5,044	93.87
TOTAL 5/	1,838,240	41,062	2.23	1,940,476	122.12	46,056	2.51	2,936,081	184.78
U. S. TOTAL (EST.) 6/	1,838,240	41,062	2.23	2,251,900	122.50	46,056	2.51	3,400,400	184.98

1/ FATAL ACCIDENT AND FATALITY NUMBERS HAVE BEEN ADJUSTED TO AGREE WITH STATE TOTALS FROM FARS.
2/ PER 100 MILLION VEHICLE-MILES OF TRAVEL.
3/ DATA NOT REPORTED BY STATE.
4/ RATE CAN NOT BE COMPUTED.
5/ THE TOTAL IS BASED ONLY ON THE DATA SHOWN IN THE TABLE. IT DOES NOT REPRESENT A NATIONAL TOTAL BECAUSE OF MISSING DATA. THE TOTAL FATAL ACCIDENT AND FATALITY RATES ARE BASED ON THE TOTAL TRAVEL SHOWN ON THE TABLE. THE TOTAL NONFATAL INJURY ACCIDENT AND NONFATAL INJURY RATES ARE BASED ON A TOTAL TRAVEL OF 1,589,973 MILLION VEHICLE MILES FOR THE STATES REPORTING THIS DATA.
6/ ESTIMATES OF TRAVEL, NONFATAL INJURY ACCIDENTS AND NONFATALLY INJURED PERSONS WERE MADE BY FHWA.

EXHIBIT G

page 2

MOTOR VEHICLE TRAFFIC FATALITIES AND INJURIES - 1987

1987 DATA AS REPORTED BY STATE AUTHORITIES

TABLE FI-1
SEPTEMBER 1988

STATE	VEHICLE MILES (MILLIONS)	FATAL ACCIDENTS		NONFATAL INJURY ACCIDENTS		FATALITIES		NONFATALLY INJURED PERSONS	
		NUMBER 1/	RATE 2/	NUMBER	RATE 2/	NUMBER 1/	RATE 2/	NUMBER	RATE 2/
ALABAMA	37,426	975	2.61	29,174	77.95	1,110	2.97	42,670	114.01
ALASKA	3,900	70	1.79	3,318	85.07	75	1.93	4,982	127.75
ARIZONA	31,729	810	2.55	36,127	113.86	937	2.95	58,180	183.36
ARKANSAS	18,306	550	3.00	11,169	61.01	639	3.49	20,206	110.38
CALIFORNIA	226,301	4,935	2.18	239,190	105.70	5,504	2.43	360,699	159.39
COLORADO	26,968	516	1.91	26,636	98.77	593	2.19	39,870	147.84
CONNECTICUT	26,775	416	1.55	36,045	134.62	449	1.68	50,881	190.03
DELAVARE	6,086	131	2.15	5,792	95.16	146	2.40	9,090	149.35
DIST. OF COL.	3,368	81	1.51	3/	3/	83	1.57	3/	3/
FLORIDA	93,639	2,571	2.75	134,488	143.54	2,828	3.03	215,829	230.49
GEORGIA	60,293	1,441	2.39	61,947	102.74	1,599	2.65	94,941	157.46
HAWAII	7,218	127	1.76	5,484	75.97	139	1.93	8,033	111.28
IDAHO	8,119	244	3.01	6,978	85.94	262	3.23	10,712	131.93
ILLINOIS	75,756	1,487	1.96	124,842	164.79	1,665	2.19	186,400	246.05
INDIANA	44,122	986	2.17	50,257	114.13	1,055	2.39	73,497	166.57
IOWA	20,888	443	2.13	18,695	89.84	492	2.36	27,074	130.11
KANSAS	20,961	415	2.02	21,582	104.96	491	2.39	32,189	156.55
KENTUCKY	30,320	768	2.53	32,997	108.82	844	2.78	49,768	164.14
LOUISIANA	30,599	731	2.39	43,681	142.75	827	2.70	72,962	238.44
MAINE	10,766	212	1.97	12,610	117.12	232	2.15	18,558	172.37
MARYLAND	36,493	729	2.00	51,552	141.26	814	2.23	85,433	234.10
MASSACHUSETTS	42,305	642	1.52	3/	3/	689	1.63	3/	3/
MICHIGAN	75,706	1,420	1.88	105,796	139.74	1,597	2.11	160,509	212.01
MINNESOTA	35,167	466	1.33	29,348	83.44	530	1.51	42,091	119.69
MISSISSIPPI	20,172	687	3.26	13,381	66.18	796	3.75	25,200	124.92
MISSOURI	43,379	927	2.14	44,689	102.82	1,044	2.41	67,750	156.18
MONTANA	8,074	198	2.45	8,969	68.97	234	2.90	8,442	104.55
NEBRASKA	13,091	258	1.95	14,567	111.27	297	2.27	21,917	167.41
NEVADA	8,396	239	2.85	10,470	124.69	262	3.12	15,985	190.38
NEW HAMPSHIRE	9,167	162	1.77	6,199	67.62	179	1.95	7,872	85.87
NEW JERSEY	57,071	929	1.63	89,718	157.19	1,023	1.79	141,593	248.10
NEW MEXICO	15,116	493	3.26	16,760	110.87	568	3.76	25,780	170.54
NEW YORK	98,002	2,114	2.16	197,297	201.32	2,333	2.38	288,350	294.23
NORTH CAROLINA	54,600	1,416	2.59	72,511	132.80	1,584	2.90	114,674	210.02
NORTH DAKOTA	5,681	90	1.58	3,298	58.05	101	1.78	5,119	90.10
OHIO	79,157	1,588	2.01	3/	3/	1,772	2.24	3/	3/
OKLAHOMA	31,606	540	1.71	22,410	70.90	597	1.89	34,481	109.09
OREGON	23,232	554	2.37	24,690	105.82	620	2.66	38,882	166.64
PENNSYLVANIA	78,626	1,789	2.28	99,371	126.64	1,987	2.53	151,415	192.57
RHODE ISLAND	6,003	108	1.80	7,484	124.66	113	1.88	10,332	172.10
SOUTH CAROLINA	30,224	968	3.20	24,152	79.91	1,086	3.59	38,050	125.92
SOUTH DAKOTA	6,209	107	1.72	4,173	67.20	134	2.16	6,221	100.19
TENNESSEE	42,126	1,102	2.62	3/	3/	1,248	2.96	3/	3/
TEXAS	151,186	2,881	1.91	146,913	97.17	3,261	2.16	226,895	150.08
UTAH	12,679	271	2.14	14,078	111.03	295	2.33	21,492	169.50
VERMONT	5,029	103	2.04	4,894	97.11	119	2.36	7,359	146.03
VIRGINIA	54,834	906	1.65	53,925	98.34	1,021	1.86	80,115	146.10
WASHINGTON	38,520	691	1.79	46,968	121.93	783	2.02	67,665	175.66
WEST VIRGINIA	13,742	418	3.04	18,044	131.30	471	3.43	27,805	202.33
WISCONSIN	40,196	711	1.77	42,117	104.78	797	1.98	60,918	151.55
WYOMING	5,367	111	2.07	3,199	58.85	129	2.40	4,906	91.40
TOTAL 5/	1,924,327	41,434	2.15	2,074,724	118.06	46,385	2.41	3,163,801	180.03
U. S. TOTAL (EST.) 6/	1,924,327	41,434	2.15	2,294,000	119.21	46,385	2.41	3,495,000	181.62

1/ FATAL ACCIDENT AND FATALITY NUMBERS HAVE BEEN ADJUSTED TO AGREE WITH STATE TOTALS FROM THE FATAL ACCIDENT REPORTING SYSTEM (FARS).
2/ PER 100 MILLION VEHICLE-MILES OF TRAVEL.
3/ DATA NOT REPORTED BY STATE.
4/ RATE CAN NOT BE COMPUTED.
5/ THE TOTAL IS BASED ONLY ON THE DATA SHOWN IN THE TABLE. IT DOES NOT REPRESENT A NATIONAL TOTAL BECAUSE OF MISSING DATA. THE TOTAL FATAL ACCIDENT AND FATALITY RATES ARE BASED ON THE TOTAL TRAVEL SHOWN ON THE TABLE. THE TOTAL NONFATAL INJURY ACCIDENT AND NONFATAL INJURY RATES ARE BASED ON A TOTAL TRAVEL OF 1,757,371 MILLION VEHICLE MILES FOR THE STATES REPORTING THIS DATA.
6/ ESTIMATES OF TRAVEL, NONFATAL INJURY ACCIDENTS AND NONFATALLY INJURED PERSONS WERE MADE BY FHWA.

EXHIBIT H
page 1

N.J.A.C. 11:3-8

NONRENEWAL OF AUTOMOBILE INSURANCE POLICIES

N.J.A.C. 11:3-8 contains procedures and requirements which govern the nonrenewal of automobile insurance policies. The regulation applies to all policies covering automobiles as defined at N.J.S.A. 39:6A-2a, excluding those owned by business entities, or those insured through residual market mechanisms. In addition, the rule sets forth certain standards that are applicable to the offering of renewal coverages.

With respect to general requirements, N.J.A.C. 11:3-8 establishes timeframes for the issuance of notices of nonrenewal by the insurer and for renewal premium billings. With regard to the former, the regulation specifies that the notice of nonrenewal shall be mailed or delivered not more than 90 days nor less than 60 days prior to the expiration date of the current policy. The rule also sets forth informational requirements for the notice of nonrenewal. It provides, for instance, that the notice must recite the portion of the regulation upon which the insurer's nonrenewal action is premised and the facts applicable to the insured, in sufficient detail to enable the policyholder to identify the incidents. The notice also must advise the insured of his or her right to file a complaint with the Insurance Department and of the availability of coverage through the JUA.

N.J.A.C. 11:3-8 delineates several underwriting grounds which have been approved by the Commissioner for the nonrenewal of any policy falling within the scope of the regulation. These grounds include the following: accident involvement; conviction of certain motor vehicle violations, such as driving while intoxicated; the accumulation of a specified number of motor vehicle points; other than motor vehicle convictions, such as insurance fraud; physical or mental impairment of an operator which adversely affects the ability to operate the vehicle safely; failure by the insured to comply with the cooperation or subrogation clause of the policy, etc.

The regulation provides specific standards that are attendant to the use of the approved guidelines. For example, with respect to nonrenewals premised on accident involvement, the rule prescribes the number and types of accidents which must have occurred in order for the insurer to invoke this guideline. It also describes various types of accidents which the insurer may not count in determining whether it is authorized to nonrenew the policy (i.e., vehicle was legally parked at the time of the accident).

N.J.A.C. 11:3-8 also establishes specific criteria which permits insurers to issue notice of nonrenewal only with respect to any comprehensive and/or towing and labor coverage based on multiple claims under these coverages. N.J.A.C. 11:3-8 further authorizes insurers to nonrenew automobile policies based upon reasons other than those

specific standards described in the rule, by submitting the nonrenewal to the Commissioner for review at least 120 days prior to the expiration date of the policy.

In addition to providing underwriting standards which are applicable to the nonrenewal of all automobile insurance policies, N.J.A.C. 11:3-8 contains nonrenewal standards which are applicable only to certain designated categories of insureds. The provisions of the rule concerning these standards became effective on October 6, 1986 and are sometimes referred to as the three year look-see requirement.

The regulation's look-see requirement is designed to afford greater underwriting flexibility to insurers and thereby foster depopulation of the residual market. For many years, insurers had contended that one reason they are reluctant to write voluntary market coverage in New Jersey is the stringency of N.J.A.C. 11:3-8. Insurers complained that, because N.J.A.C. 11:3-8 permitted nonrenewal only for certain specified reasons as described above, once a risk has been written, it was very difficult to discontinue coverage. The look-see provision was adopted in 1986 to address this concern.

Nonrenewals pursuant to the look-see provision are subject to the following standards. Insurers are permitted increased underwriting flexibility only with respect to designated categories of policyholders. Specifically, these are: (1) First-time applicants for insurance;

(2) Policyholders who have been canceled or nonrenewed by their previous insurer; and (3) Policyholders who were formerly insured through the JUA. These classes of insureds have been targeted by the rule because of their likely placement and/or continuation of coverage through the residual market. Since the look-see provision's stated objective is depopulation of this market, the rule focuses on those groups most likely to be impacted.

With respect to these policyholders, an insurer is permitted to nonrenew coverage based upon the company's underwriting guidelines, provided that such guidelines may not be arbitrary, capricious or unfairly discriminatory and, further, are not based on certain specifically prohibited reasons, such as the race, religion, nationality or ethnic group of the insured. Nonrenewals that are initiated pursuant to the look-see provision are limited to a period of three years following policy issuance. Any such policy that is renewed by the insurer after the third year is subject to nonrenewal only as is otherwise provided in the regulation.

Finally, N.J.A.C. 11:3-8 requires that the Commissioner review and monitor the operation of the regulation in order to insure compliance with its provisions and, in particular, to determine whether the goal of depopulation is being fostered by the three year look-see provision. To facilitate this objective, the adopted rule authorizes the Commissioner to require the filing of such

reports as he deems necessary in order to conduct his evaluation.

N.J.A.C. 11:3-23

DANGEROUS DRIVERS/DRIVERS WITH EXCESSIVE CLAIMS

N.J.A.C. 11:3-23 implements the requirements of N.J.S.A. 17:29C-2.1. The statute authorizes the Commissioner of Insurance to establish standards and guidelines for the identification of dangerous drivers/drivers with excessive claims. With respect to such drivers, the statute permits insurers writing automobile insurance in the voluntary market to refuse to issue or renew collision and/or comprehensive coverages. The law further provides that voluntary market insurers may and the New Jersey Automobile Full Insurance Underwriting Association (Association) shall offer collision and comprehensive to such drivers at rates based on their experience.

The guidelines set forth in N.J.A.C. 11:3-23 provide that a dangerous driver/driver with excessive claims shall mean a person who has been involved within a three-year period in: (1) three or more at-fault accidents; (2) three or more comprehensive claims involving claim payments of at least $300.00 each; (3) a combination of four or more at-fault accidents and comprehensive claims; (4) a conviction of one or more of certain motor vehicle violations or other offenses which are listed in the rule. These violations include operating while suspended, operating under the influence of alcohol or drugs, reckless driving, etc.; or (5) accumulation of nine or more DMV points.

N.J.A.C. 11:3-23 also delineates certain additional guidelines to be used by insurers in the application of the dangerous driver/driver with excessive claims designation. For example, the rule provides that dangerous driver designations based on conviction of motor vehicle offenses shall include similar offenses occurring in other states. It also establishes criteria to be used in determining the at-fault status of an accident.

The guidelines and standards contained in N.J.A.C. 11:3-23 essentially are paralleled in the Association's Driver Improvement Plan.

EXHIBIT I
page 1

PROVISIONS OF STATE "NO-FAULT" LAWS

State	No-Fault Benefits	Limitation on Damages For Pain and Suffering	Vehicle Damage	Effective Date
Massachusetts	$2,000 in benefits for medical, funeral, wage loss, and substitute service expenses. Wage loss and substitute service benefits are limited to 75% of actual loss.	Can recover only if medical costs exceed $500, or in case of death, loss of all or part of body member, permanent and serious disfigurement, loss of sight or hearing, or a fracture.	Stays under tort system after Jan. 1, 1977. Prior to then, no tort liability for vehicle damage.	Jan. 1, 1971.
Delaware	$15,000 per person and $30,000 per accident. Covers medical costs, loss of income, loss of services, and funeral expenses (limited to $3,000).	None. But amount of no-fault benefits received can't be used as evidence in suits for general damages.	Stays under tort system.	Jan. 1, 1972.
Florida	$10,000 per person. Pays 80% of medical costs; 60% of lost income; replacement services; and funeral costs (limited to $1,750). Deductibles of $250, $500, $1,000, and $2,000 available.	Cannot recover unless injury results in significant, permanent loss of important body function; permanent injury; significant and permanent scarring or disfigurement; or death.	Stays under tort system.	Jan. 1, 1972, for original law. Provisions at left effective Oct. 1, 1982.
Oregon	$5,000 medical benefits. 70% of wage loss up to $750 month. $18 a day substitute services. Wage loss and substitute services paid from first day if disability lasts 14 days; are limited to 52 weeks.	None.	Stays under tort system.	Jan. 1, 1972. Jan. 1, 1974, for benefits at left.
South Dakota	Purchase is optional. $2,000 in medical expense. $60 week for wage loss, starting 14 days after injury, for up to 52 weeks. $10,000 death benefit.	None.	Stays under tort system.	Jan. 1, 1972.

EXHIBIT I

page 2

State	No-Fault Benefits	Limitation on Damages For Pain and Suffering	Vehicle Damage	Effective Date
North Dakota	Overall limit of $30,000 per person. Covers medical and rehabilitation costs, up to $150 a week for income loss, up to $15 a day for replacement services, up to $150 a week for survivors income loss, up to $15 a day for survivors replacement services loss, and up to $1,000 for funeral expenses.	Cannot recover from insured person unless injury results in more than $2,500 in medical expenses, more than 60 days of disability, serious and permanent disfugurement, dismemberment, or death.	Stays under tort system.	Jan. 1, 1976.
District of Columbia	Medical and rehabilitation benefits of $50,000 or $100,000. Work loss benefits of $12,000 or $24,000. Up to $4,000 in funeral benefits. Purchase is optional. Motorist can buy any combination he chooses.	Victims who are covered by no-fault benefits have 60 days after accident to decide whether to receive no-fault benefits. Victims who choose to get no-fault benefits cannot recover damages unless injury resulted in substantial permanent scarring or disfigurement; substantial and medically demonstrable permanent impairment which has significantly affected the ability of the victim to perform professional activities or usual and customary daily activities; a medically demonstrable impairment that prevents victim from performing substantially all of his usual customary daily activities for more than 180 continuous days; or medical and rehabilitation expenses or work loss exceeding the amount of no-fault benefits available.	Stays under tort system.	Original law effective Oct. 1, 1983. This version effective June 2, 1986.

EXHIBIT I

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State	No-Fault Benefits	Limitation on Damages For Pain and Suffering	Vehicle Damage	Effective Date
Virginia	Purchase is optional. $2,000 for medical and funeral costs. $100 week for wage loss with limit of 52 weeks.	None	Stays under tort system.	July 1, 1972.
Connecticut	$5,000 benefits for medical, hospital, funeral (limit $2,000), lost wages, survivors' loss, and substitute service expenses. Wage loss, substitute service, and survivors' benefits limited to 85% of actual loss.	Cannot recover unless economic loss exceeds $400, or there is permanent injury, bone fracture, disfigurement, dismemberment, or death.	Stays under tort system.	Jan. 1, 1973.
Maryland	$2,500 in benefits for medical, hospital, funeral, wage loss, and substitute service expenses.	None.	Stays under tort system.	Jan. 1, 1973.
New Jersey	Unlimited benefits for medical and hospital costs. Wage loss up to $100 a week for one year. Substitute services up to $12 a day for maximum of $4,380 per person. Funeral expenses of $1,000. Survivors' benefits equal to amount victim would have received if he had not died. Motorist may exclude all benefits except medical and hospital. Medical coverage may be bought with deductibles of $500, $1,000, or $2,500.	Motorist selects one of two optional limitations. Option 1: Cannot recover if injuries are confined to soft tissue and medical costs, exclusive of hospital, x-ray and other diagnostic expenses, are less than $200; unless injury causes death, permanent disability, permanent significant disfigurement, permanent loss of a bodily function, or loss of a body member. Option 2: Cannot recover if medical expenses, excluding hospital, x-ray and other diagnostic costs, are less than $1,500 (adjusted annually to reflect inflation); unless injuries cause death, permanent disability, permanent significant disfigurement, permanent loss of a body function, or loss of body member.	Stays under tort system.	Jan. 1, 1973, for original law. July 1, 1984, for this version.
Michigan	Unlimited medical and hospital benefits. Funeral benefits up to $1,000. Lost wages up to $1,475 per month, adjusted annually to keep up with cost of living, and substitute services of $20 a day payable to victim or survivor.	Cannot recover unless injuries result in death, serious impairment of body function, or permanent serious disfigurement.	Tort liability abolished, except in cases where damage is not over $400.	Oct. 1, 1973.
New York	Aggregate limit of $50,000 for medical, wage loss, and substitute service benefits. Wage loss: 80% of actual loss with benefit limited to $1,000 per month. Substitute services benefits: $25 a day for one year. In fatal cases, estate gets $2,000 in addition to above benefits.	Cannot recover unless disabled for 90 of the 180 days after accident, or injury causes dismemberment; significant disfigurement; fracture; loss of a fetus; permanent loss of use of body organ, member, function, or system; permanent consequential limitation of use of body organ or member; significant limitation of use of body function or system; or death.	Stays under tort system.	Feb. 1, 1974, for original law.

EXHIBIT I

page 4

State	No-Fault Benefits	Limitation on Damages For Pain and Suffering	Vehicle Damage	Effective Date
Arkansas	Purchase is optional. $5,000 per person for medical and hospital expenses. Wage loss: 70% of lost wages up to $140 a week, beginning 8 days after accident, for up to 52 weeks. Essential services: up to $70 a week for up to 52 weeks, subject to 8-day waiting period. Death benefit: $5,000.	None.	Stays under tort system.	July 1, 1974.
Utah	$3,000 per person for medical and hospital expenses. 85% of gross income loss, up to $250 a week, for up to 52 weeks. $20 a day for loss of services for up to 365 days. Both wage loss and service loss coverages subject to 3-day waiting periods that disappear if disability lasts longer than two weeks. $1,500 funeral benefit. $3,000 survivor's benefit.	Cannot recover unless medical expenses exceed $3,000, or injury results in dismemberment or fracture, permanent disfigurement, permanent disability, or death.	Stays under tort system.	Jan. 1, 1974. Revision effective July 1, 1986.
Kansas	$2,000 per person for medical expenses. Wage loss: up to $650 a month for one year. $2,000 for rehabilitation costs. Substitute service benefits of $12 a day for 365 days. Survivor's benefits: Up to $650 a month for lost income, $12 a day for substitution benefits, for not over one year after death, minus any disability benefits victim received before death. Funeral benefit: $1,000	Cannot recover unless medical costs exceed $500, or injury results in permanent disfigurement, fracture to a weight-bearing bone, a compound, comminuted, displaced or compressed fracture, loss of a body member, permanent injury, permanent loss of a body function, or death.	Stays under tort system.	Jan. 1, 1974.
Texas	$2,500 per person overall limit. Covers medical and funeral expenses, lost income, and loss of services. Purchase optional.	None.	Stays under tort system.	90 days after adjournment of 1973 regular session.

EXHIBIT I

page 5

State	No-Fault Benefits	Limitation on Damages For Pain and Suffering	Vehicle Damage	Effective Date
Nevada The Nevada no-fault law was repealed June 5, 1979	Aggregate limit was $10,000. Paid for medical and rehabilitation expenses; up to $175 a week for loss of income; up to $18 a day for 104 weeks for replacement services; survivors' benefits of not less than $5,000 and not more than victim would have gotten in disability benefits for 1 year; and $1,000 for death.	Could not recover unless medical benefits exceeded $750 or injury caused chronic or permanent injury, permanent partial or permanent total disability, disfigurement, more than 180 days of inability to work at occupation, fracture of a major bone, dismemberment, permanent loss of a body function, or death.	Stayed under tort system.	Feb. 1, 1974. Repeal effective Jan. 1, 1980.
Colorado	$50,000 for medical expenses. $50,000 for rehabilitation. Lost income: Benefits for 100% of the first $125 per week, 70% of the next $125, and 60% of the remainder up to $400 per week, limited to 52 weeks. Essential services: Up to $25 a day for up to 52 weeks. Death benefit: $1,000.	Cannot recover unless medical and rehabilitation services have reasonable value of more than $2,500, or injury causes permanent disfigurement, permanent disability, dismemberment, loss of earnings for more than 52 weeks, or death.	Stays under tort system.	April 1, 1974. These provisions effective Jan. 1, 1985.
Hawaii	Aggregate limit of $15,000. Pays for medical and hospital services; rehabilitation; occupational, psychiatric, and physical therapy; up to $900 monthly for income loss, substitute services and survivors' loss; and up to $1,500 for funeral expenses.	Cannot recover unless medical and rehabilitation expenses exceed a floating threshold established annually by the insurance commissioner. Can also recover if injury results in death; significant permanent loss of use of body part or function; or permanent and serious disfigurement that subjects injured person to mental or emotional suffering.	Stays under tort system.	Sept. 1, 1974.
Georgia	Aggregate limit of $5,000. Up to $2,500 for medical costs. 85% of lost income with maximum $200 week. $20 day for necessary services. Survivors' benefits same as lost income benefits had victim lived. $1,500 funeral benefit.	Cannot recover unless medical costs exceed $500, disability lasts 10 days, or injury results in death, fractured bone, permanent disfigurement, dismemberment, permanent loss of body function, permanent, partial or total loss of sight or hearing.	Stays under tort system.	Mar. 1, 1975.

State	No-Fault Benefits	Limitation on Damages For Pain and Suffering	Vehicle Damage	Effective Date
Kentucky	Aggregate limit of $10,000. Covers medical expense; funeral expense up to $1,000; income loss up to $200 weekly, with as much as 15% deducted for income tax savings; up to $200 a week each for replacement services loss, survivors economic loss, and survivors replacement services loss. Motorist has right to reject no-fault.	Cannot recover unless medical expenses exceed $1,000, or injury results in permanent disfigurement; fracture of a bone; a compound, comminuted, displaced or compressed fracture; loss of a body member; permanent injury; permanent loss of a body function; or death. But limitation does not apply to those who reject no-fault system or to those injured by driver who has rejected it.	Stays under tort system.	July 1, 1975.
Minnesota	$20,000 for medical expense. $20,000 for other benefits, including 85% of lost income up to $250 weekly; $200 a week for replacement services, with 8-day waiting period; up to $200 weekly in survivors economic loss benefits; up to $200 weekly for survivors replacement service loss; and $2,000 for funeral benefits.	Cannot recover unless medical expenses (not including X-rays and rehabilitation) exceed $4,000; or disability exceeds 60 days; or the injury results in permanent disfigurement; permanent injury; or death.	Stays under tort system.	Jan. 1, 1975.
South Carolina	Aggregate limit of $1,000. Covers medical and funeral costs, loss of earnings (if desired), loss of essential services. Purchase is optional.	None.	Stays under tort system.	Oct. 1, 1974.
Pennsylvania	Up to $10,000 for medical and rehabilitation costs. Up to $5,000 for income loss, limited to $1,000 per month and 80 percent of actual lost income; includes benefits for hiring substitute to perform self-employment services and hiring special help to enable victim to work. A funeral benefit of $1,500. Motorists can buy optional coverages with aggregate limit up to $277,500. The Pennsylvania Catastrophic Loss Trust Fund provides up to $1 million of coverage for medical and rehabilitation expenses exceeding $100,000.	None.	Stays under tort system.	Oct. 1, 1984.

EXHIBIT J

page 1

E. BALANCE IN A NO-FAULT AUTO INSURANCE SYSTEM

This criterion, which applies only to no-fault States, refers essentially to the extent to which the costs of first-party no-fault insurance benefits are greater than, equal to, or less than the savings made possible in the personal injury auto insurance system by the establishment of restrictions on recovery of third-party liability insurance benefits.

One measure of this criterion is the difference between the 1982 average personal injury pure premium in a no-fault State today with what the 1982 pure premium for that State would have been if that State not adopted no-fault.

The following chart, based on one prepared by the Alliance of American Insurers, estimates this difference, based upon "pure premium" rates. Pure premium is an insurance industry term which has nothing to do with the "premium" that a policyholder pays each year. Pure premium means the portion of the premium paid by policyholders which the insurer uses to pay losses and some claims handling expenses.

The chart contrasts the 1982 year of no-fault experience for each no-fault State against what the estimated average loss costs (pure premiums) would have been for that State if no-fault had not been in effect in that State in 1982. The cost estimates were derived by (1) obtaining from the no-fault States the BI liability, the uninsured motorists, and the medical payments pure premiums (average loss costs per car) for the last year the fault system operated in that State; (2) trending these pure premiums to 1982 levels; and (3) comparing these estimated fault system pure premiums to the year-end 1982 no-fault system pure premiums.

The no-fault States are arranged on this chart according to what appears to be the most important variable in determining whether a system is in balance: the threshold, which sets restrictions on third-party recoveries.

The States which have a "+" mark in the right-hand column can be said to be "not in balance." The savings in those States, from restrictions on or reductions in third-party recoveries, is not as great as the cost of first-party no-fault benefits. The closer the "+" number is to zero, the closer the State involved is to being in balance. The States which have a "-" mark in the right-hand column can be said to be "in balance."

All three of the States with verbal thresholds only, and three of the four States with high-dollar thresholds, are in "balance." Only one of the States without any threshold and only three of the eight States with low-dollar thresholds are in "balance."

Conversely, two of the three States without any threshold, five of the eight States with a low dollar threshold, and only one of the four States with a high dollar threshold is not in balance.

Appropriateness of the threshold is not, as the chart might suggest, the only factor that determines whether a no-fault system is in balance, but it may well be the single most important factor.

EXHIBIT J

page 2

BALANCE OR LACK OF BALANCE IN A NO-FAULT SYSTEM

State	Change in Personal Injury Insurance Costs From What Those Costs Would Have Been If No-Fault Had Not Been Law
Verbal Threshold Only	
Florida	-21%
Michigan	-17
New York	- 6
Dollar Threshold of $1,000 or More	
Hawaii	+37%
Minnesota	- 2
Kentucky	-29
North Dakota	-19
Dollar Threshold of Less than $1,000	
Pennsylvania (Repealed as of 10/1/84)	+53%
Colorado	+15
Georgia	+15
Kansas	- 9
Massachusetts	-33
Utah	-13
Connecticut	+14
New Jersey	+65
No-Threshold	
Oregon	- 8%
Delaware	+17
Maryland	+26

The following factors, in addition to the type and size of the threshold, may be important considerations in determining whether or not a particular system is in balance: (1) maximum level of PIP benefits; (2) controls on amount of PIP benefits that are to be paid to particular benefit suppliers - e.g., maximum medical fee schedules;[29] (3) whether it is up to a judge or to a jury to decide whether the threshold has been met;[30] (4) the extent to which accident victims in a State will be so satisfied with the amount of their PIP benefits that they will voluntarily

29/ By contrast with the PIP system, no controls are even possible in the BI liability system with respect to the reasonableness of costs. The jury makes an award and the accuracy of that award can not be attacked unless it is so extreme as to be shocking.

30/ There will probably be the time-consuming equivalent of a trial on the point, if it is a question of fact for the jury whether the threshold has been met. It is interesting to note that all of the States which have classified the question of whether a plaintiff has met the threshold as a question for a jury are States with no-fault laws that are out of balance or almost out of balance.

refrain from bringing a lawsuit in tort; and (5) controls on the amount of BI liability benefits that are to be paid to BI liability claimants - e.g., a maximum on the amount that can be paid for pain and suffering damages, permission for the factfinder to know about other benefit sources available to the claimant so that unknowing duplicate reimbursement for a particular loss can be avoided (i.e. repeal of the collateral source rule), requirement that PIP insurer be reimbursed for amount of PIP benefits paid by liability insurer, and conservative juries.

Whatever the reason (type and level of threshold, one or more of the foregoing factors, or some combination that might include other factors), there is no disputing the conclusion that some existing no-fault laws are "in balance" and some are "not in balance."

The data on the following pages make it abundantly clear that the characterization in the preceding chart to the effect that 10 no-fault States have systems that are in balance and that 8 no-fault States have systems that are not in balance cannot be faulted.

After presenting the basic payment data for all 50 of the States for both 1976 and 1983, the following pages set forth the relevant measures for the average no-fault State that is in balance and for the average no-fault States that is not in balance, so that the two may be compared. The amount paid out, per 100 insured cars, in the average in-balance and not-in-balance no-fault State is also compared with the payout in the average traditional State.

There are four relevant measures, with respect to each no-fault State: (a) the paid claim frequency rate for PIP (no-fault) claim payments (no. of PIP claims paid per 100 insured cars); (b) the size of the average total PIP payment made to each claimant paid; (c) the paid claim frequency rate for BI liability claims (no. of BI claims paid per 100 insured cars); and (d) the size of the average BI liability payment made to each claimant paid. Only two of these measures (BI paid claim frequency rate and size of average BI liability payment) are relevant with respect to each traditional State.

The following chart sets forth all of these measures for all jurisdictions for both 1976 and 1983.

On the chart, the letters "NL" mean the State involved was a no-lawsuit no-fault State during 1983, the letters "AO" mean the State involved was an add-on no-fault State during 1983, and the letter "T" means the jurisdiction involved was a traditional auto insurance State during all or most of 1983.

The data in the chart are from ISO/NAII's Fast Track data system for the years involved.

The average of each measure has been calculated for each of the 10 no-fault States that have been determined in the preceding chart to be "in balance" (Florida, Kansas, Kentucky, Massachusetts, Michigan, Minnesota, New York, North Dakota, Oregon, and Utah) and for each of the 8 no-fault States determined to be "not in balance" (Colorado, Connecticut, Delaware, Georgia, Hawaii, Maryland, New Jersey, and Pennsylvania).

EXHIBIT K

NEW JERSEY DEPARTMENT OF INSURANCE
PRIVATE PASSENGER AUTOMOBILE
APRIL 27, 1988

Acc. Year	Total Earned Exposures	Earned Exposures Vol.	%	Earned Exposures AR	%
1967	2,144,604	2,006,061	93.5%	138,543	6.5%
1968	2,199,964	2,057,960	93.5%	142,004	6.5%
1969	2,321,101	2,151,858	92.7%	169,243	7.3%
1970	2,471,114	2,253,917	91.2%	217,197	8.8%
1971	2,546,168	2,267,933	89.1%	278,235	10.9%
1972	n/a	n/a		n/a	
1973	2,786,836	2,404,698	86.3%	382,138	13.7%
1974	3,161,823	2,823,212	89.3%	338,611	10.7%
1975	3,172,628	2,814,214	88.7%	358,414	11.3%
1976	3,179,461	2,701,235	85.0%	478,226	15.0%
1977	3,391,897	2,661,365	78.5%	730,532	21.5%
1978	3,437,768	2,499,331	72.7%	938,437	27.3%
1979	3,503,929	2,409,827	68.8%	1,094,102	31.2%
1980	3,454,975	2,263,793	65.5%	1,191,182	34.5%
1981	3,649,206	2,362,596	64.7%	1,286,610	35.3%
1982	3,621,726	2,250,355	62.1%	1,371,371	37.9%
1983	3,668,879	2,237,431	61.0%	1,431,448	39.0%
1984	3,630,838	2,124,787	58.5%	1,506,051	41.5%
1985	3,804,326	2,133,867	56.1%	1,670,459	43.9%
1986	3,918,898	2,098,393	53.5%	1,820,505	46.5%

Source: Compilations of experience ISO & NAII
DOI worksheets (67-71 & 78-81)

Note: ISO 1986 exposures preliminary
ISO 1985 vol. Prudential exposures taken from company controls
ISO 1973 exposures per phone call from Ken Potavin
NAII 1986 vol. Prudential exposures estimated

EXHIBIT L

INSURANCE SERVICES OFFICE RATES

100.00 EQUALS 1973 RATE LEVEL

YEAR	CHANGE	RATE LEVEL
1973		100.00
1974	+3.3%	103.30
1975	+18.3%	122.20
1976	+20.3%	147.01
1977	+14.4%	168.18
1978	+11.1%	186.85
1979	+11.9%	209.08
1980	+11.7%	233.55
1981	+12.6%	262.97
1982	+15.0%	302.42
1983 (Jan)	+7.0%	323.59
1983 (June)	+5.4%	341.06
1984	-0-	341.06
1985	-0-	341.06
1986	-0-	341.06
1987	-0-	341.06

* In September 1987, ISO was granted several rule changes which provided 3.4% more premium, but basic rates were not changed.

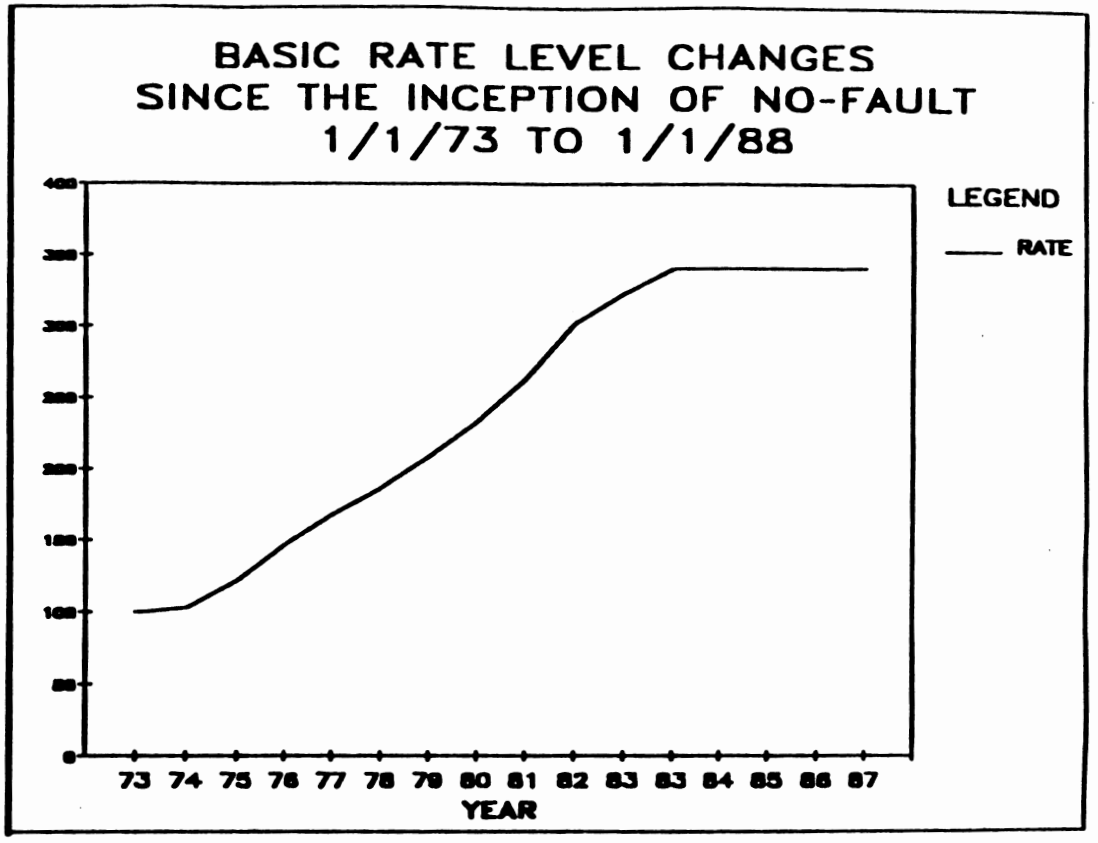

EXHIBIT M

page 1

Differences Between Rates of the
Insurance Services Office
and the
New Jersey Automobile Insurance Plan

Prior to January 1, 1984, the market for those individuals that could not obtain automobile insurance was called the New Jersey Automobile Insurance Plan.

This market had been in existence since the 1940's. Starting in the early 1970's the rates for this market were established so that clean risks would pay similar rates to the largest voluntary market for the liability coverages.

Some differences existed for the physical damage rates. In the New Jersey Automobile Insurance Plan clean risks were classified as Supplement 2 risks. The base rates (those rates that apply for an adult operator that doesn't use their car in commuting to and from work), were established at the same base rates as approved for the Insurance Services Office.

The New Jersey Automobile Insurance Plan had another supplement called Supplement 1 that applied to surcharged risks and those risks that did not qualify as a "clean risk." The liability rates for Supplement 1 were established at 10 percent above the Supplement 2 liability rates.

In addition to the differences in base rates there were also class differences between the New Jersey Automobile Insurance Plan and the Insurance Services Office. The New Jersey Automobile Insurance Plan had a class plan where different class relativities applied for the liability coverages, comprehensive, and then collision. This class plan was based upon the predecessor to the ISO class plan.

The table below shows that the differences by coverage range from 2.8 percent for liability to +34.7 percent for collision coverage for those risks rated under Supplement 2, the supplement for clean risks. The Supplement 1 or surcharged risks had rate differences ranging from +13.1 percent for liability to +83.2 percent for collision.

Rate Differences Between
Insurance Services Office
and
New Jersey Automobile Insurance Plan

	Clean Risks	Surcharged Risks
	Percent Difference	Percent Difference
Liability	+ 2.8	+ 13.1
Collision	+34.7	+ 83.2
Comprehensive	+ 8.1	+ 17.7

Note: Differences include effect of class plans and base rates. Surcharge differences are excluded.

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page 2

Surcharge System
under
New Jersey Automobile Insurance Plan

Under the New Jersey Automobile Insurance Plan a different surcharge system operated in the voluntary market.

The biggest difference in the surcharge systems dealt with convictions for traffic violations. While in the voluntary market surcharges were not applied for traffic convictions unless they led to suspension of a license; in the Automobile Insurance Plan surcharges applied for accumulation of points under a motor vehicle record as well as numerous other violations.

Surcharges applied for 11 specific driving behaviors including:

1. Driving under the influence of intoxicating liquor or narcotic drugs.
2. Failing to stop and report when involved in an accident.
3. Assault or homicide arising out of the operation of a motor vehicle.
4. Operating a motor vehicle without an operator or chauffeur's license, or operating a motor vehicle without a registration.
5. Permitting an unlicensed person to drive.
6. Loaning an operator's license to an unlicensed operator.
7. Obtaining a license or registration through deception of any kind.
8. Reckless driving.
9. Accumulating 6 or more motor vehicle points under New Jersey motor vehicle laws within a 36 month period.
10. A cumulation of 12 or more motor vehicle points as defined by New Jersey motor vehicle law within a 36 month period.
11. Driving a motor vehicle while being impaired by intoxicating liquors or narcotic drugs.

In addition to the list above, a surcharge is also applied for:

1. Individuals who are convicted resulting in the requirement of filing evidence of financial responsibility.
2. Conviction for any moving traffic violation which resulted in the operators license being suspended.

The rating system of the Automobile Insurance Plan also produced higher surcharges. When examined on the basis of their earned premiums, the surcharges amounted to 37.6% of the liability premiums excluding surcharges and 18.8% of the physical damage earned premiums excluding surcharges, for those insureds in the surcharged supplement (Supplement 1).

EXHIBIT N

page 1

STATE OF NEW JERSEY — OFFICIAL NEWS RELEASE

DEPARTMENT OF INSURANCE

Phone: Trenton (609) 292 5363

JAMES J. SHEERAN Commissioner For information contact: Thomas J. Hooper 292-6499

FOR RELEASE November 12, 1980

TRENTON - State Insurance Commissioner James J. Sheeran announced today that an increase of ~~11.6~~ 11.8 per cent in the total auto insurance premium paid by New Jersey drivers, now $1.3 billion a year, is required to offset mounting losses and to assure the continuing availability of coverage.

However, the commissioner added, instead of a percentage increase, which would impose disproportionate burdens among policyholders, he has approved an increase to be distributed across the board as a flat additional charge per car.

The additional charge will be $30 per car for those with the minimum liability coverage plus another $4 for those with comprehensive coverage and $8 for those with collision coverage, making the total $42 for cars with full coverage. The charge will be slightly higher for cars with increased limits of liability.

The charge is made necessary, Sheeran said, by a continuing pattern of increasing losses in the New Jersey Automobile Insurance Plan, which is the assigned risk mechanism for the state. The charge

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will apply to all cars, including those in the voluntary market and those in the assigned risk. It is expected to generate an additional $149 million in premium per year, which is 11.6 per cent of the total premium now paid by New Jersey motorists.

Although the assigned risk mechanism was originally intended for drivers with poor records on the road and those with a high risk potential, the NJAIP has grown to a record number of about 1.2 million drivers, more than one out of every four drivers in the state. Of these, about 800,000 have good records and, under ordinary market conditions, would obtain their insurance directly from the companies without having to go through the NJAIP.

However, for the last several years, the companies have been restricting their voluntary writings to the point where the voluntary market has virtually dried up. The companies' refusal to take on new business voluntarily is an expression of their dissatisfaction with the state's tight control of the rates, which they have long regarded as inadequate.

Because there are good drivers in the plan, the NJAIP is not permitted its own rating system for the mandated liability coverages. Instead, it is

required to use the rates approved for the Insurance Services Office, a rating bureau for about 200 companies. However, drivers with records of chargeable accidents and motor vehicle violations are heavily surcharged.

Despite the state's policy on NJAIP rates, the plan has regularly asked for approval of its own rating system, its most recent application requesting a rate increase of 78.5 per cent.

"It would not be fair," Sheeran said, "to approve a separate rating system for the NJAIP and put a great part of the burden of assigned risk losses on good drivers in the plan, who shouldn't be in the plan at all.

"These losses must be spread among all the drivers in the State, voluntary and assigned."

Sheeran also pointed out that an unrelenting inflation in the costs of the things auto insurance pays for---doctor and hospital bills and auto repair and replacement---have created a steady upward pressure on the rates.

Substantive relief from the effects of an unsettled market and soaring rates must await action on the legislative reforms proposed by the adminstration, Sheeran said.

The additional charge will be effective November 18 for all new policies and January 1, 1981 for renewal policies.

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STATE OF NEW JERSEY — OFFICIAL NEWS RELEASE

DEPARTMENT OF INSURANCE
Joseph F. Murphy, Commissioner
Phone: Trenton (609) 292-6499
For information contact: Thomas J. Hooper

FOR RELEASE IMMEDIATE - April 4, 1983

TRENTON - The failure of the Legislature to enact pending auto insurance cost containment measures has made it necessary to accept the recommendation of an administrative law judge that an additional charge be added to the insurance premium of every insured car to meet mounting losses, State Insurance Commissioner Joseph F. Murphy said today.

However, instead of the $44 to $58 per car charge recommended by Administrative Law Judge Diana C. Sukovich after an extended public hearing, Murphy said he would approve only a charge of $19 per car for those carrying the mandated liability and uninsured motorist coverages and an additional $14 for those cars with comprehensive and collision coverages, a total of $33 for those with full coverage.

He added the new charge would be effective June 1 and suggested that prompt legislative action on cost control could lead to a reduction or elimination of the charge.

He said that any cost savings likely to result from enactment of cost control legislation could be quickly calculated in accordance with standard procedures and used to offset the additional charge per car in whole or in part.

At the same time, Murphy also announced his approval of a 15 per cent increase for State Farm Mutual Automobile Insurance Company, the state's second largest auto insurance carrier. It is the first increase for State Farm since August 14, 1981.

Murphy noted that the constantly increasing cost of auto insurance in New Jersey, whose motorists now pay the highest average rates in the country, is a result of New Jersey's overly generous No-Fault law. He said the only way the rates can be brought down is to stem the outflow of insurance payments, particularly in cases where injuries are minor,and through placing a ceiling on medical payments and rooting out fraud.

These goals can be reached, he added, by enactment of the two pending bills, A-1747, which would increase the No-Fault threshold to $1,500 and establish a schedule of maximum medical benefit payments, and A-1719, which would empower the Department of Insurance to investigate cases of suspected fraud, which is estimated to siphon off as much as 15 per cent of the insurance dollar.

"It is not unreasonable to conclude that the passage of such legislation would produce substantial savings in our reparations system," Murphy said.

The use of a flat additional charge per car, which is referred to as a policy constant,was introduced in November, 1980 as a means of offsetting losses in the New Jersey Automobile Insurance Plan (Assigned Risk). It was set then at $30 for the liability coverages and $12 for comprehensive and collision coverages, a total of $42.

The additional charge approved today will be added to the existing policy constant, which will now range from $49 for the liability coverages to $75 per car for full coverage. It is charged to all cars, both voluntary and assigned risk.

Under traditional practice in New Jersey, the Assigned Risk Plan is not permitted its own rating system. Instead, it must use for the liability coverages the rates approved for the state's major rating bureau, the Insurance Services Office, but it is permitted to impose heavy surcharges for motor vehicle violations.

The recommendation for an increase in the policy constant was made by ALJ Sukovich after an extended hearing last year on a petition by the Assigned Risk Plan and State Farm, which sought a determination that the Plan was entitled to a rating system based on its own experience.

The administrative law judge rejected the contention but agreed that the continuing losses in the Assigned Risk Plan required an increase in the policy constant.

Murphy said that he was able to reduce the recommended $58 charge to a range of $19 to $33 by applying as an offset the seven per cent increase approved for most of the companies last January 10 and also taking into account the effect of combining both assigned risk and voluntary experience in determining voluntary rates.

The new charge will yield about an additional $110 million in premium on a yearly basis.

The State Farm increase will yield an additional $17 million in annual premium. State Farm insures about 10 per cent of the voluntary market, or 260,000 cars.

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STATE OF NEW JERSEY

DEPARTMENT OF INSURANCE

Joseph F. Murphy, Commissioner

OFFICIAL NEWS RELEASE

Phone: Trenton (609) 292-6499

For Information Contact: Thomas J. Hooper

FOR RELEASE ..... December 16, 1983

TRENTON - State Insurance Commissioner Joseph F. Murphy today rescinded his conditional approval of a restructured rating system for auto insurance that was to take effect January 1, 1984, and ordered the companies to make new filings that would identify and treat separately the "policy constant," or surcharge, of $44 for the liability coverages and an additional $26 for collision and comprehensive coverages, a total of $70. He emphasized, at the same time, that this action does not affect the overall state rate level.

Murphy said that the policy constant, which was introduced in 1980 to help offset losses in the residual market (assigned risks), was blended into the rating system in the rate filings made by the Insurance Services Office, a rating bureau for most of the companies doing business in New Jersey, and the independent companies. The blending resulted in a distribution of the policy constant by territory and classification, which means that some insureds would pay more than the maximum $70 and others less, since rates vary by territory and classification (age, sex, marital status, etc.)

Murphy's order to the companies directs that policyholders who have already been billed for policies renewing after January 1 shall be notified that the premium quoted is an estimated premium only, subject to credit or debit adjustments after the new rate filings have been approved.

The restructuring of the rating system was mandated by the provisions of Assembly Bill 1696, a comprehensive reform measure that, among other provisions, provides for the replacement of the current assigned risk system by a new mechanism known as the New Jersey Automobile Full Insurance Underwriting Association. A-1696 also mandates a "capping" procedure, which narrows the difference between the highest-rated and the lowest-rated drivers, and an expense flattening procedure. The rating system has to be

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restructured to reflect these provisions of A-1696, which, in its original form, did not specifically address how the constant was to be treated in making these changes.

After giving his qualified approval of the restructured rating system last month, Murphy received an application by the Underwriting Association for an additional per car surcharge or Residual Market Equalization Charge (RMEC) of $66 for the liability coverages and $12 each for collision and comprehensive, a total of $90. Murphy sent the application for the additional surcharge to the Office of Administrative Law for a public hearing before an administrative law judge. One of the matters to be considered by the law judge will be the propriety of allowing the insurers to collect and retain the existing policy constant on voluntary market policies.

The $90 RMEC and the $70 policy constant are also the subject of legislation which has just passed the Legislature and has been sent to the Governor. It precludes the companies from collecting any RMEC during 1984 and mandates that the policy constants collected in the voluntary market be given to the Underwriting Association to help offset anticipated losses.

Murphy's action in removing the policy constant from the classification and territory system will make it easier to implement any recommendation made by an Administrative Law Judge or law enacted by the Legislature.

# # #

EXHIBIT O
page 1

Summary of Private Passenger Automobile
Classification Hearing

In 1978 Commissioner James J. Sheeran gave notice to private passenger automobile insurers that a hearing would be held to inquire into the accuracy and validity of methodologies used by companies in calculating private passenger automobile rates. This inquiry included investigations of:

1. Rating factors based on age, sex, marital status, and place of residence of the insured.

2. Methods of combining such factors and the computation of final rates.

3. Rating factors reflecting the driving record and experience of the insured.

4. Procedures governing the distribution of company overhead and other expenses among policyholders.

5. Computation of rates for senior citizens.

6. Computation of rates for commuters relying exclusively on admitted driving distance to work.

7. Physical damage classifications based on market value of the insured automobile without reference to its damage ability or repairability.

8. Methods of sharing the residual market costs.

As a result of this inquiry, conferences were held on December 1. 8, and 15 of 1978, to prepare for formal hearings which began on January 24, 1979. The final day of testimony occurred almost one year later on December 20, 1979.

This hearing produced thousands of pages of transcript and documentary exhibits produced by 60 different witnesses. It took the Department staff thousands of hours to review and analyze the material resulting in a final report in April 1981. This remains the most exhaustive analysis of this issue done to date.

This report highlighted the fact that insurance rates for an identical car ranged from $2,500 to $258 for insurance for the same vehicle. The differences in rates were due solely to the different territory and age, sex, and marital status of the insured. Both risks had an identical clean driving record. The rating system created 234,360 different rates for identical coverage.

The report concluded that there would be advantages to a classification system that grouped and rated drivers primarily on the basis of how well, how much, and where they drove. This means there should be incentives to avoid claim costs and to improve one's own relative rate by taking driver training courses, driving less, obeying traffic laws, and avoiding accident involvements. It was concluded that the rating systems did not work this way. While the systems in use had surcharges for driving inexperience and accident involvement and they had discounts for driving training courses, few rating systems used annual mileage as a criteria and most of them did not include motor vehicle convictions.

Insurers defended the relative pricing techniques as rationale in scientific means of predicting the expected claims of every group of policyholders. However, limited evidence on the origins of the classification system suggested that the purpose was less to provide predictive accuracy than to provide a shortcut for identifying and

competing for the business of a most favored group of policyholders. One of the conclusions is that companies competed for the business by trying to identify and attracting preferred risk customers rather than on the basis of their own operating efficiencies and overhead costs. The efforts of insurance companies to become more selective and refined only began after World War II. Many insurance companies during this period of time responded to competition from independent insurers with direct marketing methods and lower expenses. There is no evidence on how the demographic variables of age, sex, and marital status were chosen to identify the range of differences in risks. It was concluded that the choices among alternatives were matters of judgment.

Insurers justified these pricing systems on the basis of their performance. It was concluded that some classification variables are irremediably defective while others should be modified to insure fair and more accurate pricing. It was also concluded that there was need to reform the pricing methodologies used to combine information from many classification variables into final expected claim payments and company expense elements for different policyholders. The report highlighted how the youthful population is divided and subdivided into more than 90 percent of all class and territory combinations while they only represent 20 percent of the market. It pointed out that the class experience for many of these small classes fluctuates widely over different review period while experience for large classifications, such as adult operators show much smaller fluctuations.

The report explained that a large number of the New Jersey territories do not operate as separate self-contained driving environments because in the insurance system accidents are assigned to the territory of

where a car is garaged. In 7 out of New Jersey's 27 territories, drivers were involved in more accidents outside their home territory than within it. In 15 of the 27 territories less than half of the drivers involved in accidents were home territory drivers. Using 1970 census data it shows that a journey to work patterns indicated that in 17 of 27 territories more than half of the drivers traveled to work beyond the territorial boundaries.

This report pointed out better ways to classify multi-car discounts, suggested the use of mileage and pointed out inconsistent rules of the then present merit rating plans operated by some insurers.

This report also dealt with the issue of expenses. It pointed out that expenses were paid roughly as a percentage of premium which meant that the expense amounts paid by different policyholders varied dramatically. It pointed out that a 1978 task force of the National Association of Insurance Commissioners concluded that expenses should not be presumed to vary with class or territorial relativities based on losses and recommended that expense categories be reviewed individually by regulators to determine which varied with claims and which are incurred independently of claim costs. For many categories of insurer expenses the hearings failed to document that different policyholders generate different levels of expenses in direct portion to their losses.

The report also concluded that since the rate classification involves many tradeoffs between equity for groups and equity for individuals that rate relativity should be tempered, which means reduced to minimize overcharges to individuals.

The final result of this hearing was the Commissioner's order prohibiting the use of age, sex, marital status, good student status,

principal or occasional operator distinctions, it ordered that geographical classification shall be redrawn to reflect common rationale supported by imperical proofs relating to traffic patterns, driving environments for territory residents, and avoid abrupt rate differences between contiguous areas. It ordered the immediate implementation of data collection procedures incorporating voluntary and secondary market experience and required that all filings in support of classification and territorial differentials had to be supported by statewide data on losses, claims, and exposure counts. It further ordered that a proportion of producer commission had to be allocated evenly among policyholders, it terminated the application of inexperienced operator surcharges to drivers under 21 and found the proposed vehicle series making model year rating programs produced rates that were excessive and unfairly discriminatory.

EXHIBIT P
page 1

Conclusion: Premium differences among states can be partially explained in a statistical sense by differences in traffic densities and nonfatal injury rates.

Table 10 also shows the pure loss ratios for the states included in the comparison. The pure loss ratio is the percentage of the total premium dollar that is paid out as losses. The national average pure loss ratio is 70.2, meaning that 70.2 percent of auto insurance premiums are used for loss payments nationwide. The other 29.8 percent goes for company operating expenses and profit. New Jersey's pure loss ratio is the highest in the nation, 86.5 percent.

Caution should be exercised in interpreting the pure loss ratio for New Jersey. The reason is that the ratio is largely based on the companies' estimates of losses that have not yet been paid. These estimates are often wrong, and some experts believe that the New Jersey estimates are too high. An adverse psychology has developed in the insurance business concerning the New Jersey auto insurance market, and the companies tend to react to any development concerning New Jersey with the utmost pessimism. In addition, some experts suspect that the companies are deliberately overreserving in New Jersey in order to provide support for their position on the auto insurance reform issue. Such an allegation is difficult to prove; indeed, it is difficult to prove that overreserving exists at all, given that loss payments for any year's coverage stretch out over a five to seven-year period.

Evidence that became available in connection with the recent State Farm Mutual rate filing showed clearly that this particular company had consistently overestimated losses at first report (i.e., soon after the end of any given year) for the five years 1975 through 1979. These results are shown in Table 11, which presents the ratios of loss estimates as of

EXHIBIT P

page 2

Table 11

State Farm Mutual
Ratios of Initial (12 Months)
Estimated Incurred Losses to June 30, 1982 Estimate

Year	Bodily Injury Liability	Property Damage Liability	Personal Injury Protection	Comprehensive	Collision
1975	.865	.899	.813	1.057	1.174
1976	1.032	1.049	.860	1.056	1.212
1977	1.293	1.100	.925	1.000	1.188
1978	1.197	1.032	1.108	1.072	1.209
1979	1.106	1.026	.862	1.088	1.228
Average	1.099	1.021	.914	1.055	1.202

the first report to the estimates as of June 30, 1982 for each of the years 1975-1979. For example, the bodily injury liability ratio for 1979 is 1.106. This means that the company's initial estimate of its 1979 losses, which would have been reported early in 1980, was 10.6 percent higher than its estimate of 1979 losses as of June 30, 1982. Thus, the company had revised its estimate of that year's losses downward in the years following the first report. The more recent estimate can be considered more accurate because more of the 1979 claims had been paid by June 30, 1982 than in early 1980.

On the average, State Farm overestimated losses on its New Jersey business for four of the five principal auto insurance coverages during the period 1975-1979. Bodily injury liability was overestimated 9.9 percent, property damage liability by 2.1 percent, comprehensive by 5.5 percent, and collision by 20.2 percent. Personal injury protection was underestimated by about 9 percent. A weighted average indicates that incurred losses were overestimated by about 8 percent overall for the five-year period as a whole. This would have made the company's reported loss ratios too high during that period. For example, if the reported loss ratio had been .80, the actual ratio would have been .74. (It is not correct just to deduct 8 percent from the ratio; explanation available from the authors on request.) If overreserving is present throughout the industry, the 86.5 percent ratio reported by Best's clearly is higher than the actual ratio.

Conclusion: The pure loss ratio for auto insurance in New Jersey is quite high. However, the true ratio may be less if insurance companies tend to overestimate loss costs in New Jersey.

New Jersey also is alleged to be the least profitable (or most unprofitable) state in the nation in which to write auto insurance. A

recent issue of Best's Insurance Management Reports calculates the industry-wide losses of New Jersey auto insurers for 1981. Best's calculations are presented in table 12, along with revised calculations prepared by the authors of this report. Best's figures show auto insurers losing 19.8 percent of earned premiums on their New Jersey business. Our revised calculations show a much smaller loss, 5.6 percent.

There are four major differences why our calculations give a higher profit (lower loss) than Best's:

(1) Reported losses are artificially high due to inflated reserves. In the revised calculations, incurred losses have been reduced to correct for an assumed 8 percent overestimate, based on the State Farm data presented above.

(2) Company general expenses and other acquisition expenses are overstated relative to other states. The reason is that the use of Best's percentage expense charges for these items has the effect of overstating the expenses actually incurred on New Jersey auto business. Best's estimate of these expenses amounts to 11.8 percent of premiums, a figure that is equal to the national expense rate for these items for all stock and mutual companies. Thus, nationally, it costs companies 11.8 percent of the national average premium of $274.79 to administer one policy, i.e., $32.43 per policy. It should not cost much more than this to administer a policy for a New Jersey policyholder. New Jersey does have higher claims expenses but this is reflected in the loss component of the premium. No evidence exists that New Jersey policyholders cost the companies more in administrative expenses. Nevertheless, Best's calculations imply that the average New Jersey policy costs 11.8 percent of $411.90, or $48.60 to administer. Actually, the New Jersey expense ratio should be $32.43/411.90, or 7.9 percent. This is based on the assumption that it costs the same amount

EXHIBIT P
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Table 12

Estimation of Underwriting Profit or Loss on New Jersey Auto Insurance Business: 1981

	Best's Calculations $	Best's Calculations % (a)	Revised Estimates[c]	
Direct Earned Premiums	1,593,429	100.0	100.0	
Direct Incurred Loss	-1,378,599	86.5	80.1	
Incurred LAE	- 208,444	13.1	15.0[b]	(12.0)
Commission & Brokerage Expense	- 166,832	10.5	10.5	
Other Acquisition Expense	- 109,150	6.9	7.9	
General Expense	- 77,919	4.9		
Taxes, Licenses & Fees	- 42,545	2.7	2.7	
Underwriting Gain or Loss Before Invest. Inc. & Dividends to Policyholders	- 390,060	-24.5	-13.2	
Dividends to Policyholders	- 19,529	1.2	1.2	
Underwriting Gain or Loss Before Invest. Income	- 409,589	-25.7	-14.4	
Investment Income	+ 93,534	5.9	8.8	
Underwriting Gain or Loss After Invest. Inc.	- 316,055	-19.8	- 5.6	

Source: A.M. Best Co., Best's Insurance Management Reports (Oldwick, N.J., October 11, 1982).

[a] Percentage of direct premiums earned

[b] Percent of incurred losses = 12.0% of premiums.

[c] Calculated by the authors as part of the present study.

to administer a New Jersey policy as to administer a policy originating in any other state. Although this may not be precisely correct, it is closer to the truth than Best's assumption.

(3) The investment income allowance used by Best's is too conservative. Actually, investment income would amount to 8.8 percent of premiums, not 5.9 percent. The calculations leading to our figure are complicated and, therefore, are not included in this report. Details are, of course, available on request.

(4) Incurred loss adjustment expenses are misstated. They should be expressed as a percentage of incurred losses rather than premiums because loss adjustment expenses are attributable to the loss settlement function. Nationally, for all stock and mutual companies writing private passenger auto insurance in 1981, the ratio of incurred loss adjustment expenses to incurred losses was .15 (Best's Aggregates and Averages). This translates into 12 percent of earned premiums rather than the 13.1 percent used by Best's.

As mentioned above, our estimate shows that New Jersey auto insurers lost money at the rate of 5.6 percent of earned premiums in 1981. Since no allowance has been made for profit, the actual premium deficiency in 1981 would be greater than 5.6 percent. Thus, New Jersey policyholders would have to have paid more than $411.90 in order for auto insurers to earn a fair rate of return for risk bearing. This finding gives added emphasis to the need for auto insurance reform. However, because there have been substantial rate increases since 1981, it is not clear that the companies are losing money at present.

Conclusion: New Jersey auto insurance premiums in 1981 were too low to provide insurance companies a fair rate of return. However, the deficiency is much smaller than insurance industry sources suggest and substantial rate increases have been granted since 1981.

Exhibit Q

FREEDOM OF CHOICE AND COST CONTAINMENT ACT

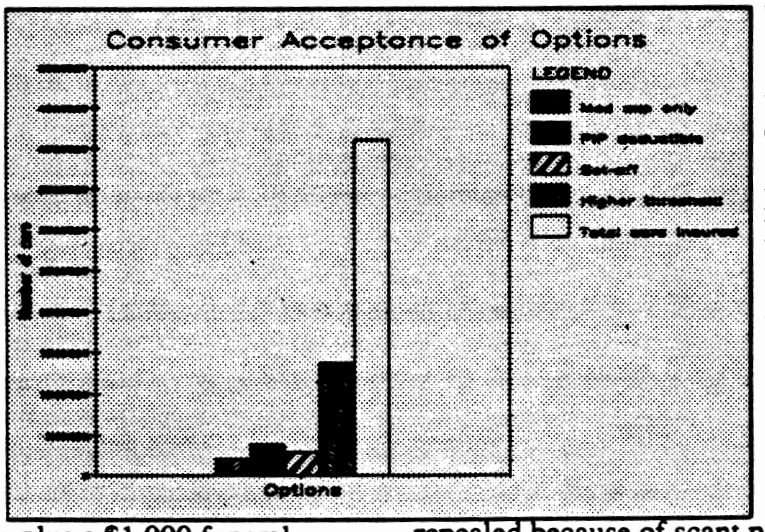
The optional cost-saving features became fully effective July 1, 1984.

Higher Tort Threshold

The motorist may limit his right to sue beyond the statutory $200 medical expense tort threshold. The higher threshold was originally $1,500 but is adjusted for inflation. According to data collected Jan. 31, 1988, 33.8 percent of all private passenger automobiles were so insured.

PIP Medical Expenses Only

The no-fault portion of auto insurance not only provides first-party medical coverage but also will reimburse $100 per week of lost wages and $12 per day of necessary personal services for a year, plus a $1,000 funeral expense. Under the optional coverage, only medical coverage is provided. According to data as of Jan. 31, 1988, 5.4 percent of all private passenger automobiles were so insured.



PIP Deductible

Motorists can stop paying for coverage for the first $500, $1,000 or $2,500 of medical expenses. Their health insurance carrier can be made responsible for that, within the limits of the health insurance company's own deductibles and copayments. This took effect early, on December 3, 1983. According to data as of Jan. 31, 1988, 9.8 percent of all private passenger automobiles were so insured.

Set-off Provision

For a lower premium, a motorist can promise that if he sues for "pain and suffering" and wins, he will reimburse his own company for PIP benefits - for the actual benefits paid or 20 percent of the court award, whichever is less. According to data as of Jan. 31, 1988, 7.3 percent of all private passenger automobiles were so insured.

Coinsurance

This option, later repealed because of scant public response, allowed motorists to make copayments on the comprehensive and collision claims. It was similar to the 20 percent copayment system which is standard for health insurance.

Higher Comp/Collision Deductibles

For the first time, companies were required to offer deductibles as high as $2,000.

EXHIBIT R

page 1

STATE OF NEW JERSEY

DEPARTMENT OF INSURANCE

Kenneth D. Merin, Acting Commissioner

OFFICIAL NEWS RELEASE

Phone: Trenton (609) 292-6499

FOR RELEASE April 26, 1984

TRENTON - The New Jersey Department of Insurance today released insurance rates which would allow more than 3 million New Jersey drivers to reduce their auto insurance premiums an average of $169 per car, or $253.50 per average policyholder.

The rates for new cost-saving options available as a result of recently enacted auto insurance reform legislation were filed by Insurance Services Office (ISO), an advisory rating organization representing more than 200 insurance companies serving more than 80 percent of the state's drivers, including drivers insured through the Joint Underwriting Association.

The new rates, if approved, would allow motorists to cut their premiums an average of about 25 percent, depending on which options they select as well as 234,360 possible combinations of rating factors, including the driver's age and sex, type of car and how it is used.

Acting Insurance Commissioner Kenneth D. Merin cautioned that it is difficult to analyze the average savings because of the many possible combinations of factors.

Coming up with averages is further complicated by the fact that savings will be based on which of three categories each policyholder falls into, Merin said.

Those categories are: (1) Drivers still paying last year's rates, when a greater variance between territories and classifications existed, (2) Drivers with policies entered into since January 1, after which the extent of the impact of the 234,360 possible combinations of factors was limited by law, and (3) Drivers covered by the Assigned Risk Plan whose policies have not yet been shifted to the new JUA.

A key cost savings feature in the reform package is the option to limit the right to sue for pain and suffering to those cases when medical bills exceed $1,500, rather than the current system in which drivers can sue after their medical bills reach $200.

Although the threshold option was expected to save New Jersey drivers an average of $50 when the reform package was enacted, the ISO rates show an average of $33 savings below current rates. The department is looking into the reason for this discrepancy, Merin said.

Threshold savings for the adult pleasure class of drivers range from a low of $24 (in the Trenton suburbs, Morristown and Sussex, Warren and Hunterdon Counties) to a high of $41 in Newark, Jersey City, Camden, Atlantic City and East Orange/Orange. The savings are the same percentage, with the difference in dollar amount reflecting the higher rates paid by urban drivers.

The savings for the threshold option are substantially higher for young male drivers, ranging from a low of $55 in the suburban and rural areas to a high of $98 for the urban areas.

"The complexity of the rating systems in use in New Jersey is evidenced by the fact that policyholders in Plainfield, an urban area, save less money than suburban residents of Monmouth, Ocean, Cape May, Northern Bergen and other less urban areas," Merin said.

In the ISO rates, senior citizens selecting the various options will receive less savings than other drivers within their territories. For instance, in southern Bergen County, a typical adult driver will save $164 for choosing the various options, while a senior citizen in that county will save $138.

However, senior citizens across the state traditionally receive the benefit of lower rates, Merin said. A 15 percent reduction in senior citizen rates, which has been in effect since the mid-1960s, was supplemented last year by a further 5 percent reduction in a bill sponsored by Assemblyman Michael Adubato, D-Newark, and signed by Governor Thomas H. Kean in February of 1983.

Merin emphasized that senior citizen rates are far lower than other adult drivers.

The average savings of $169 per car is based on the assumption that the car being driven is a 1982 Chevy Citation, a typical car in use in New Jersey today. ISO has explained that the average policyholder will save $253.50 because the average policy covers 1.5 cars. The average savings also assume that the driver selects some, but not all, of the options made available in the auto insurance reform package.

EXHIBIT R
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Estimated New Jersey Average Savings *

Territory	BI/UM	PIP	Comp	Coll	PIP & Comp & Coll	BI/UM & PIP & Comp & Coll
Jersey City	44	47	31	83	161	205
Newark	43	52	31	83	176	219
Paterson	33	37	31	65	133	166
Elizabeth	33	41	26	59	126	159
Bayonne	36	41	35	80	156	192
Trenton	30	45	26	53	124	154
Camden	43	56	31	68	155	198
Perth Amboy	41	55	26	59	140	151
Northern Bergen County	31	45	28	69	142	173
Southern Bergen County	33	39	31	70	140	173
Haddonfield area	41	39	37	59	135	176
Eastern Camden County	44	55	37	64	156	200
Gloucester, Salem & Southern Burlington Counties	34	49	28	59	136	170
Trenton suburbs (Princeton)	26	36	23	57	116	142
Northern Monmouth County	37	49	26	65	140	177
Southern Monmouth County	36	39	26	62	127	163
Atlantic City	44	62	30	72	164	208
Irvington area	33	48	33	70	151	184
Harrison area	36	38	33	63	134	170
Livingston area	30	45	31	69	145	175
Morristown	27	43	28	59	130	157
Sussex, Warren & Hunterdon Counties	26	49	28	62	139	165
Cape May, Cumberland & Ocean Counties	32	48	26	57	131	163
Newark suburbs (Montclair)	34	43	31	67	141	175
East Orange/Orange	44	61	33	84	178	222
Plainfield	28	33	24	62	119	147
New Brunswick	34	43	24	61	128	162
Statewide	33	45	28	63	136	169

Typical savings are based on a 1982 Chevrolet Citation with the following coverages:

Current	Revised
15/30 BI & UM	15/30 BI & UM - $1,500 threshold
$5,000 property damage liability	$5,000 property damage liability
Full Personal Injury Protection	$2,500 deductible PIP, medical only, 20% set-off option
$ 50 deductible comprehensive	$250 deductible comprehensive
$200 deductible collision	$500 deductible collision

* No physical damage co-payment has been factored into these rates. A 20% co-payment on physical damage would save an average of $30, in addition to savings mentioned above.

EXHIBIT R
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Typical Savings Off of Capped Rates For Various Options Excluding the $1,500 Threshold Savings *

Territory	Adult Pleasure Use	Adult Work More/10	Adult Work Less/10	Young Male	Senior Citizen
Jersey City	160	204	176	328	125
Newark	179	225	196	353	140
Paterson	130	167	144	290	111
Elizabeth	122	155	135	241	103
Bayonne	150	194	166	314	117
Trenton	118	147	128	228	101
Camden	159	199	174	312	123
Perth Amboy	132	163	143	248	113
Northern Bergen County	129	162	142	255	110
Southern Bergen County	134	171	148	276	113
Haddonfield area	125	160	138	254	106
Eastern Camden County	151	189	165	293	119
Gloucester, Salem & Southern Burlington Counties	128	159	140	247	109
Trenton suburbs (Princeton)	107	136	118	214	92
Northern Monmouth County	131	163	144	254	112
Southern Monmouth County	118	150	130	236	101
Atlantic City	159	198	174	303	126
Irvington area	150	190	165	301	116
Harrison area	132	169	146	273	102
Livingston area	127	160	139	251	109
Morristown	119	149	131	233	101
Sussex, Warren & Hunterdon Counties	129	161	142	249	110
Cape May, Cumberland & Ocean Counties	125	155	137	239	107
Newark suburbs (Montclair)	129	164	142	258	108
East Orange/Orange	278	224	195	325	139
Plainfield	109	140	121	223	92
New Brunswick	120	151	131	235	102

Typical savings are based on a 1982 Chevrolet Citation with the following coverages:

Current	Revised
$5,000 property damage liability	$5,000 property damage liability
Full Personal Injury Protection	$2,500 deductible PIP, medical only, 20% set-off option
$ 50 deductible comprehensive	$250 deductible comprehensive
$200 deductible collision	$500 deductible collision
15/30 BI & UM	15/30 BI & UM - $1,500 threshold

* No physical damage co-payment has been factored into these rates. A 20% co-payment on physical damage would save an average of $30, in addition to savings mentioned above.

EXHIBIT R
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Typical Savings Between $1,500 Threshold and the $200 Threshold Off Capped Rates

Territory	Adult Pleasure Use	Adult Work More/10	Adult Work Less/10	Young Male	Senior Citizen
Jersey City	41	56	47	98	32
Newark	41	56	47	98	32
Paterson	30	41	34	71	26
Elizabeth	31	43	35	73	26
Bayonne	33	45	38	78	26
Trenton	27	32	30	63	23
Camden	41	56	47	98	32
Perth Amboy	36	49	41	86	31
Northern Bergen County	28	38	32	65	23
Southern Bergen County	30	41	34	71	25
Haddonfield area	37	50	42	88	31
Eastern Camden County	40	54	46	95	31
Gloucester, Salem & Southern Burlington Counties	31	42	35	73	27
Trenton suburbs (Princeton)	24	32	27	55	20
Northern Monmouth County	34	46	38	81	28
Southern Monmouth County	33	45	37	78	28
Atlantic City	41	56	47	98	32
Irvington area	31	43	35	73	24
Harrison area	33	45	37	78	26
Livingston area	27	36	31	63	23
Morristown	24	33	27	55	20
Sussex, Warren & Hunterdon Counties	24	32	27	55	20
Cape May, Cumberland & Ocean Counties	24	39	32	55	20
Newark suburbs (Montclair)	29	43	35	68	24
East Orange/Orange	31	56	47	73	26
Plainfield	41	35	29	98	32
New Brunswick	26	42	35	60	22

Typical savings are based on the following coverages:

$15,000/$30,000 bodily injury liability
$15,000/$30,000/$5,000 uninsured motorist

HISTORICAL PERSPECTIVE

New Jersey Excess Profits Law

New Jersey historically has been a leader in tight state regulation of automobile insurance rates, and specifically in including investment income as part of the revenue base in determining fair and adequate rates.

The effort goes back to 1967, when the major private organizations which represented auto insurers in rate filings sought a rate increase which was denied by the then-commissioner of banking and insurance. The case dragged on for several years, resulting in the 1972 implementation of what is now known as the Clifford Formula.

Robert L. Clifford, then commissioner of insurance and now an associate justice of the New Jersey Supreme Court, rejected the industry's contention that property/casualty insurance is a high-risk venture which demands higher returns to investors than most businesses.

Clifford also rejected the notion that auto insurance companies must make a profit directly from underwriting (which is the sale of insurance policies and the settlement of claims). Profits from investments of policyholder assets should offset the need for underwriting profit, Clifford said.

For nearly 50 years, New Jersey and many other states had set auto insurance premiums at 5% more than what the companies expected to pay out for losses, commissions, the state premium tax and other expenses. This 5% was for underwriting profit or "contingencies" such as unanticipated expenses or catastrophic losses.

Clifford found no financial, economic or statistical basis for the 5% factor. The figure was the result of negotiations between insurers and regulators in the 1920s. He said the 5% underwriting factor had not been translated into a meaningful number for comparing the insurance industry's profitability with that of another industry with similar risk. The usual yardstick for such a comparison is rate of return on equity or net worth.

Clifford compared the rate of return on equity or net worth of similar industries, and he ruled that the insurance industry could achieve an appropriate return if it used a projected after-tax operating gain (including both underwriting profit and investment income) of 3.5% of total annual premium.

Although a 5% underwriting profit previously was allowed, that was <u>in addition</u> to investment income. Clifford's crucial decision was to base an automobile insurer's underwriting profit on the degree of risk assumed and to reduce that underwriting profit by whatever money is earned through the investment of policyholder-supplied premium dollars and loss reserves.

It was the first time that investment earnings became part of New Jersey's rate-setting system, and it was the first time that an insurer's profit was based upon a measurable standard dependent upon the degree of risk assumed. Previously companies sought rates that would project a 5% underwriting profit in addition to investment earnings. Clifford permitted rates that would project a 3.5% after-tax profit including certain investment earnings.

New Jersey made another bold step in controlling auto insurance premiums in 1983 by the enactment of the "excess profits" law, which sets a statutory limit on how much profit each insurance company may keep. Previous efforts to control rates had focused only on anticipated profit. This law requires a review of past performance to assure that companies don't earn significantly more profit than anticipated under the rates.

Under the Clifford Formula, if a company performed better than expected, it could keep any additional profits. But the excess profits law sets a limit on the additional profits a company can retain. Those additional profits may be no more than 5% of the company's total annual premium income. Any profits beyond that limit must be returned to policyholders.

The Clifford Formula

The 1972 decision by Commissioner Clifford was a landmark for ratemaking in New Jersey.

Auto insurers had gone to court trying to reverse a decision denying them a rate increase. Not only did the insurance companies lose their case, but they prompted a permanent change in the way rates are set.

The New Jersey Supreme Court said that traditional presumptions used by insurance companies in proposing rates were not particularly relevant to setting adequate rates or determining a fair profit. The court asked Clifford to examine the issue thoroughly, and Clifford subsequently made the state's first formal conclusion that investment income should be considered when rates are set.

Prior to that time, the state allowed companies to set rates at a level so that their expected losses and expenses comprised 95% of premium, leaving 5% for underwriting profit and contingencies. Investment income earned on policyholder assets was not an explicit factor in ratemaking.

When Clifford held hearings, auto insurance companies (represented by the Insurance Rating Bureau, predecessor of the current Insurance Services Office) argued that 5% underwriting profit wasn't nearly enough. The IRB sought 9%, which it alleged would produce 4.7% after federal income tax. An

additional 7% after-tax profit was coming from investments, the IRB said. The requested underwriting profit plus the investment income would produce a nearly 12% of annual premium profit after taxes.

The IRB argued that companies need such a high profit margin to attract stockholders, because investors consider the property/casualty insurance business to be risky.

Clifford turned this argument upside down, saying that an examination of insurance industry revenues indicated that the "risky" part of a property/casualty insurance company's operation was its investment portfolio, not its underwriting function. Investment revenues fluctuated from year to year because of stock market trends, he found, but underwriting was a fairly consistent operation, thanks to close state regulation of rates.

So Clifford instituted a system which considers both underwriting profit and certain investment income in setting automobile insurance rates.

Clifford determined that:

1) **It is fair for insurance companies to make an underwriting profit, as compensation for being required to keep a substantial surplus available for extraordinary losses.**

Companies usually pay claims with money from premiums. But in case claims are unexpectedly high, companies also

maintain a surplus. These assets are built up with the profits earned by the companies over many years.

At the time of the Clifford decision, most companies had been maintaining a surplus roughly equal to their annual earned premium income. Clifford said this was twice as much as necessary to assure payment of claims. The underwriting profit should compensate companies for the risk exposure mainly to the necessary part of the surplus, Clifford said.

For the necessary part of surplus, Clifford said a fair return after federal taxes was 6%. For the unnecessary part, Clifford allowed only 1%. The average is 3.5% after taxes (assuming a 50% federal income tax).

Therefore, the Clifford Formula allows a projected 3.5% after-tax operating gain, including underwriting profit and investment income, for companies which maintain a surplus equal to annual premium. Companies with a smaller surplus compared to premium could anticipate a larger underwriting gain in relation to surplus.

2) When the companies use policyholder-supplied funds for investment, the policyholders deserve to receive the benefits through lower premiums.

Policyholder-supplied funds are the premiums which companies have received but which have not yet been used to pay claims and expenses. Until that last dollar is paid out, the company is earning income on that money through investments that provide dividends, rents or other recurring revenue.

Such investment income should be taken into account in setting automobile insurance rates, Clifford said. Therefore, the Clifford Formula sets the auto insurance profit margin at a figure determined by subtracting this anticipated investment income (after taxes) from 3.5%, and adjusting the remainder to a pre-tax basis.

The result is a projected underwriting loss for liability coverages. Companies receive fewer premium dollars than they expect to pay in claims and expenses. For instance, companies using rates filed by the Insurance Services Office have a minus 3% pre-tax profit margin in their liability rates. That's because premiums are prepaid for the term of the policy while liability claims, if they arise, typically are not settled for more than a year and often several years. Hence insurance companies have plenty of time to reap investment income from unearned premium and loss reserves. This income is plowed back into the rate structure to benefit the policyholders.

The impact of investment income is not dramatic with collision and comprehensive rates, because those claims are paid quickly. ISO rates allow a 4.4% pre-tax underwriting profit on collision and comprehensive.

3) When companies assume a financial risk, they deserve to reap the benefits.

Clifford said companies are entitled to keep all the proceeds from investing the company's funds, such as stockholder-provided money or profit earned in previous years.

In addition, a company bears the risk of capital gains and losses from the use of both its own and policyholder-supplied funds. Hence capital gains, Clifford said, are proper for a company to keep regardless of the source of funds because the company, not its policyholders, would suffer if the investment resulted in a capital loss.

The Department of Insurance believes this viewpoint merits reexamination at this time.

THE EXCESS PROFITS LAW

In 1983, the Legislature and Governor Thomas H. Kean enacted a law which provides another safeguard against an automobile insurance company's reaping unreasonable profits through high premiums or unusually good investments.

The "excess profits" law requires auto insurers to report their premium, loss and expense experience each July 1 using clusters of data from the previous three calendar years. An average is computed from each three-year cluster. The clustering method reduces the impact of year-by-year fluctuations in losses and profits.

After the law was passed, the companies reported data for the 1981-83 cluster and then for 1982-84. But the first cluster upon which excess profits had to be refunded was 1983-85.

The law implicitly recognizes that a company anticipates earning a certain amount of income from the investment of policyholder funds through interest, dividends or rents. That anticipated investment income is computed into the rates under the Clifford Formula.

If the company earns more from underwriting and the investment of policyholder funds than provided in the profit margin calculated under the Clifford Formula, it can keep the money -- up to a point.

When that extra income is worth more than 5% of the annual earned premium, the amount beyond 5% is declared an "excess profit."

By law, all excess profits must be returned to policyholders. The insurance commissioner has authority to approve the method of returning the money to consumers.

On September 8, 1988, the law was strengthened substantially under a bill sponsored by Senate President John F. Russo and signed by Governor Thomas H. Kean.

Under the amended law, an excess profit will be declared when a company's extra income exceeds 2.5% of annual earned premium. This will return more money to policyholders than the previous 5% standard.

Also, the amended law requires any insurance holding company to provide a breakdown of data for each of its member companies, and it authorizes the Commissioner of Insurance to order excess profit refunds based on either the holding company's overall profit picture or the profits recorded by each member. The Commissioner can use his discretion after examining whether one or more member companies are subsidizing other companies in the holding company system.

NJ Department of Insurance

February 1989

AUTO INSURANCE PROFIT ILLUSTRATION

Note: Figures are all before payment of federal income tax.

	Liability Coverage	Physical Damage
Assumptions for one year:		
Losses, expenses & premium taxes were projected to be:	$ 95.00	$ 95.00
Losses, etc., actually were:	86.00	89.40
Investment income actually was:	7.00	1.50
Before 1972		
Projected losses, expenses, premium taxes	$ 95.00	$ 95.00
Projected underwriting profit (add)	5.00	5.00
MOTORIST PAYS	**$100.00**	**$100.00**
Premium income (same as above)	$100.00	$100.00
Actual losses, etc. (subtract)	86.00	89.40
Actual underwriting profit	$ 14.00	10.60
Actual investment income (add)	7.00	1.50
INSURANCE COMPANY KEEPS	**$ 21.00**	**$ 12.10**

Under Clifford Formula

NOTE: Item in parenthesis is a negative amount. Under the Clifford Formula, companies project receiving less in liability premiums than they pay out in losses, etc., because there is a substantial amount of investment income.

The projected underwriting profits, ($3.00) for liability and $4.40 for physical damage, are the amounts used under the Clifford Formula by the Insurance Services Office (ISO), whose rate filings on behalf of about 200 companies affect about 80% of New Jersey motorists.

	Liability Coverage	Physical Damage
Projected losses, etc.	$ 95.00	$ 95.00
Projected underwriting profit (add)	(3.00)	4.40
MOTORIST PAYS	**$ 92.00**	**$ 99.40**
Premium income (same as above)	$ 92.00	$ 99.40
Actual losses, etc. (subtract)	86.00	89.40
Actual underwriting profit	$ 6.00	$ 10.00
Actual investment income (add)	7.00	1.50
INSURANCE COMPANY KEEPS	**$ 13.00**	**$ 11.50**

Under 1983 Excess Profits Law

The motorist pays rates under the Clifford Formula, as illustrated on the previous page. After the year is over, the Department of Insurance compares how much underwriting profit was actually earned beyond the projected profit. If this unanticipated profit surpasses a certain amount, the "excess profit" goes back to policyholders.

The threshold for determining the "excess profit" is 5% of the paid premium. In this example, that's 5% of the $92 premium paid for liability coverage and 5% of the $99.40 premium paid for physical damage coverage.

	Liability Coverage	Physical Damage
Actual underwriting profit	$ 6.00	$ 10.00
Projected underwriting profit (subtract)	(3.00)	4.40
Unanticipated profit	9.00	5.60
Excess profit limit (5% of premium) (subtract)	4.60	4.97
Excess Profit	$ 4.40	$ .63

FINAL RESULT:

Motorist previously paid	$ 92.00	$ 99.40
Company returns excess profit (subtract)	4.40	.63
MOTORIST PAYS (NET)	**$ 87.60**	**$ 98.77**
Company previously kept	$ 13.00	$ 11.50
Company returns excess profit (subtract)	4.40	.63
INSURANCE COMPANY KEEPS (NET)	**$ 8.60**	**$ 10.87**

Under Excess Profits Law As Amended September 8, 1988

The projected investment income figures, $5.12 for liability and $1.12 for physical damage, are the amounts used under the Clifford Formula by ISO.

	Liability Coverage	Physical Damage
Actual underwriting profit	$ 6.00	$ 10.00
Projected underwriting profit (subtract)	(3.00)	4.40
Unanticipated underwriting profit	9.00	5.60
Actual investment income	$ 7.00	$ 1.50
Projected investment income (subtract)	5.12	1.12
Unanticipated investment income	$ 1.88	$ .38
Combine the above two results:		
Unanticipated underwriting profit	$ 9.00	$ 5.60
Unanticipated investment income (add)	1.88	.38
Unanticipated revenues	$ 10.88	$ 5.98
Excess profit limit (2.5% of premium) (subtract)	2.30	2.48
Excess Profit	$ 8.58	$ 3.50
FINAL RESULT:		
Motorist previously paid	$ 92.00	$ 99.40
Company returns excess profit (subtract)	8.58	3.50
MOTORIST PAYS (NET)	**$ 83.42**	**$ 95.90**
Company previously kept	$ 14.00	$ 12.00
Company returns excess profit (subtract)	8.58	3.50
INSURANCE COMPANY KEEPS (NET)	$ 5.42	$ 8.50

EXHIBIT T

Availability of Residual Market Coverage

State	Liability	1st Party medical	Comp and Coll. coverage
Al.	50/100/25	$1,000	NO
AK.	100/300/50	UP TO $5,000	YES
AZ.	100/300/50	UP TO $5,000	YES
AR.	NO	UP TO $5,000	YES
CA.	NO	$1,000	NO
C0.	100/300/50	$50,000	YES
CT.	100/300/50	$5,000	YES
DE.	100/300/50	$15,000/30,000	YES
D.C.	100/300/25	$50,000-$100,000	YES
FL.	100/300/50	80% UP TO $10,000	YES
GA.	100/300/25	$2,500/$5,000	YES
ID.	100/300/50	UP TO $5,000	YES
IL.	100/300/50	UP TO $5,000	YES
IN.	NO	$1,000	YES
IA.	100/300/50	UP TO $5,000	YES
KS.	100/300/50	$2,000	YES
KY.	25/50/10	$10,000	NO
LA.	100/300/50	UP TO $5,000	YES
ME.	100/300/100	UP TO $5,000	YES
MI.	250/500/100	UNLIMITED	YES
MN.	100/300/50	$20,000	YES /COMP ONLY
MS.	50/100/25	UP TO $5,000	YES
MO.	50/100/50	$1,000	YES
MT.	100/300/50	UP TO $5,000	YES
NE.	100/300/50	UP TO $5,000	NO
NV.	100/300/50	$10,000	YES
N.J.	250/500/100	UNLIMITED	YES
N.M.	100/300/50	UP TO $5,000	YES
N.Y.	250/500/100	$50,000	YES
N.D.	100/300/50	$30,000	YES
OH.	100/300/50	UP TO $1,000	YES
OK.	100/300/50	UP TO $2,000	NO
OR.	100/300/50	$5,000	YES
PA.	100/300/50	$10,000	YES
R.I.	250/500/50	UP TO $1,000	YES
S.D.	100/300/50	UP TO $2,000	YES
TN.	100/300/25	$1,000	YES
UT.	100/300/50	$3,000	YES
VT.	100/300/100	UP TO $5,000	YES
VA.	100/300/50	UP TO $2,000	YES
WA.	100/300/50	UP TO $5,000	YES
W.V.	100/300/50	UP TO $1,000	YES
WI.	100/300/50	UP TO $5,000	YES
WY.	100/300/50	UP TO $5,000	YES

EXHIBIT U

Personal Injury Coverages

1. No fault auto insurance should be retained. The defects of the tort system which led to the adoption of no-fault in the first place would simply resurface if no-fault were repealed. No fault has been successful in compensating auto accident victims more fully for their economic losses, compensating a higher proportion of injured victims, and reducing the time lag between the accident date and the claim payment date. These are major accomplishments, which should not be abandoned. However, the no fault system in New Jersey has been plagued from the beginning by a number of serious problems, most of which stem from the low threshold and the lack of coordination of benefits from collateral sources of recovery. Proposals are discussed below to solve some of these problems.

2. The threshold should be increased. The most important step that could be taken to reform the system would be to raise the threshold. The threshold was much too low when the system was first enacted and has been seriously eroded in real value by inflation., A verbal threshold similar to the one in Michigan would be most effective and consistent with the original concepts underlying no-fault. If a dollar threshold is selected, it should be automatically adjustable in line with the Consumer Price Index (CPI) in order to retain its real value and effectiveness in the future. The higher the threshold selected, the larger will be the reduction in auto insurance costs.

3. Health insurance should be the primary coverage for auto accident injuries, with PIP secondary. Health insurance is a more-efficient way to provide for medical costs because the expense ratio is lower in general in health insurance plans than in PIP. That is, it costs more in terms of insurance company expenses to deliver $1 of medical benefits through the auto insurance system than through the health insurance system. Hence, the total

costs would be reduced even if no decline in total benefit (loss) payments were to occur. It is likely, however, that such a decline would take place. That is, if health insurance were the primary coverage for auto accidents, not only would auto insurance costs decline but the total amount spent for economic losses relating to auto accidents also would decline, considering payments from health insurance as well as PIP. The reason is that most health coverage is provided through employers, who are better able to monitor potentially fraudulent or exaggerated claims than an auto insurance company. This reform would be likely to bring about substantial savings in auto insurance costs as well as overall savings in the costs of auto accident benefits payments.

4. PIP premium discounts should be offered to drivers who agree to make their health insurance the primary coverage for auto accident injuries. This should be viewed as an alternative to recommendation 3 above. PIP premium discounts would help to reduce costs but would not be as effective as making PIP secondary for all drivers with health insurance coverage. Discounts of this type currently are offered in Michigan.

5. Deductibles should be introduced in PIP coverages. The use of a PIP claim deductible could reduce the costs attributable to small claims. This should cause little hardship to insureds because small claims tend to be overcompensated. This provision would have to be coordinated with any changes in the primacy of coverage. For example, if health insurance were made primary, it might be appropriate to utilize a smaller, corridor deductible between the amounts covered by health insurance and the PIP recovery. Any deductibles that are adopted should be indexed to the CPI to retain their effectiveness in the future.

EXHIBIT X
Page 1

What are points?

The Division of Motor Vehicles (DMV) keeps track of your driving record by adding points to your record when you are convicted of a moving violation. The more serious the violation, the more points you are given. (See the next columns of this sheet for a list of violations and their point values.)

Will I receive a notice telling me how many points I have?

You will be sent a warning notice only when you receive 6 or more points on your driving record. This notice is sent to warn you that you are approaching the 12-point limit.

How many points am I allowed to have?

If you receive 12 or more points on your driving record, we will send you a notice scheduling the suspension of your driver license.

How long will point violations stay on my record?

All point violations that you received after March 1, 1974, will stay on your driving record.

Will any points be removed from my driving record?

Up to 3 points will be subtracted from your point total for every year that you go without a violation or suspension, but your point total will never be reduced below zero.

Up to three points will be taken off:
a. One year after your last point violation; or
b. One year after your license was restored; or
c. One year after the last time points were subtracted from your record; or
d. After completion of a DMV offered driver improvement program. These programs are only offered to problem drivers selected by DMV.

If you have any other questions, write to

Driver Improvement
Division of Motor Vehicles
25 South Montgomery Street
Trenton, New Jersey 08666

Point Values

Any person who is convicted of any of the following offenses, including offenses committed while operating a motorized bicycle, shall be assessed points for each conviction in accordance with the following schedule:

N.J.S.A. SECTION NUMBER	OFFENSE	POINTS
27:23-29	Moving against traffic—New Jersey Turnpike, Garden State Parkway, and Atlantic City Expressway	2
27:23-29	Improper passing—New Jersey Turnpike, Garden State Parkway, and Atlantic City Expressway	4
27:23-29	Unlawful use of median strip—New Jersey Turnpike, Garden State Parkway, and Atlantic City Expressway	2
39:3-20	Operating constructor vehicle in excess of 30 mph	3
39:3-76.7 & 39:4-14.3q	Operating motorcycle or motorized bicycle without protective helmet	2
39:4-14.3	Operating motorized bicycle on a restricted highway	2
39:4-14.3d	More than one person on a motorized bicycle	2
39:4-35	Failure to yield to pedestrian in crosswalk	2
39:4-36	Failure to yield to pedestrian in crosswalk; passing a vehicle yielding to pedestrian in crosswalk	2
39:4-41	Driving through safety zone	2
39:4-52 and 39:5C-1	Racing on highway	5
39:4-55	Improper action or omission on grades and curves	2
39:4-57	Failure to observe direction of officer	2
39:4-66	Failure to stop vehicle before crossing sidewalk	2
39:4-66.1	Failure to yield to pedestrians or vehicles while entering or leaving highway	2
39:4-71	Operating a motor vehicle on a sidewalk	2
39:4-80	Failure to obey direction of officer	2
39:4-81	Failure to observe traffic signals	2
39:4-82	Failure to keep right	2
39:4-82.1	Improper operating of vehicle on divided highway or divider	2
39:4-83	Failure to keep right at intersection	2
39:4-84	Failure to pass to right of vehicle proceeding in opposite direction	5
39:4-85	Improper passing on right or off roadway	4
39:4-85.1	Wrong way on a one-way street	2
39:4-86	Improper passing in no passing zone	4
39:4-87	Failure to yield to overtaking vehicle	2
39:4-88	Failure to observe traffic lanes	2
39:4-89	Tailgating	5
39:4-90	Failure to yield at intersection	2
39:4-90.1	Failure to use proper entrances to limited access highways	2
39:4-91 and 39:4-92	Failure to yield to emergency vehicles	2
39:4-96	Reckless driving	5
39:4-97	Careless driving	2
39:4-97.1	Slow speed blocking traffic	2
39:4-98 and 39:4-99	Exceeding maximum speed 1-14 mph over limit	2
	Exceeding maximum speed 15-29 mph over limit	4
	Exceeding maximum speed 30 mph or more over limit	5
39:4-105	Failure to stop for traffic light	2
39:4-115	Improper turn at traffic light	3
39:4-119	Failure to stop at flashing red signal	2
39:4-122	Failure to stop for police whistle	2
39:4-123	Improper right or left turn	3
39:4-124	Improper turn from approved turning course	3
39:4-125	Improper "U" turn	3
39:4-126	Failure to give proper signal	2

EXHIBIT X
page 2

N.J.S.A. SECTION NUMBER	OFFENSE	POINTS
39:4-127	Improper backing or turning in street	2
39:4-127.1	Improper crossing or railroad grade crossing	2
39:4-127.2	Improper crossing of bridge	2
39:4-128	Improper crossing of railroad grade crossing by certain vehicles	2
39:4-128.1	Improper passing of school bus	5
39:4-128.4	Improper passing of a frozen dessert truck	4
39:4-129	Leaving the scene of an accident	
	No personal injury	2
	Personal injury	8
39:4-144	Failure to observe "stop" or "yield" signs	2
39:5D-4	Moving violation Out-of-State	2

Driving While Under the Influence of Alcohol or Drugs (DWI)

Court Imposed Fines and Penalties

First Offense
- loss of license six months to one year
- fine $250—$400
- resource center 12 hours
- possible jail 30 days

Second Offense
- loss of license two years
- fine $500—$1000
- community service 30 days
- resource center 48 hours
- possible jail 90 days

Third Offense
- loss of license 10 years
- fine $1,000
- jail 180 days

Chemical Test Refusal

First Offense
- Loss of license six months
- fine $250—$500

Second & Subsequent Offenses
- loss of license two years
- fine $250—$500

Conviction Surcharges

In addition to the court imposed fines and penalties, anyone arrested and convicted of DWI or a chemical test refusal is subject to an insurance surcharge of $1,000 a year for three years ($3,000). Failure to pay the surcharge will result in indefinite suspension of all driving privileges. The surcharge will be imposed whether the offense occurs in New Jersey or some other state.

In addition, anyone arrested and convicted of DWI will be subject to a single $100 enforcement surcharge payable to the court along with the required fine.

Insurance Surcharge—Point Violations

Motorists who incur six or more Motor Vehicle Points are also subject to an insurance surcharge of $100 for six points and $25 for each additional point. The point reductions mentioned elsewhere do not apply to the insurance surcharge. The point surcharge will remain operational as long as a motorist has six or more points on his record for the immediate past three-year period. Failure to pay will result in indefinite suspension of all driving privileges.

Important Phone Numbers

Suspensions, Restorations and Surcharge Information
(609) 292-7500

Change of Address and Lost Documents
(609) 292-6500

Citizen Information and Complaints
(609) 292-5591

No Special Licenses

There are no conditional or special work licenses allowed in New Jersey. If you lose your license for drunk driving, or any other violation, you cannot drive for any reason until the period of suspension ends.

DI-258 (R6/86)

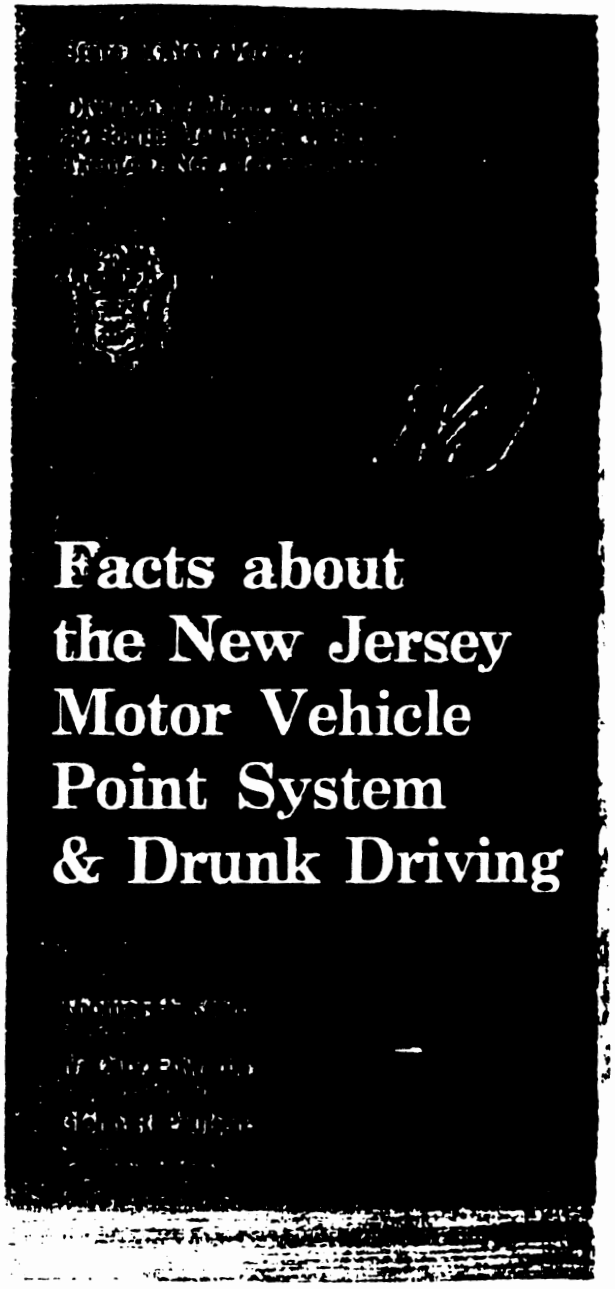

EXHIBIT X
page 3

DIVISION OF MOTOR VEHICLE SURCHARGE REVENUE PAID TO THE JUA

1984 TOTAL	$10,581,784
1985 TOTAL	$19,864,042
1986 TOTAL	$43,548.873
1987 TOTAL	$63,700,419
1988 TOTAL	$72,736,072

Source: JUA Bank Deposits

EXHIBIT Y
page 1

TYPES OF JUA AUDITS PERFORMED

1. Internal Audits: The Servicing Carrier Rules of Practice require each servicing carrier to annually audit its financial and operational controls for Association business. The completion of the audit is to be verified by a letter from an officer of the company to the Association. The audit may be completed by the servicing carrier's internal auditors or an outside firm.

2. Claim Audits: Claim audits are performed by teams of Claim Management Personnel drawn from insurers operating in New Jersey. Audits are coordinated and directed by the Claim Audit Committee of the Association. The audit team makes a random selection of closed claim files and reviews them in various categories including but not limited to coverage, reserving, subrogation and salvage and investigation. General comments are made by the audit team on the company or office's performance in each category and a score of the number of files found to have deficiencies is kept. The overall rating of the audit is based on this numerical score.

The goal of the Claim Audit Committee is to audit each carrier every 18 to 20 months. However, reaudits for carriers that receive unsatisfactory scores on audits can disrupt the audit schedule.

3. Underwriting Audits: Underwriting audits are performed by teams recruited from the staff of servicing carriers under the supervision of the Underwriting Audit Committee. The audit team reviews transactions processed during a three month period. Sixty files are reviewed in each of the following categories of activity: new business; endorsements; cancellations and renewals. Errors found in the files are classified as either Class I or Class II. Class I errors affect the amount of premium, such as rating a vehicle as pleasure use instead of drive to work. Class II errors do not affect premium, such as failure of the insured to sign the application.

For the final score, the number of Class I and Class II errors in all the categories examined are averaged. For an underwriting audit to be satisfactory, the Servicing Carrier must have less than 10% Class I errors and less than a 20% error rate overall. In addition, the audit team makes general comments on the underwriting operation of the Servicing Carrier.

The Underwriting Audit Guidelines call for each servicing carrier to be reviewed a minimum of once every

three years. The decision in 1986 to hire IMS to conduct reaudits (see Reaudits below) has eliminated a cause of delays in scheduling underwriting audits.

The Underwriting Audit Guidelines also provide for each servicing carrier to conduct an annual self-review to ensure that its internal control and verification procedures are sufficient to detect any irregularities in the handling of all aspects of its operations. A written report of each self review is submitted to the Board of Directors.

4. Reaudits: An unsatisfactory report on an underwriting or claims audit is accompanied by recommendations for corrective action and a tentative date for a reaudit. Reaudits may be partial. For example, if the initial audit reveals problems in only one area of a servicing carrier's operations, only that area will be reaudited. Depending on the circumstances, reaudits have been done by the servicing carrier itself or by an Association team.

In May 1986, the Executive Committee of the Association contracted with the firm of Insurance Management Services to conduct reaudits of carriers that have received an unsatisfactory score on their initial underwriting audits. IMS is a professional auditing company that has been used by many insurance companies and insurance departments.

The decision was made to hire an outside firm because it was difficult to get the same audit team together to reaudit a Servicing Carrier. Although audits conducted by IMS are more expensive than those done by the Audit Committee, the Servicing Carrier pays for a reaudit. To date IMS has done reaudits of Hanover and Travelers, the only two carriers that have failed underwriting audits since February 1986. Hanover's reaudit was satisfactory and Travelers was unsatisfactory. IMS participated in a joint third reaudit of Travelers with the Underwriting Audit Committee. That audit was unsatisfactory as well.

5. Financial Audits: Financial audits are conducted by an outside firm hired by the Association on the recommendation of the Audit Committee of the Association. Touche Ross & Co. has performed these audits for the Association since its inception.

In 1984 and 1985, Touche Ross performed an "agreed upon procedures audit" on 12 of the 15 servicing carriers. That is, Touche Ross did not conduct an examination based on generally accepted auditing standards but rather

followed the requirements of the Servicing Carrier Audit Guidelines contained in the Plan of Operation. The Audit guidelines are designed to determine the carriers' compliance with Association rules. For this reason, Touche Ross noted errors made by the Servicing Carriers but did not give an opinion on their financial condition.

Touche Ross also audited the statutory balance sheet of the Association for the years 1984 and 1985. The scope of the examination was restricted to the compilation of data which is submitted by the Servicing Carriers to the Association's Central Processor, the Automobile Insurance Plans Services Office (AIPSO). Servicing Carriers report monthly and quarterly information on income, losses and expenses to AIPSO which verifies Servicing Carrier fees and compiles statistical reports for the Association. Touche Ross did not conduct a review of the Servicing Carriers' records to justify the amounts that were reported to AIPSO.

In 1986, the Association stopped doing audits of servicing carriers based on the Servicing Carrier Audit Guidelines. The Board of Directors decided to hire a company to do a full scope audit of the Association's balance sheet. Touche Ross was hired to conduct these audits for 1986 and 1987. In a full scope audit, the auditor goes to the Servicing Carriers to examine their operations and verify that the statistics reported to AIPSO are correct.

In the 1986 audit, which is the only one completed to date, Touche Ross notes that it has certain concerns about the continued existence of the Association because of its deficit, but otherwise the Association's balance sheet fairly represents its financial condition.

In February 1986, the Chairman of the Board of Directors established the Audit Review Board to coordinate the various audit reports. The Board evaluates unsatisfactory audits and recommends courses of action. The Audit Review Board was established in response to criticism from Board members and the Department concerning the handling of the Keystone situation. Keystone was the first carrier to have a serious problem with performance on audits. Keystone failed all its underwriting and claim audits (2 of each). The situation with Keystone revealed that the different audit committees didn't have any regular communication. Moreover, there was no one committee to review all the audit results of a carrier and recommend corrective action to the Board.

EXHIBIT Z

page 1

Under P.L. 1986, c. 211 numerous modifications were made to the operation of the JUA including the following:

- Provision for the establishment of higher rates in the JUA for those individuals with poor driving records as indicated by their accident or violation records. These higher rates have been implemented through the Driver Improvement Program, and a consumer brochure explaining that program is included as **EXHIBIT TT.**

- An accident surcharge might be imposed for any at fault accident resulting in payment of at least a $300 claim.

- Imposition of policy constant on all commercial vehicles and self-insured vehicles as well as private passenger automobiles.

- JUA board authorized to suspend binding authority of any producer violating the JUA plan of operation.

- Commissioner might upon recommendation of the JUA and after an administrative hearing terminate a servicing carrier if such is in the best interest of the JUA.

- Authorizes the use of non-insurer servicing carriers and establishes eligibility for such entities.

- Permits Commissioner to adjust JUA rates in any territory in which the relationship between JUA rates and rates used by voluntary insurer is adversely affected./

- Requires that JUA producers be selected in accordance with plan of operation. Selection procedure to include affirmative action and producer-to-population ratio provisions.

- Modifies producer commission rates as follows: 10% in 1987; 9% in 1988; to possible 8% in 1989. However, 8% rates would not become effective until JUA's market share is no more than 30% of private passenger auto insurance market. Nevertheless, Commissioner is empowered to set higher commission rates for producers meeting special criteria established by the Commissioner in the JUA plan of operation.

- Authorizes JUA to exclude collision and comprehensive coverage for certain risks.

- Provides that all commissions on policies issued by the JUA are fully earned and clarifies that if the policy is cancelled for non-payment of premium the producer is only entitled to a pro rata portion of the commission with the balance retained by the JUA.

- Eliminates provision in prior law requiring the payment of commission to the producer of record for a period of three years after a risk is removed from the JUA.

- Amends definition of "qualified applicant" to eliminate vehicles requested to partnerships, professions, or individual proprietorships.

- Clarifies establishment of the Study Commission to report on operation of the JUA.

EXHIBIT AA

How Territory Limitations and Class Limitations Reduce Rates for Some Insureds and in Some Territories

Prior to January 1, 1984, under the most common rating system for private passenger automobile, insurance rates for certain territories were twice as high as the statewide average rate. In addition, rates for the highest rated class -- the 17-year-old male principal operator -- amounted to 3.65 times the base rate. (The base rate applies to a motorist who does not use his car for commuting to work.)

Under this rating system, the youthful male operator in Newark paid seven times as much as the adult operator in Monmouth County.

Many of the territories that had high rates were very small, containing few insureds. Many of the classes that contained high-rated risks were also very small, containing few insureds.

This changed under a 1984 law which limited the highest class rate to 2.5 times the rate for the adult pleasure use driver, and limited the maximum territorial rate to 1.35 times the statewide average. This resulted in the youthful driver in Newark paying slightly more than three times the cost for the adult driver in Monmouth County.

Since the number of exposures in the classes and territories that were capped were very few, the law caused an increase of only a few dollars for insureds in territories that were not capped or in classes that were not capped.

This law change substantially reduced the highest rates paid by individuals with clean driving records. All insureds in geographic areas with the highest rates received rate reductions.

EXHIBIT BB

Demographic Groups by Market
Voluntary and Involuntary

	Voluntary	Involuntary	Total	Involuntary
Inexperienced Operators	23,436	82,345	105,781	77.8 %
Youthful Operators	122,363	267,622	389,985	68.6 %
Age 65 and Older	217,681	71,894	289,575	24.8 %

Based upon 1985 data reported to Insurance Services Office, Inc.

2. N.J.A.C. 11:3-8
NONRENEWAL OF AUTOMOBILE INSURANCE POLICIES

On May 19, 1986, the Department proposed various amendments to N.J.A.C. 11:3-8, which governs nonrenewal of automobile insurance policies. This proposal was adopted with minor changes on September 16, 1986 and became effective on October 6th.

Among the principal modifications to the existing regulation is the establishment of a new section, N.J.A.C. 11:3-8.4 (Additional nonrenewals based on underwriting guidelines), which is designed to afford greater underwriting flexibility to insurers and thereby foster depopulation of the residual market. For many years, insurers have contended that one reason they are reluctant to write voluntary market coverage in New Jersey is the stringency of the Department's nonrenewal regulation. Insurers complain that, because the rule essentially permits nonrenewal for specified reasons only, once a risk has been written it is very difficult to discontinue coverage. To address this concern and encourage insurers to write more voluntary business, amended N.J.A.C. 11:3-8 provides insurers with greater latitude in nonrenewing certain insureds. This provision sometimes has been referred to as "three year look-see" requirement.

Nonrenewals pursuant to the look-see provision are subject to the following standards. Insurers are permitted increased underwriting flexibility only with respect to designated categories of policyholders. Specifically, these are: (1) First-time applicants for insurance; (2) Policyholders who have been canceled or nonrenewed by their previous insurer; and (3) Policyholders who were formerly insured through the JUA. These classes of insureds are targeted because of their likely placement and/or continuation of coverage through the involuntary market. Since the look-see provision's stated objective is depopulation of this market, the rule focuses on those groups most likely to be impacted.

With respect to these policyholders, an insurer is permitted to nonrenew coverage based upon the company's underwriting guidelines, provided that such guidelines may not be arbitrary, capricious or unfairly discriminatory and, further, are not based on certain specifically prohibited reasons, such as the race, religion, nationality or ethnic group of the insured. These company underwriting guidelines, which may be utilized for nonrenewing policyholders in the designated classes, are in addition to the 11 nonrenewal reasons traditionally permitted under N.J.A.C. 11:3-8. Nonrenewals that are initiated pursuant to the relaxed criteria set forth in N.J.A.C. 11:3-8.4 are limited to a period of three years following policy issuance. Any such

policy that is renewed by the insurer after the third year is subject to nonrenewal only as is otherwise provided in the regulation.

The adopted amendments to N.J.A.C. 11:3-8 also require that the Commissioner review and monitor the operation of the regulation in order to insure compliance with its provisions and, in particular, to determine whether the goal of depopulation is being fostered by the three year look-see provision. To facilitate this objective, the adopted rule authorizes the Commissioner to require the filing of such reports as he deems necessary in order to conduct his evaluation.

EXHIBIT EE

page 1

DEPARTMENT OF INSURANCE

INTER-COMMUNICATION

M E M O R A N D U M

DATE: April 11, 1988

FROM: Arthur M. Keefe
Director of Enforcement

TO: Patrick Breslin
Director
Public Affairs

RE: Statement - JUA

As requested in Deputy Commissioner Jackson's memorandum to Joseph B. Kenney dated April 4, 1988, we will attempt to explain the procedures under which agents are terminated:

Each agent holds his individual license issued by the Department. Once a company enters into a contract with that licensee, they must appoint them with the Department. This representation continues until such time as the licensee is cancelled by the company. Under the property/casualty license, this cancellation is accomplished in accordance with N.J.S.A. 17:22-6.14a. In synopsis, this statute provides that the company must give the agent ninety (90) days notice of their intent to cancel the agency and thereafter provide them with nine (9) months of renewals. The cause of this cancellation is for several reasons such as low volume, bad mix of business or poor loss ratio. The company is mandated to pay the same rate of commission to the terminated agent for this one (1) year period.

The limitation of payment of commission for this one (1) year period could place the agent in a precarious position. Faced with the loss of this income, the agent will oftentimes replace the business through the JUA without the jurisdiction or consent of the insured. This action is illegal in that the insured has not been given the opportunity to remain with the company previously insuring him.

The Department is aware of this practice and is attempting to secure documentation that will enable us to insist upon the previous carriers reinsuring any individual who has been moved from a voluntary market to the residual mechanism.

We are presently concluding our report in this regard and will be making recommendations as to the best method to resolve this problem.

EXHIBIT FF

Types of Marketing Systems

Insurers operate under different types of marketing systems. Some utilize agents. These agents can be categorized by the insurers they represent. There are different categories of agents.

Independent Agent - Represents one or more insurance companies and usually has been given authority to bind insurance contracts. These individuals are independent contractors and not employees of insurers.

Captive Agent - These are required by their contracts to represent only one insurer or several insurance corporations under common management or ownership. These agents are usually compensated on a commission basis. These agents can be either independent contractors or company employees.

Direct Writers - Direct writers employ individuals who produce the business; these individuals are employees of the insurer and not independent contractors. Some receive a salary, others receive a salary plus a bonus or commissions, others may receive only commissions.

EXHIBIT GG

1985 ACCIDENT YEAR
LIABILITY CLAIM FREQUENCY AND CLAIM SEVERITY

	ISO		JUA	
	CLAIM COST	CLAIM FREQ.	CLAIM COST	CLAIM FREQ.
15/30 Bodily Injury	5962.	1.13.	6742.	2.16.
5 Property Damage	1040.	4.36.	1210.	6.91.
Personal Inj. Protection	2817.	2.34.	2911.	5.03.

PHYSICAL DAMAGE CLAIM FREQUENCY AND SEVERITY

1985 CALENDAR YEAR

	CLAIM COST	CLAIM FREQ.	CLAIM COST	CLAIM FREQ.
$50 Comp.	599	4.92	953	7.62
$100 Comp.	797	4.77	1382	7.39
$200 Coll.	1179	8.91	1564	12.97
$500 Coll.	1645	5.64	2168	8.58

Source: ISO Compilation of Experience 3/24/87

EXHIBIT HH

Rate Differences Between
Seniors and "All Other Class"

	Seniors At All Other Rates	Seniors At Current Rates	Discount
BI	214.75	180.25	
PD	83.17	69.81	
PIP	136.30	126.46	
COLLISION	197.13	165.05	
COMPREHENSIVE	81.54	71.02	
UM	12	12	
TOTAL	724.89	624.59	-13.8%
RMEC*	73	0	
	797.89	624.59	-21.7%

Law changes affecting rates of seniors

1. Five percent reduction from current rates - January 1, 1984
2. Territory limits of 1.25 versus 1.35 for all other classes - January 1, 1984
3. Prohibition of residual market equalization applying to seniors.

* First instituted January 21, 1988.

Rates for ISO in effect September 1, 1987.

EXHIBIT II

page 1

MERCEDES-BENZ D SDN SYMBOL 16 (28001-33000)
BMW COUPE 635Si SYMBOL 18 (39001-46000)
PORSCHE TURBO CPE. SYMBOL 20 (55001-65000)
JAGUAR XJSC SYMBOL 21 (65001 OVER)

	Territory 2				Territory 15			
	$200 COMP.		$500 COLL.		$200 COMP.		$500 COLL.	
	OLD	NEW	OLD	NEW	OLD	NEW	OLD	NEW
SYMBOL 16	332	400	411	504	183	221	265	325
SYMBOL 18	446	539	470	572	246	298	303	369
SYMBOL 20	600	728	529	640	331	401	341	413
SYMBOL 21	808	979	589	711	446	540	380	459

Based on 1986 vehicle
:e: OLD: rates in effect prior to 10/1/87
NEW: rates effective 10/1/87

POLICY CONSTANT, EXPENSE FEES, RMEC NOT INCLUDED

INJ DEPARTMENT OF INSURANCE
STATE OF NEW JERSEY

For release:
December 8, 1988

Contact: Leonard N. Karp
(609) 633-3955

TRENTON -- Comprehensive and collision insurance base rates for some 800,000 higher risk drivers insured through the JUA will be going up by an average 24.5 percent, effective February 1. The JUA had requested a 26.6 percent overall increase.

The physical damage rate increase will only apply to those JUA drivers who have accumulated four or more motor vehicle points in the past three years; one or more at-fault accident; or two or more moving violations.

The increase will raise an additional $176.1 million for the New Jersey Automobile Full Insurance Underwriting Association (JUA). It will mean that for the first time, the premiums paid by the high risk drivers for their physical damage coverage will support their claim experience.

This increase is the first step in a long-range effort to reduce surcharges by having JUA rates reflect JUA experience. At present, all drivers pay a $26 policy constant surcharge plus $58 RMEC surcharge for their comprehensive and collision coverages.

The increase will add about $63 to an average higher risk driver's collision premium and $72 to the comprehensive premium. Physical damage protection amounts to about 35 percent of the total insurance premium.

EXHIBIT II

page 3

The increase breaks down to 16.5 percent in the collision base rate and 47.1 percent in the comprehensive base rate from rates currently in effect.

On January 1, overall premiums, including physical damage coverage, will be increased by 10 percent for higher risk JUA drivers. The February increase will be adjusted to account for the rate hike in January.

For policies covering more than one driver, the higher physical damage rate increases will be applied to the highest rated car when one of the drivers meets the "bad driver" conditions.

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EXHIBIT JJ

JUA DEFICITS

Cash Flow:

YEAR	ALL COVERAGES	PIP	BODILY INJURY	PROPERTY DAMAGE	PHYSICAL DAMAGE
1984	-0-	-0-	-0-	-0-	-0-
1985	-0-	-0-	-0-	-0-	-0-
1986	-0-	-0-	-0-	-0-	-0-
1987	-0-	-0-	-0-	-0-	-0-
1988*	$316	$59	$111	$42	$104

Statutory (Fully Funded)

YEAR	ALL COVERAGES	PIP	BODILY INJURY	PROPERTY DAMAGE	PHYSICAL DAMAGE
1984	$268	$55	$101	$39	$72
1985	$334	$59	$110	$42	$122
1986	$698	$136	$253	$97	$208
1987	$551	$121	$224	$86	$120
1988*	$697	$155	$287	$110	$145
TOTALS	$2,545	$526	$976	$375	$668

*1988 FIGURES ARE PROJECTIONS OF DEFICITS WITHOUT THE ISO RATE INCREASE AND RMEC.

Source: July, 1987 RMEC Filings. All numbers in millions.

EXHIBIT KK

RESOLUTION
NEW JERSEY AUTOMOBILE FULL INSURANCE UNDERWRITING ASSOCITION

Preamble, The Board, in order to discharge its FIUA responsibilities as set forth in the statute has:

1) Established an insurance writing mechanism which commenced operations Janaury 1, 1984 and appears likely to insure over 1.4 million vehicles by 12/31/84.

2) Created appropriate accounting and procedural records to reflect the financial measure of this insuring activity.

3) Utilized collateral sources of revenue made available by the statute including those also enacted subsequent to January 1, 1984.

A specific Board responsibility is the prospective filing of a Residual Market Equalization Charge (RMEC) sufficient to produce no profit or loss from the operations of the FIUA. In pursuit of this objective the Board:

A) Recorded the results of operations including product sales, accidents reported, expenses authorized and collateral income from both the DMV and Policy Constant sources.

B) Directed preliminary RMEC estimates by its Acturial Committee be made formally available to the department prior to the start up of operations in 1984.

C) Engaged the firm of Tillinghast, Nelson & Warren to undertake an independent actuarial study after 6 months of FIUA operating results became available.

D) Reviewed both the independent analysis and the recorded FIUA financial results based on 6 months operating reports.

After all of these steps it is clear that the 1984 operations of the FIUA will produce a deficit. How much that deficit amounts to is dependent upon when it is measured and whether or not prospective legislative relief can provide collateral sources of revenue as anticipated. In consideration of all the foregoing, the Board's action must establish for the record its best estimate of FIUA financial needs.

Now Therefore It Is Resolved, that the Chairman shall submit the Tillinghast report, with a cover letter to the Commissioner of Insurance.

Unanimously adopted December3, 1984

New Jersey Automobile Full Insurance Underwriting Association

293 Eisenhower Parkway, Livingston, New Jersey 07039
(201) 533-1166

Nelson D. Ealey
General Manager

SUMMARY

The New Jersey Automobile Full Insurance Underwriting Association was created in 1983 to replace the Automobile Insurance Plan for people who are unable to obtain personal automobile coverage in the regular market.

The association commenced operations January 1, 1984, and is estimated to insure about 40 per cent of the vehicles in the state. It has contracted with 15 companies to be service carriers and, by law, must use the voluntary rate level filed by the Insurance Services Office (ISO).

Unlike private insurers, the association began operations with no surplus (policyholder protection for future losses). Accordingly, if the association suffers a loss, there is no back-up. The board, as part of their fiduciary responsibilities, must monitor any possible deficit and advise the state commissioner of its findings.

By statute, the association must operate at a no-profit, no-loss basis. The board of directors commissioned a financial study of the AFIUA by Tillinghast, Nelson and Warren.

The association derives income from several sources. These sources include premiums written on a direct basis, 80 per cent of the surcharges collected by the Division of Motor Vehicles, policy constants collected and remitted by member companies in the regular

The initial report by Tillinghast indicates the deficit for 1984 could reach $180 million. Under present assumptions, a $200 miilion deficit is projected for 1985. These figures do not include the possible impact of pending regulations and legislation, nor does it recognize an increase in D.M.V. collection which should result in 1985.

Tillinghast, Nelson and Warren is an internationally-recognized actuarial firm that is experienced in financial studies of insurance companies. Tillinghast counsels the management of corporations, particularly of insurance companies and related enterprises in the formation of company plans and achievement of corporate goals.

The majority of the members of the consulting staff are specialists in actuarial science and hold membership in one or more of the internationally-recognized actuarial associations in the United States, Canada, and United Kingdom.

* * * * *

Establishment of Non-Claim Servicing Carrier Fee for
New Jersey Automobile Full Insurance Underwriting Association

The New Jersey Automobile Full Insurance Underwriting Association (NJAFIUA) became effective in January 1, 1984. One of the items established in the Plan of Operation was the amount the servicing carrier should be paid for processing applications for insurance, providing the insurance policies, rating of policies, keeping necessary statistics and reporting to statistical agents and handling of claims.

Two fees were established: the non-claim expense fee and the claim expense fee.

The non-claim expenses were determined from broad industry averages of expense categories called general expenses and other acquisition expenses. Since the Association did not have all the costs of a regular carrier, some modifications were made to the industry averages. Advertising costs and expense of belonging to a rating bureau, did not apply to the NJAFIUA. Because of this, the sum of other acquisition costs and general expenses was reduced for these costs in calculating the servicing carrier fee. In addition, the servicing carriers have the cost of payroll taxes on their employees. This item is reported under the expense category taxes, license, and fees, and is not included in either general expenses or other acquisition costs. Payroll tax was added to general expenses and other acquisition expenses. The final result, which

was based upon 1982 Best's Aggregates and Averages, produced servicing carrier fees for non-claim expenses of 11.5 percent for liability and 11.6 percent for physical damage. The servicing carriers then received over 11 percent of total revenue to the Association. Total revenue included not only premiums but policy constants on NJAFIUA business and the proportion of motor vehicle surcharges that were remitted to the association.

NJ Department of Insurance summary
Source: NJAFIUA Accounting and Statistical Requirements Manual, pages 19.02 through 19.03.

ADJUSTMENT TO SERVICING CARRIER FEES

In mid-1985, the Chairman of the Board of Directors of the Association appointed a special Task Force headed by Stan Khury of Prudential to examine the Association's 1984 expenses, in light of experience to date, and submit recommendations for action by the Board of Directors.

The 1984 Annual Operating Results of the 15 servicing carriers show the amounts paid to servicing carriers in claim and non-claim fees, the expenses for each of those categories and the profit or loss of each carrier on its JUA operation. In 1984, the non-claim fee generated an overall profit for servicing carriers of $36 million with results for individual carriers ranging from an $8000 loss for Travelers to a profit of $8,816,000 for Hanover. On the claim fee side, overall, servicing carriers experienced a $6.5 million loss and individual carrier results ranging from a $4,300,000 loss for Allstate to a profit of $941,000 for Penn. National.

In its November 5, 1985 Report to the Association Board of Directors, the Task Force made two recommendations based on its review of the 1984 data. First, it recommended combining the separate non claim fee percentage for Liability/PIP and Physical Damage into one percentage and reducing it from 11.5% and 11.6 % respectively to 9.5% of Association written premium. The data showed that, on average, servicing carriers operated at 7.4% of subject revenue. The Task Force believed the fee should be lowered to a level closer to its actual experience. The Task Force recommended only a 2% reduction instead of the full 4.1% noting that the Florida JUA had lowered its non-claim fee in small steps over several years as the experience of the Association matured.

The second recommendation of the Task Force was that the claim fee be combined into a single percentage from separate percentages for Liability/PIP and Physical Damage. The Task Force recommended staying with the current formula of calculating fees as a percentage of incurred losses and recommended an increase in the claim fee from 16.5% and 12.6% respectively to 16.7%, equalling the levels indicated by the 1984 data.

The recommendations of the Task Force were adopted by the Board. In correspondence with the Association, the Commissioner indicated that she would approve the non-claim fee by itself but that the Department had concerns about the claim fee recommendation. At it's

January 21, 1986 meeting, the Board voted to separate the two recommendations and submit the non-claim fee to the Commissioner for approval.

The Commissioner certified the amendment to the Plan of Operation reducing the non-claim fee from 11.5% for Liability and PIP and 11.6% for Physical Damage to 9.5% of written premium for both coverages on January 30, 1986. The reduced fee became effective for June 1986 reports. The fee reduction is estimated to result in a $27.7 million saving for the Association in 1987, and projected savings of $30.2 million in 1988 and $33. million in 1989.

At the direction of the Association Board of Directors, the Task Force reconvened to examine the claim reimbursement formula. After pressure from some members of the Board and the Commissioner, the Task Force, in its July 29, 1986 Report recommended that the Association follow other residual markets and change the claim fee from a percentage of incurred losses to a percentage of earned premium with certain expenses relating to claims in dispute to be reimbursed to the carriers dollar for dollar. The Board adopted the recommendations of the Task Force and the Commissioner certified the amendment to the Plan of Operation on an interim basis on November 19, 1986.

The claim fee was changed from 16.5% of Association incurred losses for Liability and PIP and 12.6% of Association incurred losses for Physical Damage to 12.3% of earned premium for both coverages. In addition, certain items of claim expenses, estimated to be 30 percent of claim expenses, are to be reimbursed directly. The directly reimburseable items are:

A. Attorney's Fees for claims in dispute;
B. The following specific items of expense related to disputed claims:
    1. Medical examination and audit fees to determine the extent of the Association's liability;
    2. Expert Testimony;
    3. Laboratory and X-ray;
    4. Autopsy;
    5. Stenographic;
    6. Witnesses and Summons;
    7. Copies of Documents.
C. Incurred Rehabilitation Expenses.
D. Expenses incurred for the investigation of suspected fraud.

The fee reduction is estimated to result in a $9.0 million saving for the Association in 1987, $53.6 million in 1988 and $81.9 million in 1989.

When the operating data for 1985 and 1986 was available, Chairman Jack Trope convened a new Expense Task Force under the leadership of Dave Jackson of Selective Insurance, which met for the first time on June 30, 1987. The Task Force was charged with reviewing the expense reimbursement of Association servicing carriers. Consideration of the claim fee was postponed until at least a year of data was available. The Task Force concluded that the non-Claim Fee was still too high and recommended to the September 1987 meeting of the Board that the fee percentage be reduced 1 point to 8.5%. The Board of Directors, at it September 1987 meeting, adopted the Task Force recommendation.

The Commissioner certified the amendment to the Plan of Operation on October 28, 1987. The reduced fee became effective for January 1988 reports. The fee reduction is estimated to result in a $14.2 million saving for the Association in 1988 and $15.5 in 1989.

EXHIBIT OO

page 1

NEW JERSEY AUTOMOBILE
FULL INSURANCE UNDERWRITING ASSOCIATION
SERVICING CARRIERS
CALENDAR YEAR 1984

Company	JUA Earned Premium	JUA Expenses	JUA Profit
State Farm	$45,967,000	$13,899,000	$1,224,000
Aetna	19,097,000	6,072,000	1,035,000
Keystone	10,088,000	3,538,000	733,000
Travelers	32,394,000	9,672,000	580,000
Fireman's Fund	22,655,000	8,601,000	(-722,000)
Hanover	67,124,000	15,995,000	8,672,000
CNA	20,216,000	6,352,000	(-199,000)
Allstate	112,505,000	42,256,000	1,479,000
Royal	20,480,000	5,003,000	2,157,000
CIGNA	22,584,000	2,911,000	4,424,000
Selective	30,560,000	10,063,000	812,000
Pru Pac	49,639,000	14,149,000	2,887,000
Pa. National	18,116,000	2,781,000	4,192,000
Continental	26,541,000	7,299,000	1,896,004
Total	$515,235,000	$154,083,000	$30,069,000

* Producer commissions are not included in JUA Expenses or JUA Profit columns.

** JUA Profit is included in JUA Expenses column.

SOURCE: NJAFIUA Annual Report to NJ Department of Insurance

EXHIBIT OO
page 2

NEW JERSEY AUTOMOBILE
FULL INSURANCE UNDERWRITING ASSOCIATION
SERVICING CARRIERS
CALENDAR YEAR 1985

Company	JUA Earned Premium	JUA Expenses	JUA Profit
State Farm	$ 92,733,000	$ 16,755,000	$ 7,443,000
Aetna	53,416,000	9,692,000	3,604,000
Keystone	18,699,000	3,743,000	1,723,000
Travelers	68,942,000	17,674,000	1,995,000
Fireman's Fund	48,781,000	11,463,000	2,344,000
Hanover	146,928,000	26,128,000	16,925,000
CNA	38,881,000	11,340,000	187,000
Allstate	218,293,000	63,797,000	2,131,000
Liberty Mutual	36,411,000	7,616,000	3,788,000
Royal	36,597,000	7,923,000	2,909,000
CIGNA	45,750,000	5,934,000	7,182,000
Selective	63,337,000	14,457,000	4,265,000
Pru Pac	106,381,000	23,526,000	8,149,000
Pa. National	35,320,000	7,121,000	4,341,000
Continental	55,851,000	13,662,000	1,530,000
Total	$1,066,290,000	$240,831,000	$68,516,000

* Producer commissions are not included in JUA Expenses or JUA Profit columns.

** JUA Profit is included in JUA Expenses column.

SOURCE: NJAFIUA Annual Report to NJ Department of Insurance

EXHIBIT OO

page 3

NEW JERSEY AUTOMOBILE
FULL INSURANCE UNDERWRITING ASSOCIATION
SERVICING CARRIERS
CALENDAR YEAR 1986

Company	JUA Earned Premium	JUA Expenses	JUA Profit
State Farm	$ 104,370,000	$ 20,190,000	$ 9,383,000
Aetna	56,607,000	7,846,000	7,359,000
Keystone	15,843,000	4,268,000	695,000
Travelers	82,999,000	25,646,000	2,739,000
Fireman's Fund	56,944,000	12,234,000	3,705,000
Hanover	173,825,000	37,246,000	14,194,000
CNA	39,316,000	11,564,000	799,000
Allstate	251,890,000	69,269,000	4,774,000
Liberty Mutual	46,572,000	8,792,000	5,660,000
Royal	42,534,000	7,344,000	3,764,000
CIGNA	48,791,000	8,987,000	5,522,000
Selective	76,411,000	15,753,000	6,692,000
Pru Pac	132,762,000	26,431,000	16,343,000
Pa. National	37,274,000	9,033,000	3,481,000
Continental	62,832,000	14,268,000	5,226,000
Total	$1,228,970,000	$278,871,000	$90,316,000

* Producer commissions are not included in JUA Expenses or JUA Profit columns.

** JUA Profit is included in JUA Expenses column.

SOURCE: NJAFIUA Annual Report to NJ Department of Insurance

EXHIBIT OO
page 4

NEW JERSEY AUTOMOBILE
FULL INSURANCE UNDERWRITING ASSOCIATION
SERVICING CARRIERS
CALENDAR YEAR 1987

Company	JUA Earned Premium***	JUA Expenses	JUA Profit
State Farm	$ 112,453,698	$19,612,495	$ 9,450,562
Aetna	60,147,108	6,668,901	10,408,729
Keystone	7,850,338	2,011,793	(249,428)
Travelers	89,968,100	30,595,804	(2,493,799)
Fireman's Fund	30,563,947	7,412,000	(184,106)
Hanover	206,054,879	63,320,525	(1,537,927)
CNA	25,928,334	3,442,851	3,543,049
Allstate	269,422,832	83,263,007	(-15,084,186)
Liberty Mutual	52,557,709	10,534,495	5,480,526
Royal	43,743,177	9,064,347	4,902,942
CIGNA	50,559,539	12,119,647	2,192,762
Selective	93,108,967	19,809,953	5,050,008
Pru Pac	153,346,154	40,052,897	2,297,752
Pa. National	39,407,825	13,448,890	(2,034,674)
Continental	67,014,717	19,167,086	1,919,522
Total	$1,302,127,324	$340,524,691	$23,661,732

NOTE: Preliminary estimates only. Not verified yet by the JUA's statistical agent, AIPSO.

* Producer commissions are not included in JUA Expenses or JUA Profit columns.
** JUA Profit is included in JUA Expenses column.
*** Not Including Policy Constant (S-2790)

JUA SERVICING CARRIER BIDS

The following companies submitted competitive bids in March 1988 for contracts as JUA servicing carriers:

Insurance Companies

Company	Proposed Number of Policies
Allstate	224,000
Continental	100,000
Hanover	250,000 to 350,000
Prudential	175,000 to 200,000
Selective	100,000
State Farm	140,000

Non-Insurance Companies

Company	Proposed Number of Policies
Computer Sciences Corp.	400,000 or more
Electronic Data Systems Corp.	200,000 to 300,000
Policy Management Systems Corp.	100,000 to 150,000
Warner Computer Systems Inc.	800,000 to 1,075,000

INJ DEPARTMENT OF INSURANCE STATE OF NEW JERSEY

For release: November 21, 1988

Contact: Leonard N. Karp
(609) 633-3955

TRENTON -- The five companies that will assume most JUA administrative operations have all signed contracts with the New Jersey Automobile Full Insurance Underwriting Association (JUA) that should save up to a projected $75 million in 1989, said Insurance Commissioner Kenneth D. Merin.

The JUA board on Oct. 27 selected through a competitive bidding process five companies to assume duties as servicing carriers for the association. The last of the contracts was returned signed late last week. The companies are the Electronic Data Systems Corp. (EDS) of Dallas; Computer Sciences Corp. (CSC) of El Sequndo, CA.; Warner Computer Systems Inc. of Fair Lawn, N.J.; Policy Management Systems Corp. (PMS) of Blythewood, S.C.; and Hanover Insurance Co. of Worcester, MA.

The companies will handle policy applications and renewals, as well as claim operations.

Merin said the anticipated savings next year is based on the fees the current servicing carriers are expected to be paid in 1988 and on a JUA population of 1.45 million policies. He said that in succeeding years, savings will be greater as the JUA is depopulated.

He estimated fees in 1988 will total $343 million and in 1989, the first year of the new contract, they will drop to $268 million, or an almost 22 percent savings.

The five companies bid a projected total of $850 million to administer JUA applications, renewals and claims over a three-year period ending in 1991. It is anticipated the JUA will have 1.45 million policies in force in 1989.

It is anticipated the new servicing carriers will begin operation no later than March 1, 1989 for new business and April 1 for renewals.

Consumers whose policies are now administered by one of the withdrawing insurance companies will be offered a renewal policy by one of the new servicing carriers.

Claims already on file with one of the existing servicing carriers will be continued to be serviced by that same company.

In legislation that took effect in 1987, non-insurers for the first time became eligible to be JUA servicing carriers. That legislation was amended this year to remove limits on the number of non-insurers that could act as servicing carriers.

The JUA in January, 1988 advertised for bid proposals from companies to act as servicing carriers efficient in policy administration, claims administration, and data processing systems.

Nine eligible bid proposals were considered by the JUA. Other bidders evaluated were Continental Insurance Company of New Jersey, Prudential Commercial Insurance Company, Selective Insurance Company of America, and State Farm Mutual Automobile Insurance Company.

EXHIBIT PP

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Each of these four bidders submitted prices which were projected to be higher than the costs being paid to existing servicing carriers.

Besides price, all bidders were also evaluated on claims handling and policy administration experience, consumer service, and overall company capitalization, as well as other factors.

The successful bidders, in addition to their servicing carrier responsibilities, will be required to adhere to a uniform statistical reporting system and submit to JUA audits.

The recommended successful bidders and their bid price follow:

Name of Bidder	Number of Policies	Estimated 3-year Fee	Estimated Percentage of Premium[1]
EDS	425,000	$248,232,159	16.49%
CSC	425,000	239,573,896	15.92%
Warner	150,000	82,654,896	15.56%
PMS	150,000	90,677,363	17.07%
Hanover	300,000	189,300,853	17.82%
Total	1,450,000	$850,438,959	16.56%

[1]On a flat fee basis, with actual JUA data for 1987 as a base.

At present, the 12 insurance company servicing carriers are compensated on a percentage basis, broken down as 12.3 percent of premium as compensation for handling claims, and 8.5 percent of premium for handling policy applications, renewals and other non-claim services. The total claim and non-claim fees paid equal 20.8 percent of premium.

Unsuccessful bidders:

Name of Bidder	Estimated Percentage of Premium
Prudential	21.14%
Continental	23.31%
State Farm	26.29%
Selective	26.34%

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Residual Market Operations -- The JUA

The JUA functions like a separate company with its own rates, investment portfolio, claims handling, etc. Yet it has a guaranteed source of income regardless of how badly it controls claim costs. Indeed, the recoupment provision of the bill does not even limit its revenues to prospective estimates (as it does for individual filers). There are pages of provisions regarding the company-controlled governing board, the accounting procedures, and the relationship of servicing carriers to nonservicing carriers. Their existence emphasizes the conflict of interest and market competition difficulties that arise with a JUA -- especially when a limited number of (generally) large writers act as servicing carriers.

The provisions in A-1696 appear more concerned with intercompany or company-agency effects than with overall control of expenses and claim settlement practices. For example, the JUA must include its expenses as part

of its filing. But these expenses vary by company. One could require that servicing carriers be allowed an expense ratio that is the minimum of the expense ratio approved in the JUA rate or the expense ratio of the voluntary side of that carrier's book of business.

There is no provision whereby the Commissioner could fine servicing carriers whose lax claim settlement practices or excessive expenses prove costly to the JUA. The JUA is given some broad authority in this respect (section 19, p. 17), but the governing board has little incentive to be tough-minded in this regard. There may be legal issues as well since A-1696 shields the companies from most liability associated with any JUA activities. To be meaningful, any fines would have to be against the servicing carrier as a private company (and not the JUA).

EXHIBIT RR

page 1

National Association Of Insurance Commissioners
1976 Profitability Results
Private Passenger Automobile

STATE	Premiums Earned	Premium Weights	Undrwrtng Profit	Invstmnt Gain	Oper. Profit
New Jersey	775,325	1.000	-12.5	5	-8.6
California	2,429,371	1.000	0.6	4.5	4.1
Delaware	48,407	1.000	-3.3	4.4	0.2
Maryland	399,451	1.000	-0.4	4.7	3.2
Massachusetts	747,782	1.000	3.3	4.2	6.3
Michigan	902,286	1.000	-7.6	5	-3.7
New York	1,653,425	1.000	-9.1	4.6	-5.6
Pennsylvania	946,560	1.000	-8.9	4.4	-5.4
Country Wide	19,277,034	1.000	-2.4	4.3	0.9

EXHIBIT RR

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National Association Of Insurance Commissioners
1977 Profitability Results
Private Passenger Automobile

STATE	Premiums Earned	Premium Weights	Undrwrtng Profit	Invstmnt Gain	Oper. Profit
New Jersey	961,275	1.000	-7.8	4.8	-4.1
California	2,902,651	1.000	4.7	4.5	8.3
Delaware	60,554	1.000	1.1	4.4	4.5
Maryland	477,222	1.000	3.5	4.8	7.2
Massachusetts	766,642	1.000	5.1	4.1	8.1
Michigan	1,150,687	1.000	-0.2	4.9	3.5
New York	2,119,332	1.000	-1.7	4.9	2
Pennsylvania	1,213,339	1.000	-4.2	4.3	-0.9
Country Wide	23,541,480	1.000	2	4.3	5.4

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National Association Of Insurance Commissioners
1978 Profitability Results
Private Passenger Automobile

STATE	Premiums Earned	Premium Weights	Undrwrtng Profit	Invstmnt Gain	Oper. Profit
New Jersey	1,103,605	1.000	-9.7	4.9	-5.9
California	3,274,472	1.000	1.1	4.7	5
Delaware	69,709	1.000	-5.6	4.5	-2.1
Maryland	520,111	1.000	-0.6	4.6	3
Massachusetts	736,371	1.000	-2.2	4.4	1
Michigan	1,335,571	1.000	-0.6	5.1	3.2
New York	2,253,563	1.000	3.8	4.9	7.5
Pennsylvania	1,440,592	1.000	-3	4.5	0.5
Country Wide	26,248,270	1.000	0.3	4.5	3.8

EXHIBIT RR

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National Association Of Insurance Commissioners
1979 Profitability Results
Private Passenger Automobile

STATE	Premiums Earned	Premium Weights	Undrwrtng Profit	Invstmnt Gain	Oper. Profit
New Jersey	1,252,624	1.000	-9.20	5.50	-4.90
California	3,651,528	1.000	0.30	5.30	4.80
Delaware	76,475	1.000	-1.90	5.00	2.10
Maryland	558,796	1.000	-3.10	5.20	1.10
Massachusetts	782,104	1.000	-7.10	4.70	-3.60
Michigan	1,416,624	1.000	-2.40	5.70	2.00
New York	2,175,340	1.000	2.50	5.30	6.60
Pennsylvania	1,575,505	1.000	-3.00	5.10	1.10
Country Wide	28,520,844	1.000	-0.90	5.00	3.10

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National Association Of Insurance Commissioners
1980 Profitability Results
Private Passenger Automobile

STATE	Line of Business	Premiums Earned	Premium Weights	Undrwrtng Profit	Invstmnt Gain	Ope Prof
New Jersey						
	Liab.	947,566	0.688	-14.10	8.30	-7.
	PhysDam	429,919	0.312	-2.40	2.10	-0.
	Weighted			-10.45	6.36	-5.
California						
	Liab.	2,396,301	0.598	-0.40	7.20	5.
	PhysDam	1,613,631	0.402	0.50	2.80	3.
	Weighted			-0.04	5.43	4.
Delaware						
	Liab.	50,999	0.624	-4.80	7.20	1.
	PhysDam	30,763	0.376	2.30	1.90	3.
	Weighted			-2.13	5.21	2.
Maryland						
	Liab.	402,251	0.663	-5.00	7.00	0.
	PhysDam	204,902	0.337	1.30	1.90	2.
	Weighted			-2.87	5.28	1.
Massachusetts						
	Liab.	462,217	0.537	-10.10	7.70	-4.
	PhysDam	398,629	0.463	-1.10	1.80	0.
	Weighted			-5.93	4.97	-2.
Michigan						
	Liab.	667,086	0.458	-15.00	10.60	-6.
	PhysDam	788,956	0.542	6.20	2.30	8.
	Weighted			-3.51	6.10	1.
New York						
	Liab.	1,529,495	0.687	-1.40	8.00	4.7
	PhysDam	696,299	0.313	1.30	2.20	3.0
	Weighted			-0.56	6.19	4.1
Pennsylvania						
	Liab.	1,060,731	0.634	-7.60	7.40	-1.7
	PhysDam	613,078	0.366	4.20	2.00	5.8
	Weighted			-3.28	5.42	1.
Country Wide						
	Liab.	17,817,770	0.585	-1.50	7.10	4.1
	PhysDam	12,642,927	0.415	2.00	2.20	3.7
	Weighted			-0.05	5.07	3.9

EXHIBIT RR

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National Association Of Insurance Commissioners
1981 Profitability Results
Private Passenger Automobile

STATE	Line of Business	Premiums Earned	Premium Weights	Undrwrtng Profit	Invstmnt Gain	Oper. Profit
New Jersey						
	Liab.	1,115,797	0.703	-16.8	9.3	-9.7
	PhysDam	470,428	0.297	-5.8	2.4	-3.9
	Weighted			-13.54	7.25	-7.98
California						
	Liab.	2,503,012	0.587	-4	8.1	2.6
	PhysDam	1,759,377	0.413	0.7	2.9	3.1
	Weighted			-2.06	5.95	2.81
Delaware						
	Liab.	54,482	0.615	-9.8	8.2	-3.3
	PhysDam	34,084	0.385	1.3	2	2.9
	Weighted			-5.53	5.81	-0.91
Maryland						
	Liab.	487,788	0.673	-7	8.1	-0.7
	PhysDam	237,364	0.327	1.7	2.2	3.4
	Weighted			-4.15	6.17	0.64
Massachusetts						
	Liab.	575,754	0.553	-8	8.2	-2.1
	PhysDam	465,919	0.447	-3.5	2.2	-1.9
	Weighted			-5.99	5.52	-2.01
Michigan						
	Liab.	511,279	0.475	-10.6	9.2	-3.2
	PhysDam	565,239	0.525	2	2.1	3.7
	Weighted			-3.98	5.47	0.42
New York						
	Liab.	1,618,395	0.673	-5.4	8.7	1.3
	PhysDam	785,701	0.327	-4.9	2.2	-3.2
	Weighted			-5.24	6.58	-0.17
Pennsylvania						
	Liab.	1,175,476	0.642	-8.7	8.5	-2
	PhysDam	655,581	0.358	2.3	2.2	4
	Weighted			-4.76	6.24	0.15
Country Wide						
	Liab.	18,797,379	0.586	-4.8	7.9	1.4
	PhysDam	13,279,770	0.414	0.4	2.3	2.2
	Weighted			-2.65	5.58	1.73

EXHIBIT RR
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National Association Of Insurance Commissioners
1982 Profitability Results
Private Passenger Automobile

STATE	Line of Business	Premiums Earned	Premium Weights	Undrwrtng Profit	Invstmnt Gain	Ope Prof
New Jersey						
	Liab.	1,322,277	0.713	-20.30	8.50	-4.
	PhysDam	533,303	0.287	-6.00	2.20	-1.
	Weighted			-16.19	6.69	-3.
California						
	Liab.	2,755,468	0.594	-8.30	8.50	2.
	PhysDam	1,884,102	0.406	-2.20	2.30	0.
	Weighted			-5.82	5.98	1.
Delaware						
	Liab.	58,209	0.607	-21.30	8.60	-4.
	PhysDam	37,621	0.393	4.60	2.20	4.
	Weighted			-11.13	6.09	-1.
Maryland						
	Liab.	494,171	0.660	-18.80	8.40	-3.
	PhysDam	254,510	0.340	2.30	2.20	3.
	Weighted			-11.63	6.29	-1.
Massachusetts						
	Liab.	668,326	0.558	-12.70	8.50	-0.
	PhysDam	528,483	0.442	0.60	2.20	2.
	Weighted			-6.83	5.72	0.
Michigan						
	Liab.	721,664	0.479	-28.90	8.70	-8.
	PhysDam	785,768	0.521	-11.60	2.20	-4.
	Weighted			-19.88	5.31	-6.
New York						
	Liab.	1,755,242	0.664	-7.30	8.70	2.
	PhysDam	886,743	0.336	-5.60	2.10	-1.
	Weighted			-6.73	6.48	1.
Pennsylvania						
	Liab.	1,273,730	0.649	-28.30	8.80	-8.
	PhysDam	689,231	0.351	4.50	2.20	4.
	Weighted			-16.78	6.48	-3.
Country Wide						
	Liab.	20,666,140	0.585	-11.40	8.50	0.
	PhysDam	14,673,912	0.415	-2.20	2.20	0.
	Weighted			-7.58	5.88	0.

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National Association Of Insurance Commissioners
1983 Profitability Results
Private Passenger Automobile

STATE	Line of Business	Premiums Earned	Premium Weights	Undrwrtng Profit	Invstmnt Gain	Oper. Profit
New Jersey						
	Liab.	1,556,882	0.708	-11.40	9.10	0.90
	PhysDam	642,544	0.292	4.80	2.30	4.30
	Weighted			-6.67	7.11	1.89
California						
	Liab.	2,985,581	0.595	-14.50	9.00	-0.80
	PhysDam	2,032,156	0.405	-3.70	2.40	-0.10
	Weighted			-10.13	6.33	-0.52
Delaware						
	Liab.	63,653	0.599	-22.50	9.20	-5.00
	PhysDam	42,550	0.401	12.00	2.40	8.30
	Weighted			-8.68	6.48	0.33
Maryland						
	Liab.	572,583	0.666	-18.10	9.00	-2.80
	PhysDam	287,111	0.334	9.10	2.30	6.70
	Weighted			-9.02	6.76	0.37
Massachusetts						
	Liab.	705,161	0.540	-14.20	9.00	-0.70
	PhysDam	601,252	0.460	7.10	2.30	5.60
	Weighted			-4.40	5.92	2.20
Michigan						
	Liab.	752,576	0.474	-25.70	9.10	-6.70
	PhysDam	835,297	0.526	-19.30	2.30	-8.60
	Weighted			-22.33	5.52	-7.70
New York						
	Liab.	1,946,709	0.657	-1.10	9.30	6.60
	PhysDam	1,018,548	0.343	1.10	2.40	2.40
	Weighted			-0.34	6.93	5.16
Pennsylvania						
	Liab.	1,372,991	0.653	-27.40	9.30	-7.60
	PhysDam	729,069	0.347	9.30	2.40	6.90
	Weighted			-14.67	2.40	6.90
Country Wide						
	Liab.	22,721,298	0.582	-13.00	9.20	-0.10
	PhysDam	16,287,140	0.418	1.50	2.50	2.70
	Weighted			-6.95	2.40	6.90

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National Association Of Insurance Commissioners
1984 Profitability Results
Private Passenger Automobile

STATE	Line of Business	Premiums Earned	Premium Weights	Undrwrtng Profit	Invstmnt Gain	Ope Prof
New Jersey						
	Liab.	1,261,612	0.695	-5.20	9.80	4.(
	PhysDam	553,858	0.305	4.70	2.40	4.1
	Weighted			-2.18	7.54	4.5
California						
	Liab.	3,352,735	0.596	-18.00	9.70	-2.4
	PhysDam	2,273,055	0.404	0.60	2.50	2.2
	Weighted			-10.48	6.79	-0.5
Delaware						
	Liab.	71,848	0.590	-42.10	9.90	-15.3
	PhysDam	49,828	0.410	6.10	2.40	5.
	Weighted			-22.36	6.83	-6.9
Maryland						
	Liab.	634,810	0.664	-25.70	9.60	-6.6
	PhysDam	321,651	0.336	-0.70	2.40	1.4
	Weighted			-17.29	7.18	-3.9
Massachusetts						
	Liab.	817,951	0.541	-13.60	9.70	-0.1
	PhysDam	694,385	0.459	3.20	2.40	3.5
	Weighted			-5.89	6.35	1.5
Michigan						
	Liab.	799,886	0.457	-20.90	-7.20	-3.9
	PhysDam	948,830	0.543	-20.90	-9.00	-9.5
	Weighted			-20.90	-8.18	-6.94
New York						
	Liab.	2,116,861	0.642	-2.50	10.00	6.20
	PhysDam	1,182,354	0.358	-0.60	2.40	1.50
	Weighted			-1.82	7.28	4.52
Pennsylvania						
	Liab.	1,550,206	0.655	-23.50	10.00	-5.20
	PhysDam	816,651	0.345	0.50	2.40	2.1
	Weighted			-15.22	7.38	-2.6
Country Wide						
	Liab.	24,555,846	0.578	-15.40	9.80	-1.10
	PhysDam	17,940,888	0.422	-2.50	2.60	0.50
	Weighted			-9.95	6.76	-0.42

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National Association Of Insurance Commissioners
1985 Profitability Results
Private Passenger Automobile

STATE	Line of Business	Premiums Earned	Premium Weights	Undrwrtng Profit	Invstmnt Gain	Oper. Profit
New Jersey						
	Liab.	882,610	0.670	-12.1	10.1	0.9
	PhysDam	434,560	0.330	16.5	2.5	10.7
	Weighted			-2.66	7.59	4.13
California						
	Liab.	4,063,571	0.602	-22.5	10	-4.8
	PhysDam	2,684,216	0.398	5.3	2.5	4.7
	Weighted			-11.44	7.02	-1.02
Delaware						
	Liab.	82,349	0.595	-54.1	10.3	-21.8
	PhysDam	55,993	0.405	9	2.5	6.7
	Weighted			-28.56	7.14	-10.26
Maryland						
	Liab.	723,152	0.671	-29.3	9.9	-8.6
	PhysDam	353,930	0.329	0.6	2.4	2.1
	Weighted			-19.47	7.44	-5.08
Massachusetts						
	Liab.	856,775	0.551	-21.1	10	-4.1
	PhysDam	699,381	0.449	-12.3	2.4	-4.9
	Weighted			-17.15	6.58	-4.46
Michigan						
	Liab.	923,839	0.455	-22.9	10.2	-5
	PhysDam	1,105,972	0.545	-17.6	2.4	-7.8
	Weighted			-20.01	5.95	-6.53
New York						
	Liab.	2,230,109	0.627	-3.3	10.1	5.7
	PhysDam	1,324,231	0.373	5.7	2.5	4.9
	Weighted			0.05	7.27	5.40
Pennsylvania						
	Liab.	1,734,148	0.673	-22.2	10.3	-4.5
	PhysDam	841,487	0.327	-1.6	2.5	0.9
	Weighted			-15.47	7.75	-2.74
Country Wide						
	Liab.	26,989,759	0.574	-21.5	10.1	-4.3
	PhysDam	20,036,402	0.426	-1.1	3	1.6
	Weighted			-12.81	7.07	-1.79

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National Association Of Insurance Commissioners
1986 Profitability Results
Private Passenger Automobile

STATE	Line of Business	Premiums Earned	Premium Weights	Undrwrtng Profit	Invstmnt Gain	Oper. Profit
New Jersey						
	Liab.	880,433	0.642	-25	9.3	-6.7
	PhysDam	491,726	0.358	11	2.3	7.6
	Weighted			-12.10	6.79	-1.58
California						
	Liab.	5,131,286	0.625	-22.3	9.3	-5.3
	PhysDam	3,080,106	0.375	8.8	2.4	6.5
	Weighted			-10.63	6.71	-0.87
Delaware						
	Liab.	97,820	0.599	-55.5	9.4	-23.1
	PhysDam	65,350	0.401	8	2.3	6
	Weighted			-30.07	6.56	-11.45
Maryland						
	Liab.	879,175	0.678	-20.1	9.2	-4.1
	PhysDam	416,960	0.322	1.4	2.3	2.4
	Weighted			-13.18	6.98	-2.01
Massachusetts						
	Liab.	961,386	0.545	-29.6	9.2	-9.3
	PhysDam	804,199	0.455	-17.1	2.3	-7.6
	Weighted			-23.91	6.06	-8.53
Michigan						
	Liab.	1,078,949	0.438	-31.5	9.3	-10.2
	PhysDam	1,382,508	0.562	-4.3	2.3	-0.7
	Weighted			-16.22	5.37	-4.86
New York						
	Liab.	2,497,874	0.607	-9.7	9.4	1.6
	PhysDam	1,614,211	0.393	9.6	2.3	6.8
	Weighted			-2.12	6.61	3.64
Pennsylvania						
	Liab.	1,954,182	0.660	-29.3	9.5	-8.9
	PhysDam	1,006,295	0.340	8.5	2.3	6.3
	Weighted			-16.45	7.05	-3.73
Country Wide						
	Liab.	31,843,153	0.578	-20.5	9.4	-4.3
	PhysDam	23,207,949	0.422	5.6	2.4	4.8
	Weighted			-9.50	6.45	-0.46

RISING FACTORS CONTRIBUTING TO AUTO INSURANCE RATES

	1983	1984	1985	1986	1987	Increase
National Inflation Rate Consumer Price Index For All Items (US Bureau of Labor Statistics)	99.6	103.9	107.6	109.6	113.6	14%
National Medical Care Costs Consumer Price Index Breakdown (US Bureau of Labor Statistics)	103.1	109.4	116.8	125.8	133.1	29%
National Auto Maintenance/Repair Costs Consumer Price Index Breakdown (US Bureau of Labor Statistics)	101.9	105.2	108.6	112.6	116.9	15%
Number of Autos Reported Stolen in NJ (Uniform Crime Reports, NJ State Police)	45,120	43,127	50,232	58,215	64,599	43%
Number of Vehicle Accidents (NJ Department of Transportation)	213,842	223,052	244,240	264,732	unavailable	24%
Number of People Killed in Vehicles (NJ Department of Transportation)	959	947	988	1,039	1,023	7%
Number of People Injured in Vehicles (NJ Department of Transportation)	120,589	128,926	136,401	146,598	unavailable	22%
Number of NJ Auto Negligence Lawsuits Filed For More Than $5,000 (Administrative Office of the Courts)	25,731	26,681	27,765	32,659	34,405	34%

Source of information is in parentheses ( ).
CPI numbers refer to the cost of a service which cost an average $100 in 1982-1984.
Death counts for 1983-1985 are victims who died within 90 days of accident.
For 1986-1987, counts are for those who died within 30 days of accident.

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1988 AUTO INSURANCE RATE INCREASES

INDEPENDENT FILERS

COMPANY GROUP	TOTAL VEHICLES	INCREASE REQUESTED	INCREASE GRANTED
COLONIAL PENN	18,280	30.1%	25.6%
HORACE MANN	803	25.8%	24.6%
KEYSTONE	42,451	21.1%	21.1%
STATE FARM	294,661	15.4%	15.4%
PRUDENTIAL	325,454	12.0%	8.0%
LIBERTY MUTUAL	123,137	10.4%	REJECTED
PRUDENTIAL	325,454	26.0%	PENDING on 12/31/88
EMPLOYERS OF WAUSAU	3,118	15.8%	"
WAUSAU UNDERWRITERS	819	15.8%	"
ALLSTATE	347,432	13.5%	"
CRUM & FORSTER	6,080*	13.2%	"
AETNA CASUALTY & SURETY	56,777	12.6%	"
SELECTIVE INS CO	97,226	5.1%	"
RUTGERS CASUALTY	38,081*	5.0%	"

ISO MEMBERS

Requested 16.2%. Only the following received 14.4%.

COMPANY GROUP		TOTAL VEHICLES
AMERICAN HARDWARE		1,135
AMERICAN MOTORISTS		405
AMERICAN MUTUAL		4,756*
AMERICAN RELIANCE		13,800
AMERISURE	243	
ATLANTIC EMPLOYERS		33,835
ATLANTIC MUTUAL		3,165
CENTENNIAL	4,443	
CHUBB GROUP	7,018**	
Alliance Assurance		
Chubb of NJ		
Federal Insurance		
Great Northern		
Pacific Indemnity		
Sun Insurance		
Vigilant		
CONTINENTAL		25,747
CUMIS		658
EMPLOYERS MUTUAL		37
FARM FAMILY		8,318
FIREMAN'S FUND		11,102**
Fireman's Fund		
GREAT AMERICAN		7,149

EXHIBIT SS

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GREATER NY MUTUAL	93*
HARLEYSVILLE	23,700
HARTFORD	32,300
IFA INSURANCE	4,733
JOHN HANCOCK	17,062*
LUMBERMAN'S MUTUAL	3,349
MCA (MOTOR CLUB)	45,218
MOTORS INSURANCE GROUP	N.A.
New Jersey JUA	1,978,490
OHIO CASUALTY	36,084*
PA NATIONAL	4,815*
PACIFIC EMPLOYERS	111
PROVIDENCE	N.A.
ROYAL INSURANCE	22,859
RUTGERS CASUALTY	38,081*
SENTRY	4,535*
STATEWIDE	98
TOKIO MARINE	405*
TRANSAMERICA	1,934
USF&G	20,061*
UTICA NATIONAL	7,257

Total - about 2.3 million

ISO MEMBERS DENIED INCREASE

AMERICAN MANUFACTURERS	51
AMERICAN POLICYHOLDERS	845*
AMERICAN PROTECTION	613
AMICA MUTUAL	21,799
BITUMINOUS CASUALTY	N.A.
CENTRAL INSURANCE COS	911*
CHUBB GROUP 7,018**	
London Assurance	
Sea Insurance	
CRUM & FORSTER	6,080*
ELECTRIC INSURANCE	591
FIREMAN'S FUND	11,102**
American Auto	
American Insurance	
Associated Indemnity	
Fireman's Fund Indemnity	
National Surety	
GENERAL ACCIDENT	16,507
HANOVER	28,612*
JOHN DEERE	53
NEW HAMPSHIRE	N.A.
YASUDA FIRE	301
ZURICH-AMERICAN	7,101

Total - About 200,000

NOTE: Increases are percentages of base rates only and do not include the effects of the RMEC, which is not affected by rate increases. Actual percentages of overall increases will be lower.

* Total vehicles are as of 6/30/88. All others 12/31/88.

** Figure represents the total vehicles insured by the group's parent company and its subsidiaries..

DRIVER IMPROVEMENT PLAN

Pursuant to N.J.S.A. 17:30E-13, the New Jersey Automobile Full Insurance Underwriting Association (Association) is required to use the rates of the rating bureau that files rates for the greatest number of insureds transacting private passenger automobile insurance in the voluntary market in this State. However, as a result of statutory amendments effective in 1986 and 1987, the Association has been afforded a degree of flexibility with respect to the rating of certain Association insureds with poor driving histories. In addition, pursuant to N.J.S.A. 17:29A-35, the Association is authorized to implement a merit rating accident surcharge system that imposes surcharges based on at-fault accidents resulting in a payment by the insurer of at least a $300 claim.

On August 17, 1987, the Commissioner approved amendments to the Association's Plan of Operation incorporating all the above-referenced statutory provisions in one coordinated program. The procedures and requirements set forth in these amendments shall be implemented with respect to all new Association policies with effective dates on or after January 1, 1988, and all renewal policies with effective dates on or after February 1, 1988.

Section 2, The Driver Improvement Plan (DIP), establishes a schedule of charges that will be imposed on drivers who are insured thorough the Association, based on certain motor vehicle infractions, the failure to maintain compulsory liability insurance coverage, at-fault accident involvement and other criteria. The DIP also imposes higher physical damage rates and deductibles on drivers who are determined to be dangerous drivers/drivers with excessive claims.

Section 3, Verification and Tracking of Underwriting Information, establishes an underwriting procedure for Association new business and renewals which is designed to maximize collection of charges authorized under the DIP and to otherwise ensure that Association business is properly rated. Section 3 places responsibility for the performance of various functions connected with the underwriting of Association policies on producers, servicing carriers and all member insurers of the Association.

The purpose of the DIP is to provide an additional source of funding to the Association and thereby ameliorate the Association's deficit financial condition. Implicit in the DIP is a recognition that drivers with poor accident and violation records should be surcharged

because they represent a higher risk of loss to the insurance system. For example, evidence presented at the Hearing on Automobile Insurance Classifications and Related Methodologies supports this proposition and confirms that drivers convicted of even minor motor vehicle violations have a greater propensity to become involved in accidents.

Estimates of the additional revenue generated by the DIP are imprecise because of the lack of available data on the number of Association insureds who qualify for DIP charges. However, the Department calculates that the conviction surcharges may generate $18-$20 million annually and the increase in the accident surcharge will raise $80 million more a year than the accident surcharge system it replaced.

INJ DEPARTMENT OF INSURANCE
STATE OF NEW JERSEY

For Release: August 31, 1988 Contact: Thomas Hooper
(609) 292-4047

TRENTON -- Drivers with at-fault accidents or motor vehicle violations will have paid to the New Jersey Automobile Full Insurance Underwriting Association (JUA) $180 million in Driver Improvement Plan (DIP) surcharges by year's end, according to a projection by the JUA, Insurance Commissioner Kenneth D. Merin said today.

Merin estimated that the funds generated by DIP surcharges, which are placed only on drivers in the JUA based on their actual driving experience and are paid directly to the JUA, would equate to a per-car surcharge of about $45 if that amount of money had not been received from the DIP.

"Without the DIP surcharge, all drivers in the state would be further subsidizing the driving habits of others through higher insurance costs," said Merin.

The DIP, which took effect in January, supplements an existing Division of Motor Vehicles surcharge system and mandates surcharges for driving violations that are not specifically covered by the DMV Plan. The DMV turns over to the JUA 80 per cent of the funds it collects and retains 20 per cent for its operating expenses.

more

The DIP also replaces a Safe Driver Insurance Plan (SDIP), which in 1987 raised only an estimated $65 million for the JUA. (See accompanying chart).

Under the DIP drivers who have four or five motor vehicle points are surcharged $55 a year for three years. The Division of Motor Vehicle imposes surcharges for drivers with six or more points.

Drivers who are at fault in accidents resulting in claims payments of $300 or more must pay a surcharge of $300 a year for three years under the DIP. Accident surcharges also were collected under the SDIP surcharge system that predates the DIP; however, those surcharges were less than $300.

DIP violation surcharges, among others, include $110 for lending a driver's license, or improper display of license plates, and $250 for allowing an unlicensed driver to operate a motor vehicle, altering a driver's license or registration, driving while on the revoked list, failure to carry liability insurance, and vehicular homicide.

In addition, the DIP also creates a dangerous driver classification. A driver is adjudged dangerous if he has four accidents in three years with each resulting in $300 or more in paid claims; nine or more motor vehicle points in three years; driving without a license; consuming alcohol while driving; possession of drugs while driving; reckless driving; passing a school bus; or driving 15 or more miles per hour over the legal speed limit, among

more

others. A dangerous driver must pay a surcharge of 35 percent on collision and comprehensive coverages, both of which are subject to mandatory deductibles of $2,000. Drivers with extensive claims are similarly penalized.

In addition, drivers with registered vehicles who have not maintained insurance coverage for more than 30 days must, under the DIP, pay a $250 surcharge on re-applying for insurance. JUA insureds who let their policies be canceled for non-payment of premium or failure to provide underwriting information must pay a $100 reapplication fee to the JUA to offset the cost of reprocessing their applications.

The DIP surcharges had generated about $44.5 million in written premium as of April. It is projected by the JUA that the DIP will bring in about $180 million in written premium for the year.

A chart of violations and accident surcharge revenue to the JUA follows (in millions):

Surcharge	1984	1985	1986	1987	1988
DMV	10.6	19.9	43.5	63.8	71.4*
SDIP	30.0	38.0	40.0	65.0	n/a
DIP	n/a	n/a	n/a	n/a	180.0**
Total	40.6	57.9	83.5	128.8	251.4

more

* Projected. Actual amount collected through July 31, 1988 is $41.6 million.

** Projected. Actual amount collected through April 30, 1988 is $44.5 million.

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EXHIBIT VV
page 1

Residual Market Assessments

In New Jersey since the early 70's, the Department of Insurance established the liability rates for clean risks in the residual market at a similar rate level that applied in the voluntary market by the largest rating organization, ISO. Throughout the 1970's the market for individuals who could not obtain auto insurance in the voluntary market for whatever reason was the New Jersey Automobile Insurance Plan. The insurance companies participated in this plan and shared in risks through an assignment procedure. The companies had to pay the losses generated by these risks assigned to them.

The Department established the liability rate levels on the basis of the experience for both markets, voluntary and involuntary combined, for all filers. Rates increased by the uniform percentage amounts by coverage and they were distributed in accordance with the classification plan.

In November of 1980 this system was changed through the introduction of policy constants. The policy constant distributed a rate increase that was necessary for the residual market as flat charges per car per coverage. The Commissioner announced at that time that rather then the percentage increase that imposes the disproportionate burdens among policyholder, he approved an increase distributed across the board as a flat additional charge per car. The approved charge amounted to $30 per car for those with liability coverages, $4 additional for those with comprehensive coverage, and $8 additional for collision coverage. This was the institution of the policy constants which were later increased in June of 1983.

EXHIBIT VV
page 2

With the creation of the New Jersey Automobile Full Insurance Underwriting Association effective January 1, 1984, insurance companies were no longer individually responsible for the losses produced by residual market business. Companies had to refile rates for numerous other law changes at that time including limits on rates in specific territories and maximum limits for class rates. The companies in their original filings included the policy constants in those rates that would only apply to the voluntary risks. This resulted in the passage of Assembly Bill 802, which became P.L. 1984, c. 1. This law required that all policy constants collected on a per car per coverage on automobile insurance policies be paid to the New Jersey Automobile Full Insurance Underwriting Association. This bill also required that no producer commissions, company expenses including servicing carrier compensation be deducted from these flat charges payable to the Association. This made a larger portion of these dollars available to pay losses generated by those insureds with the Association.

EXHIBIT WW

GAAP VS. STATUTORY ACCOUNTING

Insurance companies are required by law to adhere to accounting principles that are known as **STATUTORY ACCOUNTING PRINCIPLES (SAP).**

Under this system, a company's financial condition is reviewed as if the firm were about to be liquidated. This is to assure that potential claims can be paid even if the company were to stop handling a given line of business.

All claims with the company are assessed as losses, even if those claims have not yet been filed or paid. Therefore, insurance companies set aside a fund to pay all claims called the loss reserve.

GENERALLY ACCEPTED ACCOUNTING PRINCIPLES (GAAP) are used in accounting for an on-going concern. GAAP permits certain assets whose actual cash value would not be known unless disposed of, such as furniture, equipment and supplies, to be included in balance sheets.

EXHIBIT XX

History of JUA RMEC Requests

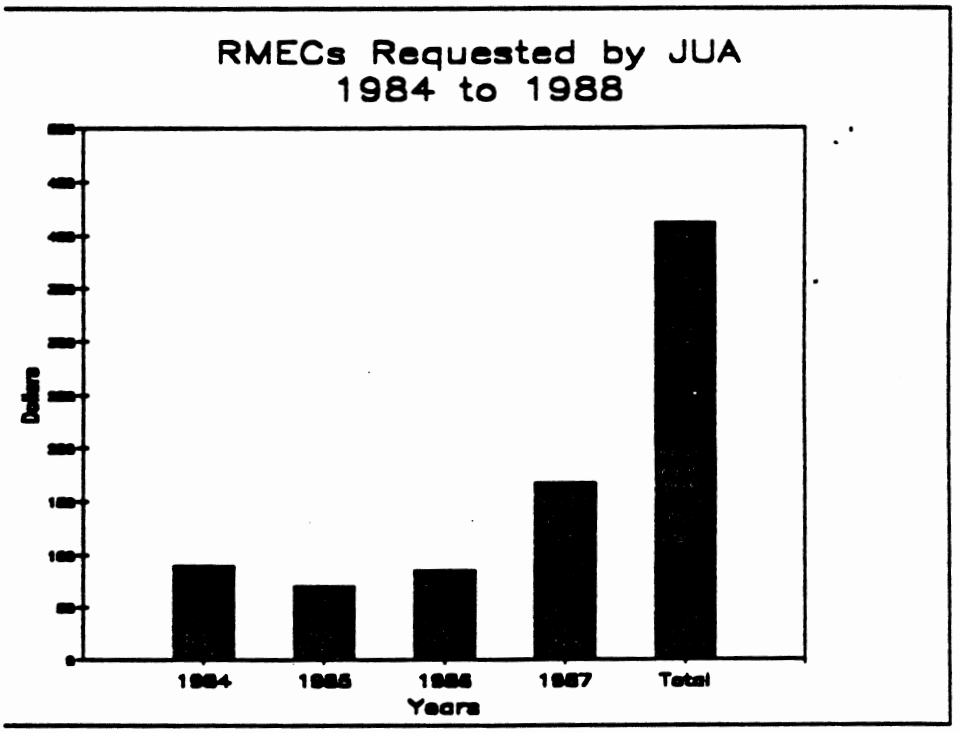
November 1983 -- Just before starting operations, the JUA sought a RMEC to cover all long-term obligations which the JUA expected to incur during 1984. A driver would have paid per car in 1984: **$90.**

June 1985 -- After reviewing the data from 1984, the JUA said it actually needed only an $80 RMEC to cover the 1984 obligations, but it also needed another $70 for anticipated 1985 obligations, for a total $150 request. If the original RMEC had been granted, a driver would have paid per car in 1985-86: **$70.**

December 1986 -- The JUA reviewed its data and said it needed a $155 RMEC to cover the 1984-85 losses, plus $85 for anticipated future losses. Even if the two previous requests had been granted, a driver would have paid per car in 1986-87: **$85.**

July 1987 -- The JUA reviewed its data again, and came up with much worse obligations. It said a $323 RMEC was needed mereley to cover past obligations, plus $167 for future losses. Even if the three previous requests had been calculated correctly and granted, a driver would have paid per car in 1987-88: **$167.**

If all industry RMECs requested had been approved each year, every New Jersey policyholder except senior citizens would have paid $412 per car over the past four years.



The RMEC requests were filed seeking to make the JUA a fully funded system, operating like an insurance company.

In 1985, the Department of Insurance required the JUA to file its RMEC requests on a cash flow basis, providing only enough revenue to pay claims as they come due. The first such request, a $66 RMEC requested in July 1987, has been approved effective January 21, 1988.

EXHIBIT YY

Starting Balance Year End 1986*		
	Bonds	$497,391,926.
	Cash on Hand	$ 27,801,433.
	Short Term Investments	$ 19,139,388.
	Total	$544,332,747.

Monthly Cash Flow**		Cash Balance
1-87	(15,446,240.)	$528,886,507.
2-87	(39,683,813.)	$489,202,694.
3-87	(47,102,197.)	$442,100,497.
4-87	(29,248,435.)	$412,852,062.
5-87	(40,682,794.)	$372,169,268.
6-87	(26,752,355.)	$345,416,913.
7-87	(19,551,224.)	$325,865,689.
8-87	(11,097,359.)	$314,768,330.
9-87	(16,906,011.)	$297,862,319.
10-87	(29,996,109.)	$267,866,210.
11-87	(33,412,045.)	$234,454,000.
12-87	(43,023,848.)	$191,430,152

EXHIBIT ZZ

page 1

SUMMARY OF JUA EXPENSE REDUCTIONS 1984 TO PRESENT

		$$$saved
1984-		
1985-		
1-1-85	Producer Commissions lowered from 13% to 11%	
1986-		
8-86	Non-Claim Fee for Servicing Carriers lowered to 9.5%	$27 million
1987-		
1-1-87	Transfer fully earned commissions to JUA	$13 million
1-1-87	Producer Commissions from 11% to 10%	$11 million
1-1-87	No Servicing Carrier Fees paid on Policy Constant.	$13 million
1-1-87	No expenses paid to Voluntary insurers for policy constant.	$ 3 million
1-1-87	Claim Fee for Servicing Carriers revised.	$ 3 million
10-1-87	Transfer Installment Fees to JUA	$17 million
1988-		
1-1-88	Non-Claim Fee for Servicing Carriers reduced to 8.5%	$14 million
1-1-88	Producer Commissions Reduced to 9%.	$15 million
	Servicing Carriers contracts awarded by competitive bidding.	

EXHIBIT ZZ
page 2

SUMMARY OF JUA REVENUE INCREASES 1984 TO PRESENT

		$$$raised
1984-		
1985-		
1986-		
1987-		
1-1-87	Expand policy constants to commercial private passenger type autos.	$15.3 million
4-1-87	JUA accident surcharge levels raised based on JUA experience.	$10 million
10-1-87	ISO rule changes take effect on rates approved for Insurance Services Office.	$50 million
1988-		
1-1-88	Driver Improvement Plan takes effect for motorists in JUA.	$60 to $100 million

EXHIBIT ZZ
page 3

NEW JERSEY FULL INSURANCE UNDERWRITING ASSOCIATION
EFFECT ON CASH FLOW OF SYSTEM CHANGES

Actual Changes		1987	1988 (millions)	1989
1)	No servicing carrier fees paid on policy constants	$ 11.6	$ 12.5	$ 13.3
2)	Policy constants paid by private passenger cars on commercial policies.	10.3	11.0	11.8
3)	Non-claim servicing carrier fees reduced to 9.5%	27.7	30.2	33.0
4)	Installment fees given to the FIUA.	4.4	17.9	19.1
5)	Revised claim expense payment procedures.	9.0	12.0	15.0
6)	Driver improvement programs	25.3	70.0	100.0
7)	Reduced commission from 11% to 10% in 1987	13.9	13.9	13.9
8)	Commission paid on a pro-rata basis rather than a fully earned basis.	13.9	15.1	16.5
9)	Voluntary market insurers can no longer deduct expenses from policy constant	3.0	3.0	3.0
10)	Non-claim servicing carrier fees reduced to 8.5%	0.0	15.1	16.5
11)	Impact of ISO rate filing true-up of tort threhold discount, and physical damage deductibles and introduction of higher symbols for expensive autos, approximately 45% rate level effect	18.75 8.8	75.0 12.0	80.0 12.0
12)	AIRE Recovery (due to impact of dual tort threshold)			
13)	Interaction of changes	(6.6)	(14.4)	(6.1)
	Total	$140.05	$273.3	$328.0

frequency increased by 40 per cent; from $1,670 to $780 if frequency increased by 80 per cent. Other relationships are also shown.

As authoritative studies of automobile accident reparation, including the DOT Study, have placed the proportion of injury victims who receive a tort payment at only 50 to 60 per cent of the total victim population, it is not inconceivable that some varieties of no-fault could increase claim frequency by nearly 100 per cent. In Table 9, an 80 per cent increase in frequency would necessitate a 53 per cent decrease in average claim cost if no-fault were to make good its promise of a 15 per cent reduction in price.

How No-Fault Attempts to Reduce Average Claim Cost.

While the Commission could not prognosticate the impact of different varieties of no-fault on New Jersey's average claim frequency, it was willing to make an assumption and see where it led.

For this purpose it arbitrarily took from Table 9 a frequency of 3.8 per 100 cars. This represents a 40 per cent increase in the current frequency. To achieve a 15 per cent price reduction with a frequency of 3.8, a no-fault plan would have to reduce the average claim cost from $1,670 to $1,000. This is a dollar reduction of $670 and a percentage reduction of

Table 9

SCHEDULE OF AVERAGE CLAIM COSTS WHICH REDUCE NEW JERSEY'S PURE PREMIUM OF $45 TO $38 ASSUMING GIVEN CLAIM FREQUENCIES

(1) % Increase over 2.7	(2) Claim Frequency		(3) Average Claim Cost	=	(4) Pure Premium	(5) Reduction Dollar	: %
0 %	2.7	x	$1,410	=	$38	$260	16 %
10	3.0	x	1,270	=	38	400	24
20	3.2	x	1,190	=	38	480	29
30	3.5	x	1,090	=	38	580	35
40	3.8	x	1,000	=	38	670	40
50	4.1	x	930	=	38	740	44
60	4.3	x	880	=	38	790	47
70	4.6	x	830	=	38	840	50
80	4.9	x	780	=	38	890	53
90	5.1	x	750	=	38	920	55
100	5.4	x	700	=	38	970	58

40 per cent. How might this reduction be achieved through no-fault?

The average claim cost of $1,670 may be divided into two parts: (1) the cost to the insurer of investigating and "adjusting" the claim, and (2) the benefit payment actually made to the claimant. This two-way division is about $370 for the former and $1,300 for the latter.

Looking first at the insurer's adjustment expense, it was obvious that even a complete elimination of the $370 cost item would not by itself attain the goal of a $1,000 average claim cost.

Looking second at the claimant's recovery, and assuming the complete elimination of adjustment expense, it would be necessary to reduce the benefit payment of $1,300 by $300 to attain the target cost of $1,000.

However, the Commission also found it totally unrealistic to imagine that under any kind of no-fault plan, and especially not in the mixed tort-no-fault plans certain states have already adopted, either adjustment expense or attorney fees could be totally eliminated.

Reducing the Benefit Payment. If, in the example given, with an arbitrarily assumed 40 per cent increase in claim frequency, a no-fault plan could reduce both adjustment expense and benefit payment by 40 per cent, then it could achieve its objective of modest price reduction. But in this event, the average benefit payment would have to be reduced by $520, from $1,300 to $780. How might this be accomplished?

Under tort, the average benefit payment consists of two parts: (1) the economic loss and (2) the intangible loss or, as it is called at law, general damages. Obviously, the average benefit payment can be reduced only by withholding indemnity for one or the other or both of these two parts.

The Commission found that all existing no-fault laws place certain limitations on economic loss recovery so far as first-party benefits are concerned. Some no-fault laws also place explicit limitations on recovery for general damages. Even where no explicit limitations are placed on access to general damages, it is presumed that the intangible loss part of the average benefit payment would be reduced by a process of selective loss assumption

on the part of the injury victims themselves. That is, those claimants who had received prompt and adequate recovery of economic loss under first-party coverage, and who in their own judgment had not sustained appreciable intangible loss, would neither expect to receive nor claim for general damages.

Whether, in the example studied by the Commission, the limitations placed by no-fault on economic loss, and either explicitly or implicitly on general damages, would suffice to reduce the current average New Jersey benefit payment of $1,300 by 40 per cent ($520), the Commission has no way of predicting.

But the Commission would point out that if no-fault is to succeed in price reduction, it must reduce the average claim cost and hence the benefit payment. And if claim frequency were to increase by as much as 40 per cent, the benefit payment would have to be reduced by 40 per cent. (See Table 9.)

The Loss-Assumption and Loss-Transfer Devices. If the success of a no-fault plan in achieving price reduction depends on reducing the aggregate dollar flow from Losses to Claims, that part of the losses rejected at conversion point D may either

AUTO NEGLIGENCE SUITS

YEAR	FILED IN NEW JERSEY	FILED IN MICHIGAN
1973	16,430	12,952
1974	15,591	12,580
1975	15,596	12,582
1976	15,896	10,472
1977	17,274	10,552
1978	17,275	N/A
1979	19,491	9,633
1980	20,833	9,771
1981	24,161	9,896
1982	25,919	10,192
1983	25,731	N/A
1984	26,681	8,993
1985	27,765	8,756
1986	32,659	9,375
1987	34,405	9,575

AUTO NEGLIGENCE SUITS FILED

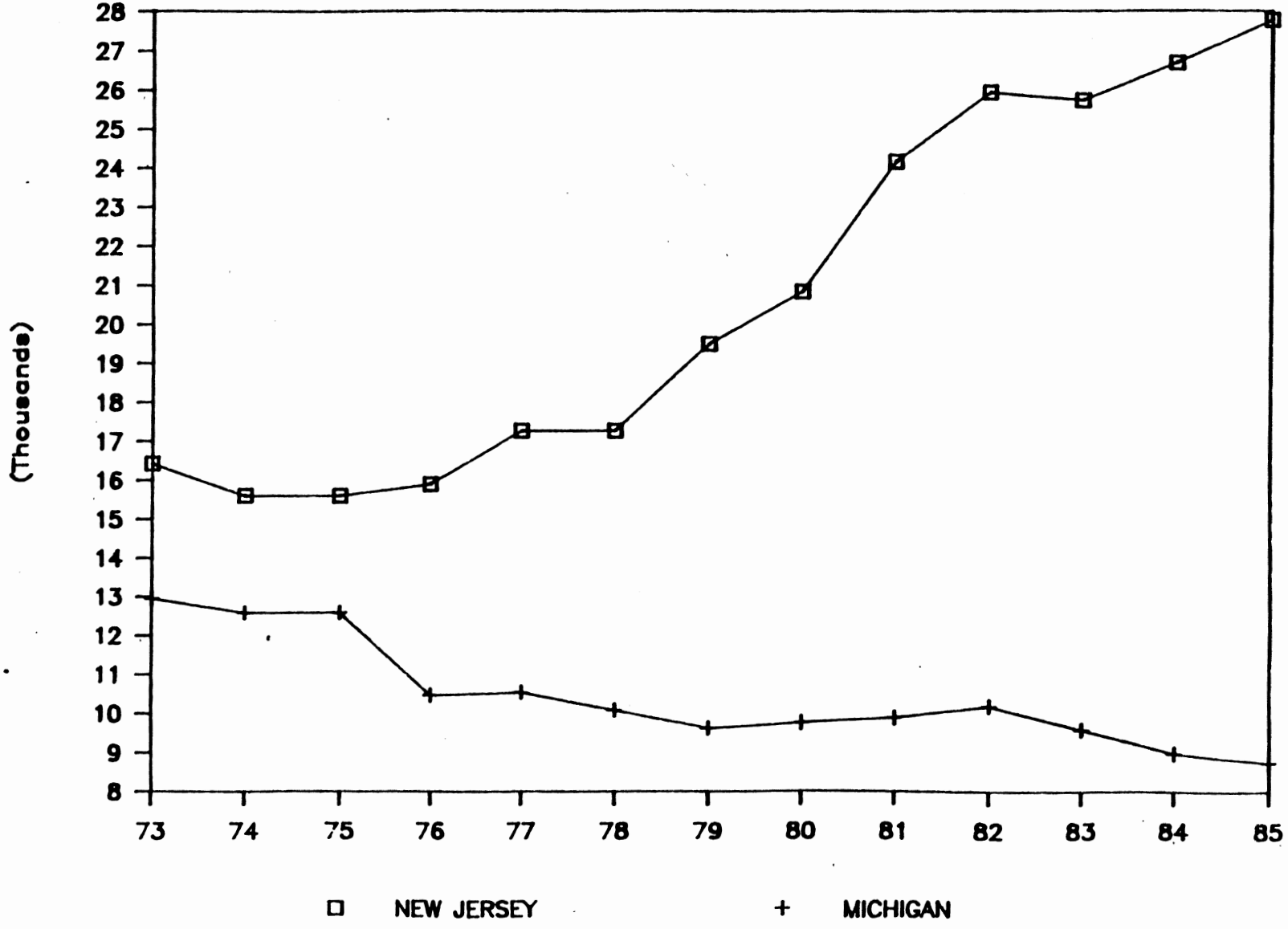


EXHIBIT BBB
page 2

AUTO ACCIDENT VICTIMS WHO HAVE SUED

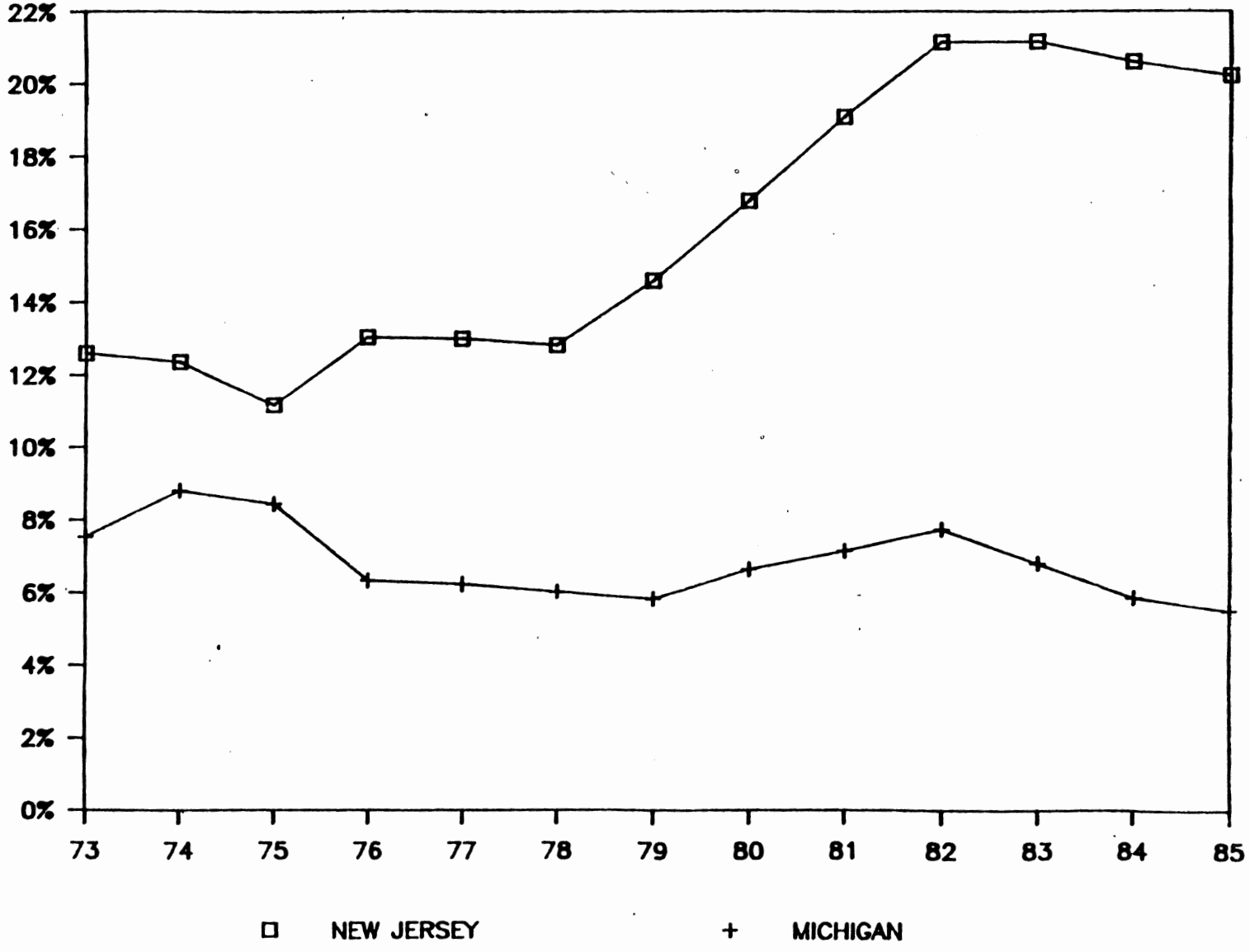
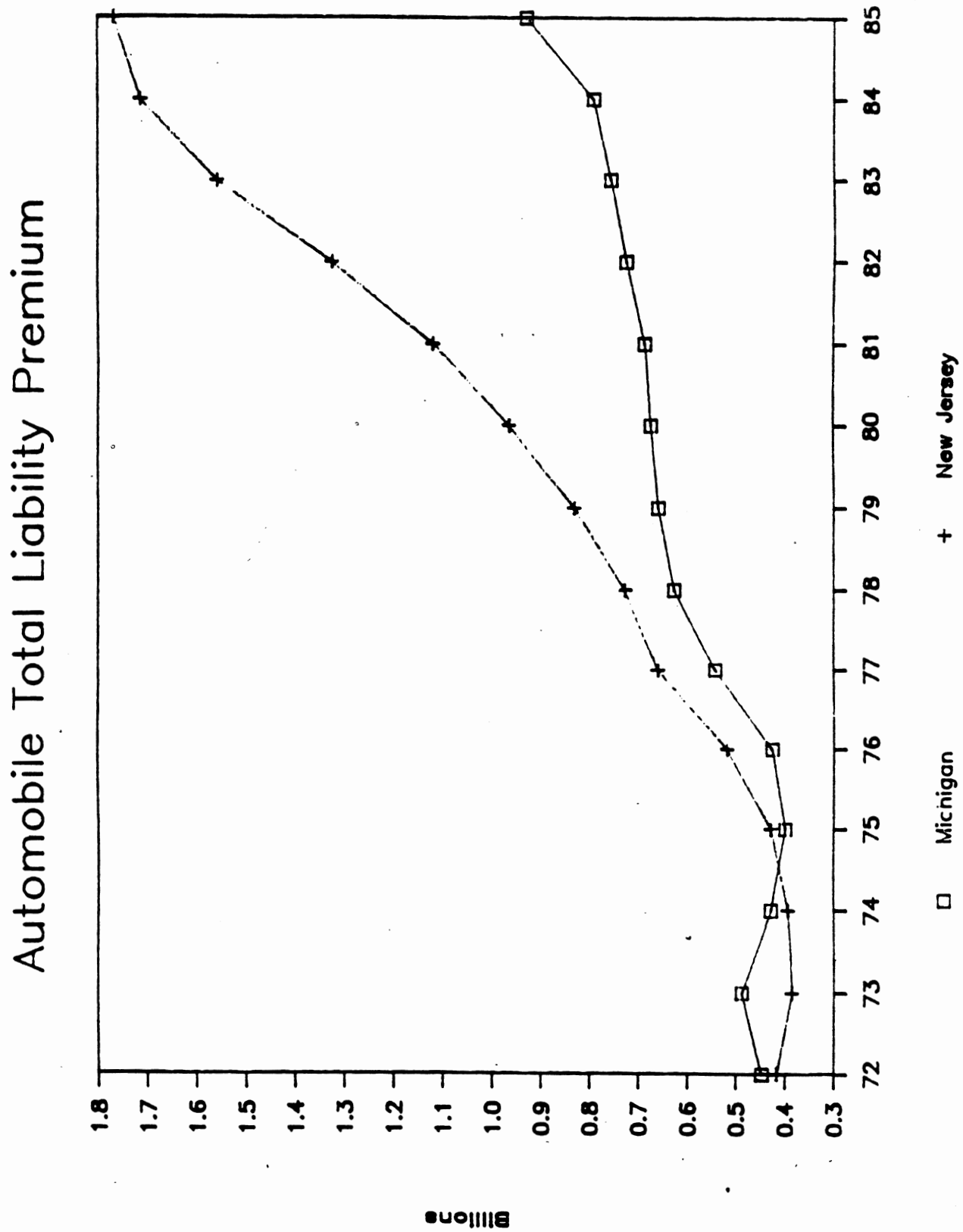


EXHIBIT CCC

EXHIBIT DDD


Automobile Total Liability Premium
Billions
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1.3
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EXHIBIT EEE

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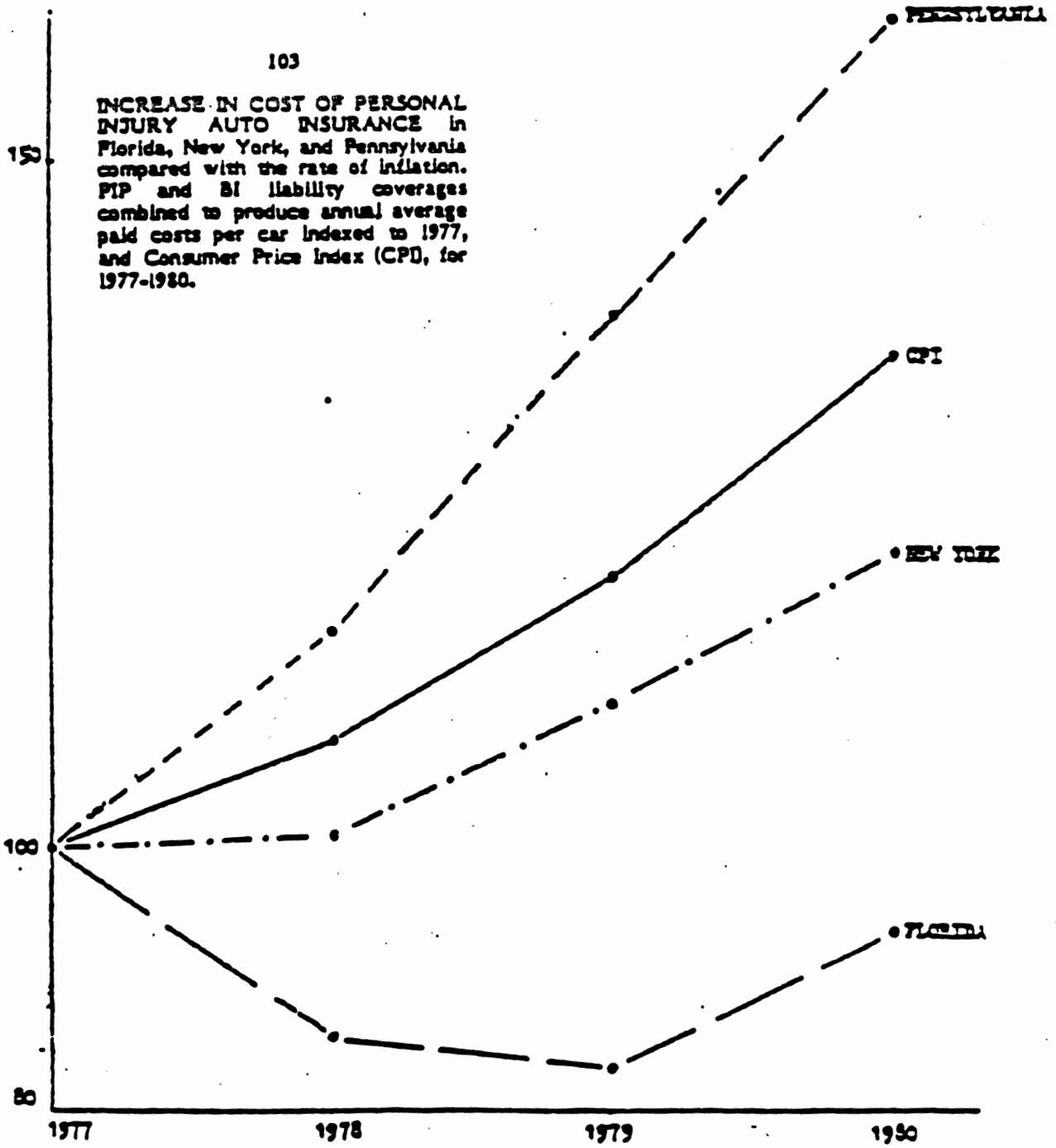
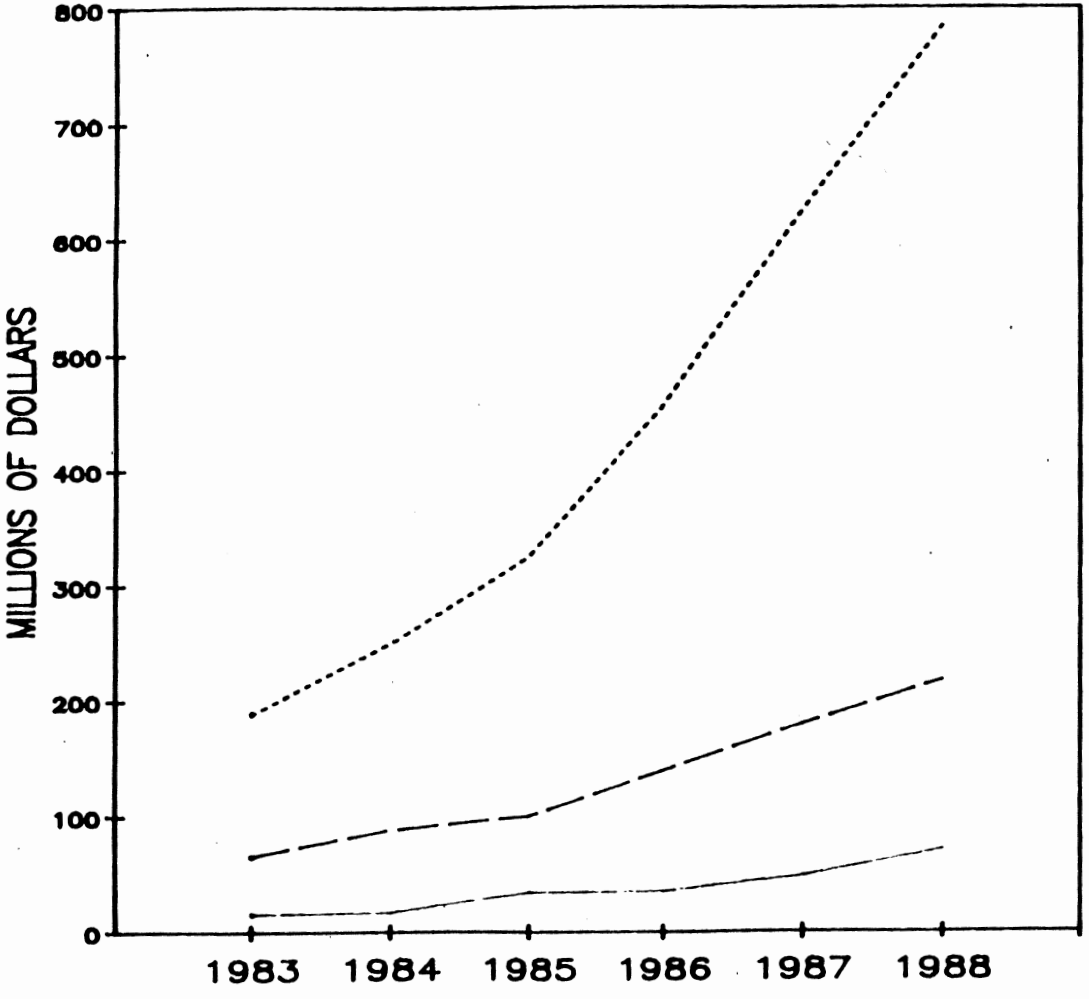
INCREASE IN COST OF PERSONAL INJURY AUTO INSURANCE in Florida, New York, and Pennsylvania compared with the rate of inflation. PIP and BI liability coverages combined to produce annual average paid costs per car indexed to 1977, and Consumer Price Index (CPI), for 1977-1980.



The no-fault reform (including exclusively verbal thresholds) implemented in Florida and New York has resulted in cost increasing at a rate lower than the rate of inflation. The costs in Pennsylvania, with an eroding dollar medical expense threshold, have been inreasing faster.

UNSATISFIED CLAIM & JUDGMENT FUND
EXCESS MEDICAL BENEFITS



LEGEND

——— ACTUAL PAYMENTS

— — TWO YEAR RESERVES

..... ULTIMATE RESERVES

AMOUNTS AS OF DECEMBER 31 OF EACH YEAR

EXHIBIT JEF
page 1

Comparison of States' No-Fault Benefits

STATE	NO-FAULT BENEFITS	STATUS
Massachusetts	$2,000 in benefits for medical, funeral, wage loss, and substitute service expenses. Wage loss and substitute service benefits are limited to 75 percent of actual loss.	Required
Delaware	$15,000 per person and $30,000 per accident. Covers medical costs, loss of income, loss of services, and funeral expenses (limited to $3,000).	Required
Florida	$10,000 per person. Pays 80 percent of medical costs, 60 percent of lost income; replacement services; and funeral costs (limited to $1,750). Deductibles of $250, $500, $1,000 and $2,000 available.	Required
Oregon	$5,000 medical benefits. 70% of wage loss up to $750 month. $18 a day substitute services. Wage loss and substitute services paid from 1st day if disability lasts 14 days; are limited to 52 weeks.	Required
South Dakota	$2,000 in medical expenses. $60 a week for wage loss, starting 14 days after injury for up to 52 weeks. $10,000 death benefit.	Optional
North Dakota	Overall limit of $30,000 per person. Covers medical and rehabilitation costs up to $150 a week for income loss, up to $15 a day for replacement services, up to $150 a week for survivors income loss, up to $15 a day for survivors replacement services loss, and up to $1,000 for funeral expenses.	Required
District of Columbia	Medical and rehabilitation benefits of $50,000 or $100,000. Work loss benefits of $12,000 or $24,000. Up to $4,000 in funeral benefits. Motorist can buy any combination he/she chooses.	Optional
Virginia	$2,000 for medical and funeral costs. $100 a week for wage loss, with limit of 52 weeks.	Optional
Connecticut	$5,000 benefits for medical, hospital, funeral (limit $2,000), lost wages, survivors' loss, and substitute service expenses. Wage loss, substitute service, and survivors' benefits limited to 85 percent of actual loss	Required
Maryland	$2,500 in benefits for medical, hospital, funeral, wage loss, and substitute service expenses.	Required
New Jersey	**Unlimited benefits for medical and hospital costs. Wage loss up to $100 a week for one year. Substitute services up to $12 a day for maximum of $4,380 per person. Funeral expenses of $1,000. Survivors' benefits equal to amount victim would have received if he had not died. Motorist may exclude all benefits except medical and hospital. Medical coverage may be bought with deductibles of $500, $1,000 or $2,500.**	Required
Michigan	Unlimited medical and hospital benefits. Funeral benefits up to $1,000. Lost wages up to $1,475 per month, adjusted annually to keep up with cost of living, and substitute services of $20 a day payable to victim or survivor.	Required
New York	Aggregate limit of $50,000 for medical, wage loss, and substitute service benefits. Wage loss. 80% of actual loss with benefit limited to $1,000 per month. Substitute services benefits: $25 a day for one year. In fatal cases, estate gets $2,000 in addition to above benefits.	Required
Arkansas	$5,000 per person for medical and hospital expenses. Wage loss. 70% of lost wages up to $140 a week, beginning 8 days after accident, for up to 52 weeks. Essential services: up to $70 a week for up to 52 weeks, subject to 8-day waiting period. Death benefit: $5,000.	Optional
Utah	$3,000 per person for medical and hospital expenses. 85% of gross income loss, up to $250 a week for up to 52 weeks. $20 a day for loss of services for up to 365 days. Both wage loss and service loss coverages subject to 3-day waiting periods that disappear if disability lasts longer than two weeks. $1,500 funeral benefit. $3,000 survivors' benefit.	Required

STATE	NO-FAULT BENEFITS	STATUS
Kansas	$2,000 per person for medical expenses. Wage loss: up to $650 a month for one year. $2,000 for rehabilitation costs. Substitute service benefits of $12 a day for 365 days. Survivors' benefits: Up to $650 a month for lost income, $12 a day for substitution benefits, for not over one year after death, minus any disability benefits victim received before death. Funeral benefit: $1,000.	Required
Texas	$2,500 per person overall limit. Covers medical and funderal expenses, lost income, and loss of services.	Optional
Colorado	$50,000 for medical expenses. $50,000 for rehabilitation. Lost income: benefits for 100 percent of the first $125 per week, 70 percent of the next $125, and 60 percent of the remainder up to $400 per week, limited to 52 weeks. Essential services: up to $25 a day for up to 52 weeks. Death benefit: $1,000.	Required
Hawaii	Aggregate limit of $15,000. Pays for medical and hospital services; rehabilitation; occupational, psychiatric, and physical therapy; up to $900 monthly for income loss, substitute services and survivors loss; and up to $1,500 for funeral expenses.	Required
Georgia	Aggregate limit of $5,000. Up to $2,500 for medical costs. 85% of lost income with maximum $200 a week. $20 a day for necessary services. Survivors' benefits had victim lived. $1,500 funeral benefit.	Required
Kentucky	Aggregate limit of $10,000. Covers medical expenses up to $1,000; income loss up to $200 a week each for replacement service loss, survivors' economic loss, and survivors' replacement services loss.	Optional
Minnesota	$20,000 for medical expense. $20,000 for other benefits, including 85% of lost income up to $250 weekly; $200 a week for replacement services, with 8-day waiting period; up to $200 weekly for survivors' replacement service loss; and $2,000 for funeral benefits.	Required
South Carolina	Aggregate limit of $1,000. Covers medical and funeral costs, loss of earnings (if desired), loss of essential services.	Optional
Pennsylvania	Up to $10,000 for medical and rehabilitation costs. Up to $5,000 for income loss, limited to $1,000 per month and 80% of actual lost income; includes benefits for hiring substitute to perform self-employment services and hiring special help to enable victim to work. A funeral benefit of $1,500. Motorists can buy optional coverages with aggregate limit up to $277,500. The Pennsylvania Catastrhopic Loss Trust Fund provides up to $1 million of coverage for medical and rehabilitation expenses exceeding $100,000.	Required

EXHIBIT GGG
page 1

Suite 250
8300 Boone Boulevard
Vienna, VA 22180-2605
703 356-5210
Facsimile: 703 356-4148

Management Consultants and Actuaries

Tillinghast
a Towers Perrin company

April 25, 1988

Mr. Kenneth D. Merin
Commissioner of Insurance
State of New Jersey
Department of Insurance
201 State Street
P.O. Box CN 326
Trenton, New Jersey 08625

Dear Commissioner Merin:

This letter is in response to our telephone conversation concerning the excess medical benefits (EMB) reserves of the New Jersey Unsatisfied Claim and Judgment Fund (UCJF). Please accept our apologizes for the delay in transmission of this document. We felt it necessary to verify the account balances prior to responding to your questions. To that end, we have contacted Mr. Sal Capozzi, Deputy Executive Director of the UCJF. As we now understand the account balances, we are prepared to respond.

Please note that this discussion covers only excess medical benefits claims. Our work does not include an analysis of uninsured motorist claims for the UCJF.

Our conversation began with an attempt to reconcile the account balances listed in a report given to you by the management of the UCJF. The account balances listed in that report were approximately as follows:

- Two-year Reserves $ 210 Million
- Ultimate Case Reserves $ 519 Million
- Total Reserves $1,700 Million

We have determined that these amounts are not directly reconcilable for several reasons. First, missing from both the two-year and ultimate case basis reserves is $170

million of paid losses to date. These are included in the $1.7 billion. Second, we understand that the two-year and ultimate case basis reserves include only "initial estimates" and do not include subsequent revisions by claim management personnel as new information is received. That is, for example, a case might be initially reported to the UCJF with a $1 million reserve. Subsequent information might cause the claim analyst at the company to revise his reserve estimate to $3 million. Such changes are not included in the account balances for the two-year and ultimate case basis reserve estimates listed above. They are, however, included in the $1.7 billion estimate.

The correct balances as of 12/31/87 that include these revisions of case estimates are $184M for two-year reserves and $625M for ultimate case basis reserves. The $1.7B can then be interpreted as comprised of the $170M of payments, the $625M of case basis reserves and $859 of "IBNR".

In this context, IBNR must be interpreted to include two components. First, there is a component for the late emergence of cases. Actuaries call this component "true" IBNR. You correctly surmise that these cases should be the less serious compound fracture cases which result in small average liabilities to the UCJF. It is noteworthy, however, that claim emergence continues almost a decade after the initial accidents occurred. We are still seeing claim emergence for accident year 1978. In total, we believe that 1,500 claims will emerge as IBNR on accident years 1987 and prior subsequent to 12/31/87. This may be compared to a reported count inventory on that date of 2,558 claims. Thus, while these cases may have low average values, there are a fairly significant number of them.

By far, however, the largest component of the IBNR reserve is a reserve for development on known cases. This accounts for a continuation of the phenomenon mentioned earlier. That is, a claim analyst receives more information concerning the payment schedule on a reported case. This additional information, on average, generates higher ultimate reserve estimates. We measure the average shortfall in current case estimates and include a provision for future case development in our IBNR.

This phenomenon is a well documented characteristic of catastrophic medical cases. Continued high inflation in medical costs, improvements in medical technology and

patient care, and the general improvement in the expected mortality for severely injured accident victims all contribute to significant uncertainty regarding ultimate payout on EMB cases. Projecting ultimate reserve values for these cases is equivalent to attempting to determine whether a 20 year old quadraplegic accident victim will be alive in 40 years and if so, what his medical expenses will be in that 40th year. Such estimates on an individual case basis have traditionally proven significantly short of actual expenditures.

An analogy exists in the workers' compensation line of insurance. Many years ago, industry representatives and regulators agreed that total disability cases could not be adequately reserved by claim personnel on an individual case basis. Thus, tabular reserves were developed by actuaries to provide for more adequate case basis reserves on average. We have repeatedly recommended to the UCJF that such a system be used in New Jersey for EMB cases. Indeed, we use such a system for EMB cases for the state of Pennsylvania (they have a somewhat similar fund). In our opinion, if a tabular value system were in use for EMB cases in New Jersey, the ultimate incurred liabilities would still approximate $1.7 billion. The tabular value case estimates would, however, comprise a much more significant portion of the total.

You also requested comments on the prospects for improving the promptness of data submission by the companies. We understand that under the current procedure companies report claims to the UCJF if they are expected to exceed the $75,000 threshold or if paid expenses exceed $50,000. It is noteworthy that the UCJF considers claim notification as reasonably prompt. In contrast, however, our last claims audit (which occurred in 1982) uncovered some uneven reporting of claims data to the UCJF.

The extent of the problem in this area can only be uncovered with an independent claims audit. Since we conducted such a study as a component of our initial analysis for the UCJF in 1982, an update using our claim management consultants is feasible. Such an audit would be comprised of two major steps.

- Our claim management staff would meet with the UCJF claims management personnel to elicit their understanding of claim reporting characteristics

and sample data from the UCJF claim files to select three representative companies submitting material numbers of claims to the UCJF.

- We would conduct on-site visitation to the three offices identified in step one to sample their excess medical benefits claims files. This would provide a statistically reliable indication of the existence of claim notification problems and, if they exist, the underlying causes.

Such a study would be conducted by Mike Zipkin, the managing principal of Tillinghast's claim consulting division. He conducted the original study in 1982. Mike would be happy to meet with UCJF personnel to develop a rigorous scope of work in this area. On the basis of my "thumbnail" sketch, Mike believes that such a study would cost somewhere between $16,000 and $20,000 including expenses. It would take 3-4 weeks to complete.

Concerning this possible avenue of future analysis, two things are worthy of note. First, we find that periodic, independent claims audits of programs such as this are a great help to the administrators of the program in assessing the appropriateness of procedures and allocation of resources. Second, although we have conducted a similar study in the past for the UCJF, we are not the only consultants working in this area. We do, however, believe that we are the best qualified for this assignment due to our prior association. The point is that you should not feel constrained by our current relationship in procuring services for a claims review.

As a final note, claim notification problems for claims of this type are generally amenable to some combination of two types of additional notification requirements. First, some programs require notification when incurred benefits exceed a dollar threshold. Note that notification for New Jersey's EMB claims is required only after paid benefits exceed $50,000. The use of incurred benefits as a threshold would speed up notification. Second, some programs tie notification to type of injury. We might request notification of all spinal cord injury, brain stem injury, and even compound fracture cases. Such a notification schedule would include the majority of EMB cases. Of course, any additional reporting requirement generates

additional expense which is ultimately paid for by the insuring public in the state of New Jersey. Thus, we recommend a determination of the existence of a problem prior to effecting remedies.

I hope that these comments have been helpful. As always, if you have questions concerning this or other matters, please call.

Sincerely,

Charles W. McConnell, II, FCAS, MAAA

CWM/slw

EXHIBIT HHH

page 1

HOSPITAL SERVICE PLAN OF NEW JERSEY
(NEW JERSEY BLUE CROSS PLAN

THIRTY-THREE WASHINGTON STREET
NEWARK, NEW JERSEY 07102

DUANE E. MINARD, JR.
PRESIDENT

September 22, 1972

Honorable Richard C. McDonough
Commissioner of Insurance
State of New Jersey
201 E. State Street
Trenton, New Jersey 08625

Dear Commissioner McDonough:

The enclosed brief has been developed in the interests of more than 3,600,000 members who greatly depend upon New Jersey Blue Cross and Blue Shield for protecting against the costs of medical care arising out of personal injuries due to automobile accidents.

Over the last year, in discussions with you and your staff, the Insurance Department has been made aware of the Plans' dedication to continue serving the basic auto med-pay benefit needs of Blue Cross and Blue Shield members. Within the last two months, a Department staff member has suggested that we address ourselves now to making recommendations for reckoning with certain duplications in coverage that will arise upon the effective date of "no-fault" on January 1, 1973, which is also the indicated date of our community rate increase. We are also mindful of the recent Haines' Report for dealing with the auto-med pay duplication, suggesting an exclusion of benefits from Blue Cross contracts which would presumably also involve Blue Shield.

I think you will find that our proposal responds quite pointedly to the matter of duplication. We intend to offer subscribers our own substitute for such duplication, but we certainly have no intention of voluntarily withdrawing from serving their personal injury needs due to auto accidents. Withdrawal would be a great disservice to our subscribers leaving them unquestionably with a much inferior product to cover their bodily injury needs.

Honorable Richard C. McDonough September 22, 1972

The purpose of the enclosure is to acquaint you with the basic tenets of our proposed plan, which is still in an evolving state. Later, as our developmental work becomes finalized, we will of course then make formal submissions to you for approval.

Sincerely,

Duane E. Minard, Jr.

Encls.

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HOSPITAL SERVICE PLAN OF NEW JERSEY
(NEW JERSEY BLUE CROSS PLAN)
THIRTY-THREE WASHINGTON STREET
NEWARK, NEW JERSEY 07102

DUANE E. MINARD, JR.
PRESIDENT

May 30, 1972

Honorable William T. Cahill
Governor of the State of New Jersey
State House
Trenton, New Jersey 08625

Re: A-667

Dear Governor Cahill:

The above-captioned bill, as passed by the Assembly on May 15, and the Senate on May 18, now awaits your decision as to signature. We respectfully urge you to consider the points outlined in this letter before you act, so that the interests of 3.7 million Blue Cross members, who represent half of the motoring public in New Jersey, will not be jeopardized.

This bill makes auto casualty carriers the primary source of medical payments. Thus, if A-667 becomes law, as presently written, Blue Cross members would be deprived of lower-cost Blue Cross service benefits for care if injured in an automobile accident, and lower-cost Blue Cross administration. Instead, auto insurance at higher cost would be mandated for Blue Cross members.

This danger was pointed out to the "No Fault" Commission by our representatives at its meeting in Trenton on July 30, 1971, but was glossed over in the Commission's report and in the subsequent legislation.

Under the present system, the med-pay feature of auto casualty policies is a minor benefit of lower premium cost with Blue Cross and other health care carriers footing the bill. Under a system of unlimited med-pay with auto coverage primary as porposed by A-667, this portion of the premium would inflate enormously and could jeopardize the promised 15% reduction in auto premiums. This would not be the case if Blue Cross were permitted to cover the medical payments arising out of auto injuries. A-667, as presently written, would legislate a monopoly of med-pay coverage in favor of the auto casualty companies at markedly higher cost to the insured.

Honorable William T. Cahill May 30, 1972

Automobile insurance which merely indemnifies the patient for expenses of medical care on a dollar basis cannot apply economic pressures in the interest of actually reducing the cost of health care. New Jersey Blue Cross' cost-based reimbursement of hospitals and demonstrated ability to discipline expenditures result in a substantial savings to the enrolled person as contrasted to the indemnity payment by commercial insurors to cover whatever hospitals and/or doctors charge.

The low administrative overhead of Blue Cross is another reason for continuing Blue Cross as a participant in covering health care costs of auto accident victims. The operating expense of New Jersey Blue Cross is now approximately 4 cents of the subscriber's dollar, as contrasted with commercial automobile insurors administrative and agency costs of 33 cents (State of New York Insurance Department's Report to Governor, 1970, pp 34-35).

In addition to these savings in cost of care and administration, another advantage to the consumer if Blue Cross were permitted to continue its coverage for auto accident victims is instant credit at time of hospital admission. Because of contracts with providers through corresponding plans in every state and in Canada, members are relieved of the need to pay providers directly wherever they travel. These prepayment arrangements are absent from any commercial automobile insurance carrier's coverage.

Despite these compelling arguments on behalf of the public, Blue Cross under A-667, as presently written, would be carved out of the automobile-connected health care area by the pending legislation. This is a disservice to the public which can be remedied only by you.

The Maryland no fault auto legislation was amended during passage to include all health care carriers as authorized to underwrite the personal injury component, by the inclusion of language similar to that contained in the accompanying proposed amendment to A-667. This enlargement to include all health care carriers is in accord with the recommendations of the U. S. Secretary of Transportation and affords the consumer the option of continuing protection through carriers in the health field which is an unchartered area for the casualty companies whose experience is limited, to indemnifying patients after they are already out of pocket by payment of hospital charges.

We respectfully urge that you return A-667 to the Legislature for amendment which would give all health care carriers equal opportunity to provide benefits for auto-connected injury. The proposed amendments are attached for your consideration.

Sincerely,

Duane E. Minard, Jr.

Encl.

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HOSPITAL SERVICE PLAN OF NEW JERSEY
(NEW JERSEY BLUE CROSS PLAN)

FIVE HUNDRED BROAD STREET
NEWARK, NEW JERSEY 07101

RAYNOR A. FAIRTY
VICE PRESIDENT

TELEPHONE
(201) 682-2495

June 29, 1971

Mr. William White, Actuary
Department of Insurance
State House Annex
Trenton, N.J. 08625

Dear Mr. White:

I promised to send you our views with regard to Automobile Insurance Reform.

We believe strongly that health care prepayment and insurance coverages should be primary for coverage of health care costs resulting from automobile accidents. As a practical matter, our basic health insurance, when augmented with an extra premium to include guest riders in the insured's automobile and pedestrians, might well be broadened to include not only comprehensive health services but also similar expenses related to other personal injury loss, such as Wage and Funeral expenses. The joint inclusion of these latter expenses may be a practical necessity for insurers such as Blue Cross and Blue Shield confronted with any No-Fault statute making provision for an aggregate benefit ceiling covering these other expenses together with the health care component.

In our judgment, Automobile Insurance should supplement health insurance only if the health coverages held by the injured person are inadequate to cover the cost of his care. The economics of this arrangement would save premium for the automobile policyholder, both because the automobile carrier would write benefits on a supplementary basis and because the administrative costs of health insurance are far less than those of Automobile Insurance.

The rendering of basic health insurance as primary and relegating Accident Insurance to covering only excess loss was recently promulgated by the New Jersey Department of Insurance on June 1, 1971 with respect to Group Student Athletic Accident Insurance. For the same reasons of reducing the cost of this form of supplemental insurance, equal rationale would apply to Auto Insurance.

But the major reason why we are convinced that costs of health care resulting from automobile accidents should be met by health insurance is that there is no other way to influence reduction of health care costs by the providers of services -- the hospitals and the physicians and other providers. Automobile Insurance, which basically reimburses the patient for expense of medical care, on a dollar basis, cannot apply economic pressures in the interest of reducing the costs of actually providing that care. Health insurance and prepayment, particularly the Blue Cross and Blue Shield Plans, not only can but do influence the costs of delivery on behalf of their subscribers. We will do more, and government must help, but indemnification against costs of care through non-health contracts cannot do so. Public policy, in our opinion, therefore dictates concentration of coverage for health expenses under health programs.

Moreover, we feel that the nation's health strategy is moving in the direction of all-inclusive health benefits being prepaid under a national health insurance arrangement with financing contributed widely among not only the Federal Government and policyholders but also Employers. Employers likewise today contribute heavily in support of Blue Cross-Blue Shield premiums under our health insurance programs, and this contribution would be dissipated if 5% (our estimate of auto accident claims outgo) were transferred to the separate coverage of Automobile Insurance where no employer contribution arrangement exists. In other words, the retention of health insurance in the primary role would further serve the economic interest of employees enrolled under Blue Cross-Blue Shield today by virtue of the built-in employer contribution factor.

Attached, as promised, is a copy of our staff report which we prepared to guide our own planning with regard to the likelihood of Automobile Insurance Reform. Since this document reflects some of our marketing strategies, I trust that you will keep it confidential within the Insurance Department.

Sincerely,

Raynor A. Fairty

fhf
Attach.
bcc: (w/attach.) Messrs. Minard
Daniels
Jackson
Lyon
Mrs. Hauck

LETTER OF TRANSMITTAL

December, 1977

THE HONORABLE MEMBERS OF THE SENATE and GENERAL ASSEMBLY

Ladies and Gentlemen:

The Commission to study the "New Jersey Automobile Reparation Reform Act," P.L. 1972, c. 70 (C. 39:6A-1 et seq.), among other things, created pursuant to Senate Concurrent Resolution No. 68 of 1976, herewith respectfully submits its report in compliance with the terms of the resolution regarding said act.

(s) ALEXANDER J. MENZA
Chairman

(s) SAMUEL HAGER
Vice-Chairman

(s) DAVID T. PARKER

(s) THOMAS J. DEVERIN

(s) DONALD DiFRANCESCO

(s) GEORGE W. CONNELL

(s) WILLIAM K. DUNCAN

(s) DAVID GREEN

CHAPTER IV

Delivery of Benefits Under No-Fault: Primary and Collateral Sources

One of the objectives of New Jersey's no-fault law is to provide for the prompt and efficient provision of benefits for all injury victims of private passenger automobile (and certain light truck) accidents regardless of fault. The reparation purpose of the law, however, would fall short of its objective unless all private passenger automobiles were included in the insurance program. Consequently, the no-fault law provides that personal injury protection and liability insurance are mandatory for such automobiles.

An important question which flows from mandatory no-fault insurance is whether no-fault coverage should be coordinated with other medical, health, and disability insurance. Depending on which insurance is made exclusively primary for paying no-fault benefits, other insurers will be responsible only for excess costs or coverage not paid or provided by the primary insurer. The collateral insurer should -- theoretically -- be able to reduce the insured's premium, as double coverage would be eliminated.

A more important, and perhaps more difficult, question pertains to who should be the primary provider of (no-fault) personal injury protection benefits. The framers of New Jersey's no-fault law, pursuant to the recommendations of the Automobile Insurance Study Commission (AISC) in 1971, made automobile insurance primary for no-fault benefits. The AISC did not generally favor reliance on collateral sources of benefits to fill the indemnity gaps in the tort liability system.

The Commission agrees that automobile insurance should be primary for personal injury protection benefits. Retaining automobile insurers as primary insurers for the payment of medical expense benefits associated with automobile accidents internalizes the cost of the automobile reparations system: the cost of injury loss resulting from automobile accidents should be part of the price paid for automobile usage. Several considerations are germane here. Those who drive automobiles should be the only individuals required to pay for the system: health insurance, of course, is frequently paid by employers, by the state, or by others. To require that health insurance be made primary would be to extend part of the cost of the automobile reparations system to that part of the population which does not drive cars; it should be noted that the 18 percent of the population which does not drive is also the poorest portion of the population in terms of economic resources.

Second, not all victims with income loss or medical expenses are necessarily covered by health or disability insurance, or covered by them to the same extent as provided by no-fault automobile insurance; the reparation objective of the no-fault law is to provide an equitable and uniform schedule of benefits for all victims. Third, some forms of non-automobile insurance provide only a low "floor of protection" whereas it is the purpose of the no-fault law, within reasonable limits, to provide income replacement benefits. And, finally, it is likely that inequities and rate-making difficulties would result if collateral sources were made primary.

To minimize costs and duplication of benefits, however, the no-fault law requires the subtraction of workers' compensation, temporary disability insurance, and also medicare benefits, from those benefits otherwise payable under the automobile insurance reparation system. A very large part of the New Jersey labor force is eligible for workers' compensation and temporary disability benefits, which are financed by employer contributions. Medicare, of course, provides government benefits for certain eligible recipients.

Nonetheless, there are those who continue to advocate coordinating health insurance and automobile no-fault personal injury protection benefits as a useful method of avoiding wasteful duplication of benefits and as a means by which individual insureds might save money on premiums. Some authorities have pointed out that health insurers are able to deliver a greater portion of the premium dollar to the insured as benefits; administrative expenses, for example, tend to be lower for non-profit hospital service corporations (such as Blue Cross) than they are for casualty insurers. It has also been pointed out that individuals who hold Blue Cross and Blue Shield health insurance contracts also benefit from the fact that such corporations are direct writers (i.e., no agent or broker fees are included in the cost of the insurance), and that they also enjoy a favored tax position. Such corporations have been cited as the premier experts in health care delivery systems, and therefore well equipped to take on the payment of medical claims associated with automobile accidents.

The Commission examined three plans which could be used to coordinate health insurance and automobile insurance. They would

operate in the following manners:

(1) Health insurance would be made primary. In the event of an automobile accident, the health insurer would pay the medical expenses incurred in the same fashion as it would pay for any other illness under the regular health insurance contract. A so-called "wrap-around" feature might be added, which would provide for the casualty insurer's payment of any medical expenses which are not reimburseable under the regular contract.

(2) Blue Cross and Blue Shield, as nonprofit corporations, might be made the universal PIP (personal injury protection) carriers in the state. A separate Blue Cross PIP policy would be issued, providing unlimited medical benefits to every driver in the state, along with a policy issued by a regular casualty insurer to provide for liability and property damage coverage. This approach was mentioned by Commissioner James Sheeran at a public hearing of the Commission on July 28, 1977.

(3) An optional $1500-2000 deductible could be offered by the casualty insurer in the PIP portion of the policy. For an appropriately reduced premium, the insured could elect to utilize his own health insurance coverage in the amount of the deductible, absorbing any gaps in coverage himself.

The first plan, which would establish health insurers as primary medical expense carriers in the no-fault automobile system, is implicitly predicated upon the supposition that all drivers have some form of health insurance. In New Jersey, health insurance coverage is held by the state's residents as follows:

40% - BLUE CROSS AND BLUE SHIELD

25% - MEDICARE

15% - MEDICAID

10% - COMMERCIAL CARRIERS OR PAY OWN WAY

10% - NO INSURANCE

It should be noted that of the 10 percent of the population covered by commercial carriers a substantial number are under-insured; i.e., there are large gaps in their coverage in the form of low ceilings, substantial co-payment provisions, and large deductibles. It is estimated that about 500,000 people in the state have insurance coverage which is not adequate.

Therefore, in order to make health insurance primary for automobile injuries, a means would have to be found to provide the entire driving population with adequate coverage. At present, the health insurance of 45-50 percent of the population is funded through governmental agencies. This includes Medicare (25 percent), Medicaid (15 percent), and that portion of the population which has no insurance coverage; in the event that these uninsureds are admitted to hospitals and cannot pay their bills, the county government frequently pays for them. If regular health insurance were made primary for all drivers, some provision would have to be made to relieve the public sector of the burden of that portion of the cost of medical expenses associated with automobile accidents.

At present, because of the voluntary nature of health insurance coverage in this country, there are a wide variety of

benefit packages available and a complete absence of the uniformity which characterizes the automobile reparations system. Presently, automobile PIP benefits provide unlimited medical payments for all reasonable costs associated with an automobile accident without deductibles or coinsurance. No regular health insurance contract even approaches being this comprehensive. Health insurance coverage frequently contains a dollar benefit ceiling, often provides for partial reimbursement of medical costs, and increasingly provides for coinsurance and deductibles as a means of reducing the total cost of the coverage to the purchaser. This in not necessarily suited to the circumstances of an automobile accident. Blue Cross, for example, usually provides for fairly complete reimbursement for hospital expenses, but Blue Shield provides for limited reimbursement for medical and surgical care. Automobile accidents, however, are characterized more frequently by medical costs, such as visits to a doctor's office (not reimburseable at all under the standard Blue Shield contract, and under major medical only after the payment of a $100 deductible) than by hospitalization.

Health insurance contracts are also characterized by a number of exclusions which might deprive the automobile accident victim of needed care. One of the most significant areas of care traditionally excluded by Blue Cross and Blue Shield contracts is rehabilitation. Casualty insurers, however, have traditionally seen the importance of early rehabilitation, both medical and vocational, of the accident victim in terms of the victim's wellbeing and the cost-effectiveness of such treatments in reducing the long-term medical and wage loss benefits paid by the insurer.

Another area which has been found to be cost-effective by the casualty insurer but has been neglected by Blue Cross and Blue Shield is outpatient care.

In terms of cost, there do not seem to be strong indications that any savings could be effected by making health insurance primary. The lower administrative cost of Blue Cross insurance is not, in fact, shared by Blue Shield. One of the reasons that Blue Cross expenses are low is that it merely serves as a conduit for the payment of hospital bills and frequently makes such payments to hospitals in regular, large lump sums. Blue Shield, on the other hand, makes payment to a large number of providers, which raises its administrative costs to two or three times that of Blue Cross. It has been pointed out that the Blue Cross method of payment precludes any serious, individualized attempts to discover overutilization and overpayment of hospital benefits. Furthermore, it must be noted that if health insurance were made primary in automobile cases, its general utilization (and premiums) would rise commensurately. In fact, a four state survey conducted by the United States Department of Transportation showed a cost savings in the states where automobile insurance was primary; in 1972 Blue Cross rates were reduced $15 in New Jersey in recognition of the cost savings associated with making automobile insurance primary.

The payment of benefits by both health insurers and casualty insurers in a "wraparound" arrangement would result in a net increase in administrative costs. A double set of files

for each accident would need to be kept, and additional expenses would be incurred by each insurer in verifying payments made by the other. The administrative expenses for casualty insurers would not be reduced at all by the fact that they no longer paid medical expense benefits or paid them only partially. Their administrative expenses, which include taxes and loss adjustment expenses, are relatively static. In addition, the payment of claims by two insurers would probably increase the opportunity for fraud and duplication of payments.

Similarly, in term of cost to the consumer, there is no indication of saving. Those individuals who did not have regular health insurance coverage would have to secure it. Those who were underinsured would have the option of securing a better policy (which would cost around $500 for a family of four), or self-insuring in the amount of the deductibles and copayments which their existing policy contained. To fill in these gaps would result in a larger payment to the casualty insurer for augmented "wraparound" benefits. Significantly, however, the securing of a fairly good health insurance policy for $500 would not provide the comprehensive unlimited coverage available for the $38.00 PIP coverage from the casualty insurer.

The second plan would provide for the offering of a regular PIP policy, including wage loss and other benefits, by Blue Cross. Ostensibly, this would include unlimited benefits as does the present PIP coverage now offered by casualty insurers. This could presumably be offered at a lower cost because of the lower expense ratio of medical service corporations.

This approach would require Blue Cross and Blue Shield to get into many areas in which they are not now involved and in which they have no particular expertise. This would include the payment of claims for wage loss, rehabilitation, nursing care, and other benefits.

In Maryland, the Maryland Automobile Insurance Fund, a state-owned residual market mechanism, contracted with Blue Cross and Blue Shield in 1972 to handle the Personal Injury Protection portion of the insurance policy issued by the Fund. After two years the contract was cancelled. Officials of the fund suggested that Blue Cross simply did not have the expertise required to service the policies properly.

An immediate problem would be the mechanics of marketing an automobile insurance policy which contained elements issued by two completely separate insurers. Aside from the double file-keeping problem noted earlier, both kinds of insurers might market their product in a completely different manner. Blue Cross and Blue Shield are direct writers; thus, five million New Jersey drivers would have to try to contact them directly for the issuance and servicing of their policies in the absence of agents or brokers. Probably any savings in administrative expenses enjoyed initially would soon be wiped away in the face of the monumental task of issuing and servicing several million PIP policies.

Furthermore, it is difficult to estimate the effect of imposing the burden of unlimited medical payments on the present financial structure of Blue Cross and Blue Shield. Their reserving practices

are presently different from casualty insurers and would probably have to be changed to adapt to the new set of circumstances and obligations posed by the advent of unlimited medical payments. Furthermore, since they would enjoy a monopoly, there would be no possibility of any pooling arrangement for excess losses, which would be permitted to automobile insurers under the provisions of Senate Bill No. 1380, now awaiting the Governor's signature to become law.

The third plan has been tried in Michigan and Florida. Both states have no-fault laws which provide that the insured, at his option, can elect to take a deductible up to $2,000 on his PIP policy, and use his existing health insurance to cover that deductible. PIP, therefore, becomes excess for catastrophic losses. In Michigan this was accompanied by a mandated 40 percent rollback in the medical portion of the PIP premium, a savings of $7 for the average policyholder. For this $7 reduction, however, the policyholder faced the spectre of paying deductibles in his regular health insurance and in his major medical coverage, which might amount to significantly more than the small savings he gained. In addition, he ran the risk that certain kinds of treatment might not be covered at all.

An inherent danger in this approach is that the insured might not seek early rehabilitation, which might result in longer term cost savings. If his automobile insurer is not brought into the case until a later time, opportunity for needed early treatment may have been lost.

Conclusion and Recommendation

The Commission believes automobile insurers are better suited to be, and should be, the primary providers of no-fault benefits, with exceptions as currently required in the no-fault law. The Commission was influenced by data which shows that in New Jersey and New York, where automobile insurance is primary, consumers have received an average premium cut on their health insurance of about $18 a year as a result of the primacy of no-fault. Blue Cross and Blue Shield were required to cut their premium by 2 1/2 percent in New York and 3 percent in New Jersey after the introduction of mandatory personal injury protection benefits.

In addition, automobile insurers have the expertise in special kinds of serious injuries which are uniquely associated with automobile accidents, and often their experience permits them to act effectively early on in the treatment to bring about optimum results. Also, automobile insurers, dealing in these problems exclusively, unlike health insurers, have a vested interest in working in collateral areas to effect highway and automobile safety; and they are in a unique position to offer inducements to bring needed changes about, e.g., as discounts for safety features in cars such as air bags.

July 1988

Why Auto Insurance Should Continue To Be The Primary Source Of Auto Accident Medical Benefits

In December of 1970, an Automobile Insurance Study Commission reported on its deliberations and made recommendations to Governor Cahill and the Legislature concerning the adoption of a system of No-Fault insurance in New Jersey. The Commission's analyses formed the basis for enactment of our No-Fault law in 1972.

Among the issues studied by that Commission was whether medical-hospital expenses of persons injured in car accidents should be transferred outside the automobile insurance reparation system. Observation was made that a majority of the no-fault plans then in effect usually did not shift such losses to other systems and the Commission recommended that the same position be adopted in New Jersey for several reasons:

* To the extent losses are transferred to other systems, the principle of social accounting on which no-fault is predicated would be violated and non-automobile insurers, who utilized the right of subrogation against the automobile reparation system, would be denied the means of minimizing their losses and hence, prices.
* If other benefit sources were exhausted in order to indemnify an automobile injury loss and subsequently the insured should suffer an injury or illness not related to an automobile accident, he or she might be left without protection for the second loss.
* Equity in pricing would require auto insurers to allow suitable actuarial credits for other insurance coverages collateral to the no-fault coverage, and this requirement, both in the rating of risks and in the adjustment of claims,

would create what was rightfully termed an "administrative monster."

A second No-Fault (New Jersey Automobile Reparation Reform Act) Study Commission reconsidered the question of whether no-fault medical coverage should be coordinated with unrelated medical, health and other insurance and in its December 1977 Report confirmed the position that automobile insurance should be primary for personal injury protection benefits. In addition to relying upon the reasons cited by the earlier Commission in reaching this conclusion, the 1977 Study Commission also saw another advantage in the primacy of auto insurance medical coverage which may be summarized as follows:

* Consumers derive a significant benefit from having auto accident related medical expenses administered through a single, uniform source of broad coverage.

Each of these points is addressed briefly:

Social Accounting
Shifts Costs From One System to Another

The 1971 Automobile Insurance Study Commission characterized the transfer of losses to other systems from the auto insurance system as an instance of "robbing Peter to pay Paul." The practice was said to subvert the principle of social accounting for losses; that is, motorists would not be charged with the full costs automobile usage entails. The 1977 Study Commission similarly concluded:

> The Commission agrees that automobile insurance should be primary for personal injury protection benefits. Retaining automobile insurers as primary insurers for the payment of medical expense benefits associated with automobile accidents internalizes the cost of the automobile reparations system; the cost of injury loss resulting from automobile accidents should be part of the price paid for automobile usage. Several considerations are germane here. Those who drive automobiles should be the only individuals required to pay for the system; health insurance, of course, is frequently paid by employers, by the state, or by others. To require that health insurance be made primary would be

to extend part of the cost of the automobile reparations system to that part of the population which does not drive cars; it should be noted that the 18 percent of the population which does not drive is also the poorest portion of the population in terms of economic resources.

Some advocates of reform today see an opportunity to reduce car insurance premiums by shifting the cost of accident related medical expenses from auto insurers to health insurers. It is conservatively estimated that the magnitude of the transfer as valued in total auto insurance premium dollars needed to fund $75,000 worth of benefits on a statutory accounting basis now exceeds $500 million a year. The amount would add significantly to the price of employer sponsored group health plans, small group and individual subscriber health plans, Medicare and Medicaid programs as well as the cost needed to fund uncompensated care for those not covered by health insurance. And the timing comes as those already overburdened plans and programs are facing additional costs resulting from the combination of inflation, new expensive medical technology, and the reduction of government subsidies to the cost of uncompensated care. Another pressure upon employers is the growing support for the Fair Accounting Standards Board (FASB) proposition that the future cost of providing health benefits to retirees should currently be reflected in corporate balance sheets.

Exhaustion of Other Health Plan Benefits to Indemnify Auto Insurance Losses

As recognized by the 1977 Study Commission, a plan which shifts auto accident medical costs to health insurers presupposes that all drivers have some form of health insurance. Even in today's relatively strong New Jersey economy, it is estimated that approximately 10.5% of the population has no health coverage. The 1977 Commission also found that another 10% of the population (500,000 people) had inadequate health insurance due to large gaps in coverage in the form of low ceilings, substantial co-payment provisions and large deductibles.

Traditional health plans sponsored by employers typically incorporate limitations on available benefits as does the Medicare Program. These may include restrictions on the number of hospital days, dollar maximums on certain types of services and, for those Plans which provide Major Medical Expense protection, benefit period and lifetime maximums. Depending on their past medical history, at the time of an auto accident some consumers might already be at or close to their health plan maximums.

Of particular consequence to senior citizens is the potential impact of an auto accident on lifetime reserve days for hospital care. The Medicare Program provides a lifetime reserve of 60 days (subject to a present co-payment of $235 each day) which may be used only once to supplement the 90 day per benefit period limit on hospital care.

Use of limited health care program resources for auto accident medical expenses means that bills for illnesses may go uncovered.

Since 1984, New Jersey has had a PIP medical expense deductible option in place which allows auto insurance policyholders to choose to shift some auto related medical expenses to health programs (subject to possible application of health policy deductible and co-payments), but at a level which generally should not expose them to a significant reduction of health plan limits or the possibility of large uncovered claims.

Under the New Jersey Automobile Insurance Freedom of Choice and Cost Containment Act of 1984, the named insured on an auto policy can opt to select PIP medical expense deductibles of $500, $1,000 or $2,500 in return for a saving on the coverage premium. Selection of a $2,500 deductible yields a PIP premium reduction in the area of 32% - 34%. Surprisingly, as of January 31, 1988 only 9.8% of all private passenger autos were insured with a medical expense deductible, according to the Department of Insurance. The reluctance to choose the

option at even modest levels may suggest an unwillingness by consumers to risk either a depletion of health care coverage or personal responsibility for that portion of auto accident related medical expense which is partly or completely rejected for payment under a health plan. Or, consumers may not think that the savings are worth the inconvenience of coordinating paperwork and payments necessitated by health coverage gaps.

Provision of a limited deductible to PIP medical expense coverage (which nevertheless brings about a significant reduction in coverage premium) also avoids difficult and costly pricing of PIP as a secondary coverage.

Simplicity and Cost of System Administration

Health plans are many in number and not at all uniform in benefits offered. In addition to a myriad of traditional indemnity plans, HMOs and PPOs operating in New Jersey, there also are arrangements whereby employers might use a self-insured program for employee health coverage. It would be impractical to review individual plans and give appropriate actuarial reductions in PIP premium based upon the relative benefit levels of each. Is the Department of Insurance prepared (and capable?) to undertake such a task? Even categorizing health coverages into similar groups with appropriate credits for each would be difficult.

On the claims side, there will be a need to coordinate payments between health and auto insurers. The consumer will find himself caught in the middle of two systems, trying to reconcile the peculiar workings of each. Hospitals and other health care providers will almost certainly encounter delays in receiving payment. Each health carrier will pay (or reject) the claim in accordance with the provisions of its own particular contract which will involve unique fee schedules, internal dollar limits on certain services, application of

deductibles and co-payments and exclusions. To properly consider any unpaid balance, auto insurers will incur administrative expense in verifying the dollar obligation of the health carrier in addition to independently assessing the medical need for and reasonableness of the service rendered.

How will the system work? Will the health carrier know and be required to automatically notify the auto insurer of an unpaid balance or will the consumer and the medical provider be left to fend for themselves? Will paperwork and delay in payment cause providers to end their participation in health plans? Will more providers expect payment from consumers at the time of service, thus shifting the burden to those who may be least able to bear it? Will providers be permitted to bill consumers for any balance remaining after health plan payment?

System Differences and Consumer Convenience

Proponents of shifting auto accident related medical expenses to health insurers from auto insurers argue that health insurers are more efficient, meaning that in general they are able to pay medical bills more quickly and with less administrative expense, and that they can control costs better because health care is their field of expertise.

There are differences in the health care system and the auto accident medical expense payment system which account for a significant portion of the perceived efficiency of health insurance providers. These differences are such that it is probable health care carriers would not fare as well in the automobile tort liability system as they apparently do in delivering traditional illness-related benefits.

User incentives in the health care and auto accident medical systems are not necessarily similar. In the event of an illness, speedy and full medical

recovery is the goal, but when talking about auto accident injuries, there are competing considerations. Initially, there is the dollar threshold to be reached in order to attain the right to sue for non-economic loss (pain, suffering and inconvenience). Beyond the threshold, there is the operating theorem of the plaintiffs' bar that the amount recovered for non-economic loss is a multiple of the amount of economic loss, including medical expenses. Switching the source of auto accident medical expense benefits from auto insurers to health insurers will not lessen these tort system cost pressures. Perhaps only the enactment of a uniformly applied, meaningful verbal threshold will help neutralize the incentive to reach the right to sue by overutilizing medical treatment. With a verbal threshold, the focus is upon a qualitative assessment of the severity of the injury, not simply a dollar calculation of medical expenses incurred. This may be one reason why comparisons of PIP premiums in New Jersey and Michigan, where a meaningful verbal threshold has been in force for a number of years, apparently indicate better experience in the latter state.

Related to differences in utilization incentives are differences in auto accident and health care system legal rules. As a matter of contract, health carriers in the traditional setting of an illness have considerable discretion in reviewing and denying claims for benefits and excluding some services from coverage entirely. They also have opportunity to limit by contract the time in which a suit challenging a decision not to pay can be brought. In the name of "cost containment" health carriers are able to implement second opinion and pre-service certification programs.

New Jersey auto insurance carriers do not enjoy similar opportunities. Judicial decisions interpret state statutes to produce a broad and liberal construction of PIP benefits. Time periods for prompt payment are established by law and regulation and auto insurers who resist a claim as improper risk not

only the cost of the service in issue, but also the added burden of interest, counsel fees for plaintiff and costs. It is probable that health carriers ultimately would be similarly constrained in dealing with medical expenses related to auto accidents.

As contrasted with the disadvantages imposed by New Jersey law on auto insurers in administering auto accident related medical expenses, some health carriers enjoy unique statutory benefits which translate into lower costs. For instance, hospital and medical service corporations are able to contract directly with hospitals and medical providers for services and at net rates less than those charged to auto insurers. And the New Jersey Hospital Rate Setting Commission allows these organizations advantages in hospital payment methodology as well as in challenging the propriety of DRG reimbursement decisions.

There also are differences in administrative approach between auto insurers and health insurers which are reflected in expenses. Having the benefit of maximum fee schedules, internal limits and a smaller universe of eligible services, health providers are able to process requests for payments mechanically and with a lesser degree of scrutiny than auto carriers. Operating on experience rating plans with employer sponsored groups for a large segment of New Jersey's population rather than prior approval of the Insurance Department, health carriers can make premium adjustments to cover their revenue needs more rapidly and easily than auto insurers.

Importantly, health carriers do not act as gatekeepers to the liability system as do auto insurers. There is no incentive to carefully evaluate medical expenses amassed for use in reaching a dollar threshold or to pressure higher settlements in negotiating bodily injury liability claims.

Some have suggested that health insurers are more adept at reviewing and managing medical claims than auto insurers. Several observations are in order:

First, many health insurers and auto insurers are part of the same corporate family. Is it not reasonable to assume that sound techniques used by the health carrier are not also available for use by the related auto carrier, where appropriate? Other insurance companies which write auto coverage in New Jersey also are significant providers of workers' compensation coverage which (like PIP) provides unlimited medical expense exposure and places an emphasis on rehabilitation and restoration of workers to productive lives. Techniques useful in workers' compensation are shared with auto insurance managers. And, according to the 1977 Study Commission, the whole premise of the greater efficiency of health carriers may be an overgeneralization:

> In terms of cost, there do not seem to be strong indications that any savings could be effected by making health insurance primary. The lower administrative cost of Blue Cross insurance is not, in fact, shared by Blue Shield. One of the reasons that Blue Cross expenses are low is that it merely serves as a conduit for the payment of hospital bills and frequently makes such payments to hospitals in regular, large lump sums. Blue Shield, on the other hand, makes payment to a large number of providers, which raises its administrative costs to two or three times that of Blue Cross. It has been pointed out that the Blue Cross method of payment precludes any serious, individualized attempts to discover overutilization and overpayment of hospital benefits. Furthermore, it must be noted that if health insurance were made primary in automobile cases, its general utilization (and premiums) would rise commensurately. In fact, a four state survey conducted by the United States Department of Transportation showed a cost savings in the states were automobile insurance was primary; in 1972 Blue Cross rates were reduced $15 in New Jersey in recognition of the cost savings associated with making automobile insurance primary.

And just as all health insurers cannot be categorized as "efficient," all auto insurers cannot be labeled "inefficient" in their handling of medical expenses. With respect to relative costs of delivering benefits, it is often suggested that auto insurers generally require a retention of 35% to 40% to deliver benefits while the amount retained by health carriers for costs other than benefits is in the area of 10%. At least one major automobile insurer writing in New Jersey is able to deliver auto accident medical benefits with a

retention of less than 20%. And included within that amount are Insurance Claim and Judgment Fund assessments of 2.6% which health insurers do not pay, and the added costs of administering and delivering a product in the context of a tort system without statutory payment advantages, fee schedules and pre-service utilization controls.

The Significant Benefit to Consumers of the Primacy of Auto Insurers

Consumers receive very real value in having auto accident medical expenses handled by auto insurers rather than health insurers. PIP medical expense benefits afforded under auto insurance policies are more complete than health insurance in terms of both the persons and services covered. With respect to persons, PIP medical expense coverage applies to the named insured, his or her spouse, additional family members who reside in the named insured's household (irrespective of age or degree of family relationship), others who are injured while occupying, entering or alighting from the car or using the car with the named insured's permission and pedestrians injured by the car. Health plan coverage may be limited to an employee, with nothing provided to his or her spouse or children, or plan coverage might include the spouse and children up to a specified age. Health Plan coverage can be lost (subject to the offer of temporary continuation at the group rate cost under the Consolidated Omnibus Budget Reconciliation Act of 1985) upon termination of employment, divorce or legal separation or attainment of a child of a certain age. With respect to Medicare, hospital insurance ("Part A") follows Social Security retirement benefits. The cost for Part A Medicare coverage is paid for by almost everybody by taxes on covered work before (and after) eligibility. Supplementary Medical Insurance ("Part B"), covering physician and some other services subject to fee schedules (which many providers do not accept as full payment), deductibles and co-payments, is paid for by premiums from those eligible for benefits and

general revenues of the Federal Government. Part B coverage may be rejected. So not every person in a household may be eligible for coverage by a health plan or by Medicare and not every Medicare eligible individual necessarily carries both Part A and B.

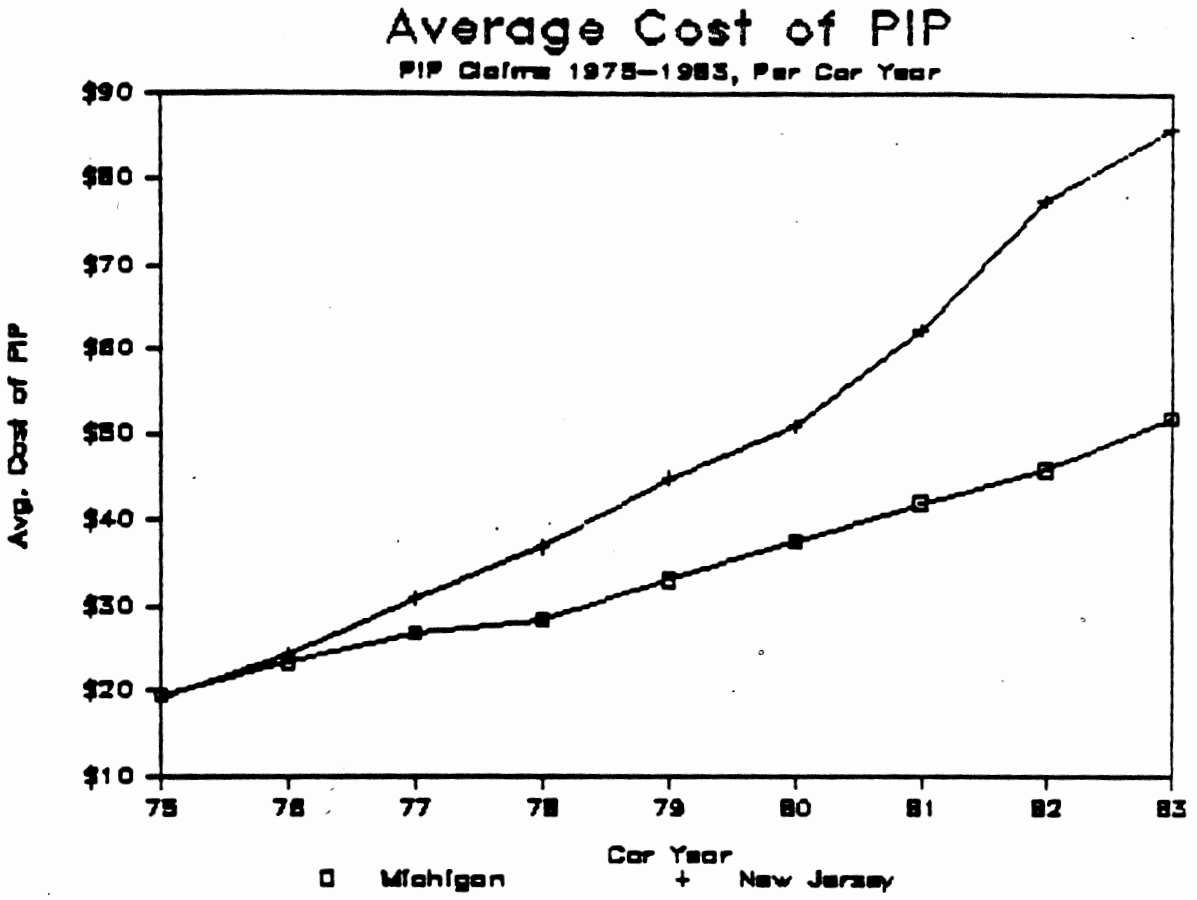
With respect to the mechanics and benefits of health plans compared to auto insurance medical expense coverage, the 1977 Study Commission reported as follows:

> At present, because of the voluntary nature of health insurance coverage in this country, there are a wide variety of benefit packages available and a complete absence of the uniformity which characterizes the automobile reparations system. Presently, automobile PIP benefits provide unlimited medical payments for all reasonable costs associated with an automobile accident without deductibles or coinsurance. No regular health insurance contract even approaches being this comprehensive. Health insurance coverage frequently contains a dollar benefit ceiling, often provides for partial reimbursement of medical costs, and increasingly provides for coinsurance and deductibles as a means of reducing the total cost of the coverage to the purchaser. This is not necessarily suited to the circumstances of an automobile accident. Blue Cross, for example, usually provides for fairly complete reimbursement for hospital expenses, but Blue Shield provides for limited reimbursement for medical and surgical care. Automobile accidents, however, are characterized more frequently by medical costs, such as visits to a doctor's office (not reimbursable at all under the standard Blue Shield contract, and under major medical only after the payment of a $100 deductible) than by hospitalization.
>
> Health insurance contracts are also characterized by a number of exclusions which might deprive the automobile accident victim of needed care. One of the most significant areas of care traditionally excluded by Blue Cross and Blue Shield contracts is rehabilitation. Casualty insurers, however, have traditionally seen the importance of early rehabilitation, both medical and vocational, of the accident victim in terms of the victim's well-being and the cost-effectiveness of such treatments in reducing the long-term medical and wage loss benefits paid by the insurer. Another area which has been found to be cost-effective by the casualty insurer but has been neglected by Blue Cross and Blue Shield is outpatient care.

Proponents of shifting auto insurance costs to health carriers also argue that such a change will produce savings because most health coverage is provided by employers who are better able to monitor potentially fraudulent or

exaggerated claims. This argument assumes that employers have access to current data on health plan utilization and costs. In fact, utilization reviews may lag behind service dates by six months to a year. The argument also ignores the very real interest employers presently have irrespective of health coverage considerations to monitor absences from work because of their adverse impact upon Temporary Disability Benefit program costs as well as concerns related to productivity.

EXHIBIT III



	75	76	77	78	79	80	81	82	83
Michigan	$19.48	$23.46	$27.85	$28.49	$33.84	$37.65	$42.84	$45.83	$51.97
New Jersey	$19.10	$24.53	$31.83	$36.81	$44.82	$50.92	$62.23	$77.76	$86.10

Source: NAIC Fast Track Monitoring System

EXHIBIT JJJ

1. Smaul v. Irving General Hospital, 108 N.J. 474 (1987). The Supreme Court of New Jersey held that an insured who was assaulted by two individuals when he stopped his car to ask directions was entitled to PIP benefits under his auto policy.

2. Herman v. Rutgers Casualty Insurance Co.,221 N.J. Super. 162 (1987). This case invalidated the territorial limitation (United States or Canada) and held that PIP coverage was available to an insured who sustained injuries as a result of an auto accident in Hungary.

3. Purdy v. Nationwide, 184 N.J. Super. 123 (1982). This case held that a no-contact accident causing injuries to a driver of a "dirt bike" being operated elsewhere than upon a public road, caused by the distracting effects of an automobile being operated on a public road, came within the umbrella of PIP coverage, as "an accident involving an automobile."

4. Schomber v. Prudential, 214 N.J. Super. 309 (1986). This case allowed PIP coverage in a situation where an individual died of a heart attack while driving, after which the car went off the road. There was no dispute about the fact that no injuries resulted from the auto accident itself.

5. Sotomayor v. Vasquez, 213 N.J. Super. 414 (1986). This case held that a car driven by the named insured qualified as "the automobile of the named insured," even though the car was only a loaner vehicle and was not owned by the insured.

6. Government Employees Ins. Co. v. Tolhurst, 146 N.J. Super. 285 (1977). This case allowed coverage under PIP for the spouse of insured who suffered injuries when she turned on a light in the garage and an explosion occurred from leaking gas and fumes, the court holding that the injuries arose out of "ownership, maintenance or use" of a vehicle.

7. Newcomb Hospital v. Fountain, 141 N.J. Super. (1976). This case held that an automobile passenger, who left the insured automobile to watch a service attendant add water to the radiator and was injured and burned due to sudden explosion, was an "occupant" or "passenger" within the auto policy.

EXHIBIT KKK

1986 CHEVROLET CELEBRITY

$ Savings (per car) for 500D*

Collision

From	% of Insureds	SF	LM	AllS
$100	17.6%	$128	$97	$96
$200	67.7%	$103	$54	$56

Comprehensive

-0-	27.9%	54	51	66
-50-	45.4%	43	36	52
-100-	22.8%	25	21	35

Claims frequency per policy/car

Comprehensive - once every 14 years

Collision - once every 11 years

Proposal: renew at $500D. Policyholders may buy back per letter to policyholder. Update D every 3 years based on C.P.I.

*** U/M would also be raised from a $250D to a $500D, to avoid overutilization of U/M.**

STATEMENT BY KENNETH D. MERIN

As chairman of this study commission, I extend my sincere thanks to the members who volunteered their time, energy and experience to this endeavor. Every member brought a different expertise and perspective which contributed to this commission's work.

As the commission's membership clearly shows, this was a group which represented many of the parties to this state's two-decade-long auto insurance conflict -- the insurance industry, officials from the state's executive and legislative branches, the legal community, consumer advocates, the JUA board and others.

This diverse group nonetheless worked in a cooperative spirit, dedicated to developing recommendations which would benefit all of New Jersey's citizens. We debated proposals, researched ideas and genuinely tried to find common ground for a united approach toward solving the real insurance problems which plague New Jersey's motorists.

To a great extent, we succeeded in finding a common approach. As the votes show, most members support a variety of important recommendations. But the record also shows that, despite our sincere commitment to developing a consensus, we could not be unanimous. The auto insurance problems in New Jersey are so complex and so severe that they cause honest people to disagree.

In that spirit, I wish to note my exceptions to the commission's final report.

My greatest regret is that the commission supported continuing New Jersey's unique system of unlimited medical payments. While socially admirable, this system is financially unsupportable. It has produced absurd quirks which waste the insurance premiums paid by New Jersey motorists.

For example, when senior citizens are injured in auto accidents in 49 other states, Medicare covers part of their medical costs. But in New Jersey, the law prohibits Medicare from paying any such bills. All the bills must be paid by auto insurance.

This forces senior citizens to pay over $100 a year extra to buy auto insurance health coverage, which they would not necessarily need if the law permitted Medicare and Medicare supplement insurance to cover auto-related medical bills.

Costs for economically deprived New Jerseyans also would drop if costs were shifted back to the health care sector because Medicaid would pick up payments for lower income residents. New Jersey is the only state that forces low income people to pay money for such a large amount of medical care which is otherwise available.

A similar situation exists with motorists covered by employer-paid health insurance plans. In most other states, health insurance covers care for injuries from auto accidents. In New Jersey, though, these bills must be paid by auto insurance. It's more expensive this way. Motorists pay for

auto insurance as individuals, which costs more than buying insurance under a group plan. And motorists pay for auto insurance entirely with their own money, whereas employers can use health insurance payments for employees as an income tax deduction.

Another inequity is that New Jersey's coverage for first-party medical bills is unlimited. Only Michigan has such liberal benefits, but in Michigan motorists can designate their health insurance company as the primary carrier, which of course reduces auto insurance costs.

In every other state, benefits are far less. Colorado is the most generous, with $100,000 medical coverage for each accident, followed by New York with $50,000. Coverage generally is much lower elsewhere. Neighboring Delaware provides only $15,000, Pennsylvania $10,000, and Maryland $2,500. This means New Jersey motorists are receiving a much better insurance package, but it obviously costs more.

There are a variety of legitimate proposals to change New Jersey's no-fault medical law (the Personal Injury Protection coverage) to eliminate waste and to bring coverage in line with that offered in other states. I wish the commission had endorsed some such change.

Another concern I have regards attempts by various parties to attribute fault or blame for the insurance woes that have engulfed New Jersey since the late 1960s.

It appears clear to me that so many incorrect actions, taken by so many people, over such a long period of time, lead

to the conclusion that if fault is to be attributed, it can be spread broadly across the spectrum of interests. The Department of Insurance is only now becoming fully able to cope with the depth of the problems in this state. The insurance industry has paid too little attention to the complexity of auto insurance in the urban marketplace. Various Legislatures and Governors have been poorly served by lack of adequate information from a variety of sources.

In the statement of one of the panel members, it is indicated that the Report was largely drafted by Department of Insurance staff. It is further indicated that, at least to some extent, the Report reflects the view of the Department. The Report was drafted by Department staff because the Study Commission was not given a separate appropriation or a separate staff. The same statement indicated that further meetings and contact with outside individuals would have led to a greater concensus. The Study Commission has taken two years to issue its Report, a Report that is long overdue. As time went on, problems with gaining a quorum of members increased, and no sign of increasing concensus was apparant.

On other commission recommendations, I wish to add these comments to further define my position:

VERBAL THRESHOLD (Recommendation #5)

I commend the Legislature for passing the optional verbal threshold in 1988. As motorists have shown, this is truly the

choice of New Jersey citizens. In the first six months it was offered, the verbal threshold was selected by 83 percent of all motorists. If this were an election, that would be a landslide of historic proportion.

I recommend a mandatory verbal threshold, however, only because the option creates confusion in the minds of many consumers and there now exists a potential for consumer misunderstanding and misinformation. It also contributes to company paperwork and administrative costs.

The optional verbal threshold also invites many complex legal questions which the courts will have to sort out in years to come.

For example, the current optional tort threshold creates an anomalous situation for automobile insurers. This occurs because the insurance company which receives a lower premium as a result of its insureds selecting the verbal threshold does not receive any benefit on the loss side. Instead, this benefit goes to the insurance company of the other at-fault driver in the accident (since this second insurer may not need to pay out any pain and suffering award as a result of the first insured selecting the verbal threshold).

In order to correct for this, a redistribution mechanism, the New Jersey Automobile Insurance Risk Exchange (N.J.S.A. 39:6A-21), was established. This unincorporated association was created to redistribute funds between insurers in order to redress this situation.

There are two main concerns with AIRE. One concern is the administrative costs which adds to the cost of automobile insurance in New Jersey and which is ultimately paid by consumers.

A second concern centers on the assessment and reimbursement formulas used by AIRE. Formulas that do not, and cannot, exactly compensate each insurer for the costs of the dual threshold. This leads to competing theories of which formula to use. One company now has a lawsuit pending against AIRE; the company contends that it was inadequately reimbursed. The cost of this lawsuit will be passed on to insurance consumers.

DEPOPULATION OF THE JUA (Recommendation #2)

While I support an orderly depopulation of the JUA, I believe the current law should be reconsidered. The JUA should be depopulated to a market share of about 33 percent, instead of 20 percent under the current plan. Once the JUA's market share drops below 33 percent, depopulation will become counterproductive to both the motorists being depopulated and drivers in the voluntary market.

The drivers who will be depopulated in the second half of the current depopulation plan have a significantly higher accident expectancy than the motorists in the voluntary market. If those drivers are insured by the voluntary insurers at standard rates, these rates must be increased for everyone by

about 15 percent to offset the higher accident rate of the depopulated drivers. On the other hand, if the depopulated drivers are insured by voluntary companies at the substandard rates permitted under the 1988 law, the depopulated drivers will pay substantially higher rates than the premiums which the JUA could charge and still break even. The JUA has much lower acquisition and administrative expenses, and would be the lowest cost insurer for these drivers.

Furthermore, reducing the depopulation plan would permit the earlier elimination of the surcharges because the JUA requires a subsidy of about $1,150 for each car depopulated. Therefore, modifying the depopulation quotas would save all motorists about $750 million. If we keep the JUA at about 33 percent of the market and allow the JUA to charge adequate rates, as recommended by the commission, the JUA will be able to operate without further subsidies.

COMPREHENSIVE & COLLISION (Recommendation #3)

The JUA law originally mandated physical damage coverage. In retrospect, there was a market for physical damage and perhaps there was no need to cover comprehensive and collision.

The JUA does write comprehensive and collision insurance, and over the years it has become the primary insurer for high-priced cars in the state, due to the refusal by voluntary companies to underwrite such autos. The JUA, therefore, has been

saddled with an inordinate number of expensive claims associated with these types of cars.

I believe this situation must end, but abolishing JUA coverage for comprehensive and collision altogether would be going too far. Instead, I believe the JUA should provide comprehensive and collision coverage only for lower-priced cars. The cutoff point could be determined by choosing one of the symbols already in use for determining comprehensive and collision rates. This would end the abuse while still assuring that most motorists can obtain full auto insurance coverage.

MODERN RATE TECHNIQUES (Recommendation 12)

I agree with many of the proposals in this recommendation, and in fact many of them are already in use. There is nothing in the law which requires that only "actuarial techniques" be used in setting auto insurance rates. The Department of Insurance analyzes not only actuarial projections of losses and income, but also companies' track records and efficiencies, the economy of the state and nation, and all other relevant factors in setting rates. The current law allows the department to use these factors and any other factors it may deem appropriate in the future. Changing the law as recommended here is unnecessary to accomplish the stated goal.

REPEAL THE ANTI-REBATE LAW (Recommendation 18)

The purpose of this proposal is to allow consumers to benefit from discounts, if agents can be persuaded to give a discount by accepting a lower commission. While the goal is admirable, the unfortunate effect may be an unfair benefit only to wealthy customers who purchase other coverage. The typical consumer, beset by high premiums, will not benefit from this proposal.

NATIONAL INSURANCE
CONSUMER ORGANIZATION

December 1, 1989

Commissioner Kenneth Merin
Department of Insurance
State of New Jersey
20 West State Street, CN325
Trenton, NJ 08625

Re: Explanations of Recommendations 16 - 19

Dear Commissioner Merin:

In accordance with your request, the following are explanations of recommendations 16 - 19.

#16 - The state anti-trust law is not applied to the business of insurance. We believe it should be because it will enhance competition. This would end the ability of insurance companies to agree on prices or to engage in other anti-competitive joint activities. Pro-competitive joint activities, such as historic data collection, would continue to pass muster under anti-trust law enforcement.

#17 - The state law that prohibits group purchase of auto insurance drives up cost. Significant savings are possible if auto insurance could be sold to groups. For example, in group health insurance overhead costs are only about one-quarter as great as the similar costs for individually sold health insurance.

#18 - Removal of laws prohibiting agents from offering discounts to potential customers is anti-competitive. Removal of similar rules for sale of refrigerators, stock brokers, etc. has saved consumers significant money and has led to discount stores and discount brokers, enhancing consumer choice.

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Alexandria, Virginia 22314
(703) 549-8050

#19 - Banks are uniquely qualified to sell insurance: they are in the financial services sector, they are convenient for consumers and they have shown the capacity to offer very competitive insurance products (e.g., Savings Bank Life Insurance in Mass. and NY). There must be control of potential tie-in sales, however, so that such abuse (such as that which exists in credit life insurance) can be avoided.

Very truly yours,

J. Robert Hunter
President

NEW JERSEY SENATE

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COMMITTEES
COUNTY & MUNICIPAL GOVERNMENT
VETERANS AFFAIRS
LEGISLATIVE SERVICES COMMISSION
INTERGOVERNMENTAL RELATIONS
SPECIAL COMMITTEE ON AUTO INSURANCE REFORM
AGING COMMITTEE

A DISSENTING OPINION ON THE AUTO INSURANCE STUDY COMMISSION'S FINAL DRAFT REPORT

NOVEMBER 13, 1989

By Leonard T. Connors, Jr.
Senator - 9th District
Member of the Study Commission

PREFACE

I have requested that my opinion of the final draft of the Auto Study Commission's report be included as part of the Report. I requested this because I believe the Report has reached conclusions in some areas that will not be beneficial to those who will attempt to rectify the disaster of New Jersey Auto Insurance. While there are a great many areas in the Report with which I am in complete agreement, there are others that need further clarification and amplification in order for the reader to judge for himself whether or not the State should, as the Report indicates, build on past reforms based on

the recommendations made. I believe there is good and substantial evidence that points, decidedly, in a different direction. I shall endeavor to bring these areas to light in the pages ahead.

ACKNOWLEDGEMENT

I do wish to thank the Senate President for appointing me to this Commission. I found the information gleaned at the many meetings I attended to be enlightening and informative. My colleagues on the Commission, I feel, worked hard to seek the answers to the New Jersey Auto Insurance dilemma, and in no way is my dissent either directly or indirectly meant to imply anything other than a sincere attempt to shed light on New Jersey's auto insurance crisis.

OVERVIEW

The Commission's Report provides the reader with a background of what has taken place from the "Commission's Charge, Introduction, Historical Perspective, The '83'-'84' Reforms, the JUA, and the Recommendations" sections, that in my view does not clearly answer what went wrong and why the motorists of New Jersey are burdened with $3.5 billion in unfunded liability. Further, will the direction New Jersey takes in future legislation as, perhaps, a result of this Commission's Report be the right approach? That is why I have written this opinion, because I believe the answers are there and should be looked at from a more critical point of view. I ask the reader to consider -----

THE COMMISSION'S CHARGE

As stated in the introduction, the enabling legislation, A-1696, required this Study Commission to submit its report by January 1, 1988. The Study Commission should have been implemented sooner. A-1696 was signed into law on February 10, 1983, and became effective January 1, 1984. A-1696 provided a triggering mechanism, an early warning system, that was not put in place until over three years later. By the time the Study Commission began its work in February, 1987, the JUA had over $2 billion in unfunded liability. This Report could have, if completed in a timely fashion, perhaps, saved the motoring public of the State hundreds of millions of dollars. The Report states the reason that it was not completed was because of "ongoing problems in collecting and compiling information." The reader, I feel, should want to know why?

INTRODUCTION

I do not agree with the statement made in the Report (page 7) "And in the mid 1980s, when the JUA took over the residual market, the industry tightly restricted voluntary coverage because it was concerned that insurers would be assessed, based on their market shares for any JUA deficits."

Part of the reason I disagree with this statement is found on page 49 of the Report. We were, then, and are continuing to actually pay some agents more of a commission to write and rewrite auto insurance into the JUA!!! The voluntary market had an average of 10 percent commission. We started the JUA with paying agents a 13 percent commission, then went to 11 percent and to 9 percent in 1988. (Page 50) Rewriting JUA policies at 9 percent is still higher than some voluntary companies by 2 percent to 3 percent, "so the JUA remains an attractive source of auto insurance commissions." (Page 50)

The first person that an insurance buyer meets is the agent. How did we expect to reduce the JUA when we started with such an attraction as higher commissions? And, why do we continue to permit higher commissions to agents to rewrite JUA policies than some voluntary companies and call it reform?

It is stated in the Report that "The JUA became responsible for the residual market. The servicing carriers were hired merely to do the legwork -- writing policies and paying claims with JUA money. Under the JUA, consumers in the residual market have received better service and fair prices" (page 8).

This statement points up exactly my concerns, for it attempts to show what a good job the JUA did, but fails to say here that not only were all of the motorists receiving good service from the JUA, but that their collision and

comprehensive rates were being subsidized by all the other motorists in the State through the policy constant and RMEC charges and still are to this day!!! (see page 57). The Report indicates that the reforms of 1988 were of some accomplishment. The facts are that of the $3 billion deficit, about 24 percent is attributable to comprehensive and collision or a whopping $745 million.

Consider that most claims for comprehensive and collision are paid in a very relatively short period of time, 30 to 60 days!!! It is fair, then, to assume that collision/comprehensive at below market rates by the JUA is a major, major contributing factor to this enormous deficit. It is little wonder, then, that the JUA has grown to enormous proportions. The Report (page 58) readily admits "to the extent that JUA insureds have been more likely to file claims than voluntary insureds, these inadequate rates adversely affected the JUA more harshly than ISO companies." When it came to collision/comprehensive, the JUA had most all of the motorists. The questions here should be why do we insure them at all since they are not mandated, and why at below market rates if the State feels we should underwrite them?

HISTORICAL PERSPECTIVE

I believe the reader of the Report should have reason to question why the State has made such very bad mistakes and seemingly has not profited by them at all by putting remedies in place that would quickly and efficiently correct the situation.

An example of this is found in the "Excess Market Benefit" (Page 23). This fund, called the Unsatisfied Claim and Judgement Fund (UCJF), reimburses insurance companies for claims in excess of $75,000. "The UCJF draws its revenue by a formula assessment against all automobile insurance companies based on their market share. So, by this system, the companies were sharing the cost of the most expensive claims." The Report continues to say, "But most importantly, the UCJF sets its assessments on only a two-year projection of its necessary revenues. So, the total cost of long-term care and rehabilitation for an injured motorist is not paid during the year in which the accident occurred. Standard insurance company practice is to set aside reserves for such long-term payments, but the UCJF assessment does not work that way. So, the true cost of the dual insurance system was hidden. Costs have been deferred and now the UCJF says its unfunded long-term liability is at least $600 million, and other estimates have put it at $1 billion or more."

The questions that should be asked here are -- Why is the UCJF not setting aside enough reserves to pay for long-term claims? Why are they setting assessments on virtually a cash flow basis? And, who will pay the bill to catch up and erase this long-term liability?

Not only are the motorists of the State, apparently, liable for the $3 billion plus failure of the JUA, but another billion dollars, give or take a few hundred million, in the UCJF!!! But, we continue without an immediate remedy, nor even a recommendation.

Further, it becomes increasingly apparent, in my view, that despite having the ability to write the laws and the rules and regulations after having had years of bad experiences, we are seemingly paralyzed into inaction, and whatever action we have taken is bent on perpetuating a bad system. It's tantamount, from this point of view, to playing a game, making all the rules up as you go along, officiating, keeping score, and still losing.

The Report erroneously, in my opinion, attempts to lay the blame for New Jersey's failure in auto insurance on a dual insurance system and claims -- (Page 32) "The JUA's single failure -- its towering deficit -- is, in fact, the failure of the New Jersey auto insurance system as a whole." The blame lies with the industry's failure to write insurance, and with the dual insurance system. "The JUA's debt is, in fact, the price tag for that inordinately expensive dual system."

But, shouldn't we ask the question if we didn't want so many motorists in the JUA, why was it made attractive for insurance companies to place them there? Consider that in 1982 the Assigned Risk Pool (ARP) was at 40 percent of the market.

The State knew it had to do something to depopulate the ARP, so A-1696 was signed into law to take the bad drivers and place surcharges on them as a means of making up premium differences between the good and bad drivers. If the State didn't want good drivers in the JUA, why has it taken us so long (6 years) to realize this? Or act on it?

New Jersey is on the verge of some kind of insurance reform. Why? Because it is impossible for the JUA to continue to operate without additional RMECs, and it is perceived, in my opinion, that the motorists of the State will not tolerate any further increases. The State, obviously, has reached the end of the "escalating auto premium and RMEC rope." But, I believe we should be asking why has it taken us 6 years and over $3.5 billion in unfunded debt to realize this. The Report states (Page 33), "That's contrary to standard insurance company procedure, under "statutory accounting," which requires setting aside reserves each year to pay claims for all of that year's accidents, regardless of delays in payment of as long as 10 years."

"Because they don't collect enough money to set aside "statutory" reserves, the JUA has an unfunded liability of approximately $2.9 billion (as of September 30, 1988), and the UCJF of more than $600 million."

One of the mechanisms in A-1696 that might have brought the insurance problem to a head earlier was "automatic rate

increases that never occurred." (Page 44). Had insurance companies been allowed to increase rates without prior approval then, perhaps, when early on the rates became too high, the State might have reacted sooner rather than allow time to be lost and the debt to escalate. One thing is sure, that if the companies increased premiums without prior approval of the Commissioner from the beginning, then the JUA premiums could have increased and there might have been less debt or no debt, inasmuch as the JUA was required by law to use ISO rates (Page 54).

As pointed out on Page 44, "But this provision was repealed by the Legislature in January 1984, before the first round of automatic increases could take place." The very month and year the JUA began. So, the legislation that might have produced an early warning, through automatic rate increases, was repealed by the Legislature. But, the Legislature did have another early warning mechanism in A-1696 -- That of "Statutory Accounting," in my opinion, but, apparently, not the Courts (Page 83). But, the JUA did not try to apply this accounting basis until June, 1985, and nearly one year later it was denied by the Commissioner (Page 81). In the meantime, the Legislature, perhaps, believed that its original call for "actuarily sound reserves for unpaid losses" language in A-1696 was being followed -- another early warning system somehow short circuited.

Part of A-1696 that became C17:30E-8 in 1983 required, "The association shall derive from the following sources for payment of expenses, losses, and provision of adequate, actuarily sound reserves for unpaid losses and loss adjustment expenses, including incurred but not reported losses, in connection with association business." Throughout the law, the association was required to file with the Commissioner annually "Statutory Accounting Principles." So operating on "cash flow" was not what the Legislature was anticipating or wanted when the law was passed, yet the JUA-operated on "cash flow" which permitted them to pay claims and operate until the RMECs were required to subsidize "cash flow accounting." Had the State known very early with extremely high rates, perhaps, we might have avoided the debt and the high rates we have now.

The Report makes a strong presentation for a verbal threshold as opposed to a monetary one. In my view, I believe that the emphasis placed opposing a dual reparation system is justified. I am of the opinion that a single system, either monetary or verbal, could be employed satisfactorily and disagree with the Report's conclusion that only a verbal threshold will bring rate relief. True no-fault systems, if that's the system the State desires, must have one critical component: A weak OR strong verbal threshold, OR high or a moderately high monetary threshold that would self-adjust for inflation.

A strong case can be made for the elimination of compulsory automobile insurance in the State, however, I do not believe the politics of such a move are within the State at this time. If the no-fault system is superimposed on another system such that litigation is not reduced, as we have now, then the no-fault system costs more, saves nothing and turns auto insurance affordability into a major problem.

COMMISSION RECOMMENDATIONS

While I agree with most of the recommendations, there are some areas of them that I cannot. For example -- Recommendation #1, Untying The JUA From ISO (Page 88) and allow the JUA to charge adequate rates immediately, then goes on to say the 1988 "insurance reform addressed this issue" (page 90) when it only addressed drivers with four or more points -- thus, any person with less than four points still to this day has subsidized comprehensive/collision insurance. That's not insurance reform!!!

Recommendation #3 -- The JUA should stop providing collision/comprehensive coverage is the proper conclusion, and, further, on Recommendation #1, it leads the reader to believe that by charging only the high risk drivers 10 percent per year higher than ISO's rate and keeping the RMEC in place "until at least 1993," that this will resolve the unfunded liability of $3.5 billion. (Page 90) "The JUA should have adequate rates as

soon as possible so that the RMEC can be reduced immediately and eventually eliminated." I do not believe that charging high risk drivers only 10 percent per year is the answer. Charging high risk drivers whatever is necessary to provide actuarily sound reserves for only high risk drivers that are permitted in the JUA for the payment of their claims should be used, as quickly as possible.

What happens to the good drivers who are in the JUA that are not absorbed into the voluntary market by 1993? If the JUA is to use 10 percent per year higher rates than ISOs for high risk drivers, how do we know this rate is adequate? Does the high risk driver meet the Michigan Essential Insurance Act definition?

There are motorists that are in the voluntary market that that market "may now not renew as many as two percent of its policyholders, as long as it meets the depopulation quota (1988 reform) by replacing that business with other policyholders" (Page 94). Many of these motorists are, no doubt, high risk drivers otherwise insurance companies would want to keep them. These same high risk drivers would be placed in the JUA, yet they may not meet the requirements as set by the Michigan Essential Insurance Act as recommended, (convicted of fraud, or a felony with an auto, or drugs or alcohol driving, non-payment of premium, etc).

While I am in complete support of a Michigan-type Essential Insurance Act, I believe we should not wait until 1993. We are still losing money in the JUA, and every dollar lost to unfunded liability will have to be made up in continued RMECs. It's time for a fresh start in N.J. auto insurance.

I disagree with Recommendation #5. A mandatory verbal threshold is not the only threshold that will work. As long as the State has just one threshold is the answer. The 1988 so-called reform just "muddied the water" more. A high or low dollar or weak or strong verbal threshold, can achieve the level of lawsuits that are deemed by the Legislature as being not too restrictive of a person's rights, and, yet, reasonably hold down lawsuits. A dollar threshold should be tied to some index to increase or decrease the dollar amount. A verbal threshold should be set and adjusted only by the Legislature and Governor.

Recommendation #11 speaks, in part, to a file-and-use system for setting rates (Page 119). This is a key requirement for bringing back competition to the insurance marketplace. If an Essential Insurance Act is employed, then file-and-use will complement it and work to lower rates. The CPI-plus-3 percent flex rating system in the 1988 "Reform" just gives all companies a target to shoot at. During times of higher inflation, the CPI may be high, but so are interest rates

during that time, and there are times when insurance companies during an "up cycle" earn more money on investments, will reduce rates, and seek insurance customers for "cash flow." During these times, they could be reluctant to give up any increases because in a "down cycle," they would only be able to use CPI plus 3 percent. Insurance companies should be able to adjust rates quickly to meet competition and the times.

SUMMARY

The State, in regulating New Jersey's insurance industry, has not produced the proper framework of laws that will induce competition among the State's carriers, permit the motorist to determine their types of coverages and at what levels they wish to be covered. Respectful of the work and opinions put forth by the Study Commission, I cannot totally agree with their recommendations. I believe that important areas that should have been addressed were given little or no emphasis in the Report. These areas will continue to produce problems if not resolved in any reform package. I believe that any reform package must include at the minimum:

1. A Michigan-style Essential Insurance Act that will separate the truly high risk driver from the good driver in order to spread the risk of financial loss from the individual driver to a group of individuals similarly exposed. The truly high risk driver would, then, be required to pay whatever is actuarily necessary to

maintain coverage and provide financial responsibility. In a State-supervised facility collision and comprehensive coverage should be prohibited or extremely limited.

2. If financial responsibility is going to be mandated by the State, then present bodily injury and property damage liability minimums should be all that are required. No-fault should be offered as an option. Consumers should be given more choice in determining the types and levels of coverages and under what circumstances they might be willing to sacrifice their right to sue in exchange for guaranteed benefits (No-fault) in return for premium savings.

3. A catastrophic injury fund as recommended by the Commission would help keep insurance premiums lower by limiting the exposure of the State's carriers to lower risks. Broadening the funding of such a program through a combination of dedicated fees as outlined would produce lower premium results.

4. The Unsatisfied Claim and Judgement Fund must be made actuarily sound. The formula assessment established against all insurance companies based on their market share for medical benefits in excess of $75,000 is a reasonable approach to the sharing of the most expensive claims. However, it is obvious from the enormous deferrment of unfunded liability for long term payments

that the method of using only a two year projection for necessary revenues is totally inadequate. Either longer term projections, more in line with setting aside reserves for such long term payments, or indexing the assessment to medical and hospital care, etc., to reflect increases that will provide adequate funding. A catastrophic injury fund would reduce the carriers' exposure considerably.

5. A file-and-use rate system should be implemented, safeguards that would give the Insurance Department the proper authority to prevent the use of rates that do not meet very specific criteria should be spelled out in enabling legislation. A short specified time delay between the filing and the use of the filing might be considered to give authorities some time for comparing changes from previous filings. Initial filings for new classifications might be considered for a somewhat longer delay.

Tied to this should be a reduction of the territories of the State. The 27 territories that were established in 1940 are not in keeping with the times and changes that have occurred in the State in the past 50 years. Reducing the number of territories will simplify the State's ratings and make that part of the system less confusing to the public.

6. A single threshold, either monetary or verbal, as outlined previously.

7. A strengthened excess profits law that requires, considers and regulates, at the minimum:

a. number of policies written by the carrier;

b. total amount of premiums collected;

c. claims paid;

d. reserves set aside for claims;

e. administrative costs;

f. expenditures and returns on investments; and,

g. profits.

8. Add to this list the Commission's recommendations that I believe would be beneficial to the motorist and the industry, as follows: Recommendations #3, #6, #7, #9, #13, #14, #15, #16, #17, #18, and #19.

I appreciate the Commission allowing my dissenting separate opinion to be included in this Report. It was written with only the sincerest of motives -- that being an attempt to help resolve the auto insurance disaster that has plagued our State for too long.

AUTO INSURANCE STUDY COMMISSION

SEPARATE STATEMENT
OF
ANTHONY G. DICKSON
October 23, 1989

This Study Commission was chaired by the Commissioner of Insurance and its Report largely drafted by that Department's staff. The commentary and recommendations are grounded more upon relatively few, infrequent and informal discussions among Commission members themselves than analysis of a record developed from extensive contacts with others having relevant information. Exploration of issues by the entire group with outsiders consisted essentially of an orientation by representatives of the JUA on March 31, 1987 and general testimony from the public on October 12, 1988.

The Commissioner and his staff are to be commended for promoting discussion and providing technical help. It must be recognized, however, that with their assistance comes a particular perspective on history, a unique view of the propriety of decisions made by the Department of Insurance and recommendations that may reflect that institution's own agenda.

As evidenced by the number of favorable votes (out of a possible total of 13) on some recommendations, Commission members were often far from a unanimous endorsement of positions. Perhaps had there been more intense discussion and outside input, a record and consensus helpful to the Legislature would have been forged. Several of the recommendations (for instance repeal or modification of the anti-trust exemption, anti-group and anti-rebate laws) received treatment so cursory in spite of their importance that I was unable to vote for or against them, notwithstanding a personal inclination to be generally supportive.

The Report also contains factual flaws and unsubstantiated generalities which are too numerous to easily address here. Examples include references to the present size of the JUA (Report at Pgs. 7 and 35), the percentage of DMV collected surcharge revenue it receives (apparently still 80% rather than 90%, notwithstanding the law (Report at Pg. 9)) and a significantly understated current unfunded liability of the Unsatisfied Claim and Judgment Fund (Report at Pg. 23). Nevertheless, I do conceptually agree with a good deal of what has been said in the narrative and recommendations and will limit my statement to certain areas in an effort to provide a balanced presentation. My references are either to the Commission's Report ("Report at Pg. __") or attachments to this statement ("attached").

1. <u>The Department of Insurance failed to properly warn New Jersey motorists of the true magnitude of the growing JUA debt. The Department's 1985 decision to fund the JUA on a "drive now, pay later" cash basis only postponed the inevitable and makes a solution to today's $3.1 billion deficit more difficult</u>.

The Report properly notes (at Pg. 35) that the JUA has been widely misperceived to be a cost containment tool. In fact, the primary thrust of provisions of the legislation which created that mechanism (A-1696, L.1983, c.65) was not to reduce the overall costs of New Jersey's auto insurance system, but rather to remedy perceived inequities in the manner in which policyholders individually shared in the total of system losses and expenses. Contributing heavily to the misunderstanding was the 1985 decision of the Insurance Department to ignore actuarial projections of losses and operate the JUA on a cash-flow basis. As a practical effect of that action, the public was lulled into an illusion that the legislative compromises reached on No-Fault changes in 1983 were viable and that the JUA was adequately funded and working. Typical of what

consumers heard from the Department (and a prophetic rebuttal) is the following excerpt from an article (attached) appearing in the September 22, 1985 edition of The Star-Ledger headlined "Insurers, state clash on auto rate hike bid":

> The JUA earlier this year asked permission to impose a surcharge of between $93 to $150 on each car -- not just those insured through the JUA -- to cover projected association losses of $250 million. Under it, every motorist with both collision and liability coverage would have to pay $150 more, and those with just the mandated liability coverage $93 a car.
>
> Gluck (then Commissioner) rejected the request and the JUA has filed a lawsuit against that refusal, with both sides arguing about the way the association counts its "losses".
>
> "The JUA has the money," said Gluck. "They won't need a surcharge or higher rates now, next year or three to four years from now. And even then, their losses may not be as high as they claim they are."
>
> The commissioner has refused to let the JUA count as losses, the predicted losses based on claims of accidents that are not settled yet. This practice is allowed for other insurance companies.
>
> Gluck wants the losses to be paid before they are counted. By using this method, she said, the JUA has the money to meet its obligations now and in the future without the need for a surcharge against every motorist in the state.
>
> Young (then JUA Chairman) said that for every dollar received, the JUA is paying $1.30. He said this ratio cannot continue unless the rates are increased.
>
> "By 1988 or 1989 we will run out of cash and have no money to pay the claims."
>
> "Then, believe me, the rates will rocket unless the laws are changed to restrict payouts or something is done to change a very costly no-fault insurance system we've had since 1973."

And with November 1985 elections of a Governor and Assembly fast approaching, representatives of both parties (incumbents and challengers alike) seemed to rely upon and echo the Department's position. In reality, as the then Chairman of the JUA warned and with the benefit of hindsight this Commission confirms,

the system continued out of balance and New Jersey's auto insurance time bomb kept ticking away.

The shortcomings of New Jersey's pre-1989 No-Fault law, its threshold in particular and the price paid by policyholders for their continuation, have been debated for years. Perhaps more than any other factor, it was the inability of the Legislature to simultaneously and meaningfully deal with the overall costs of what the Commission's Report terms the "inordinately expensive dual (insurance) system" (Report at Pg. 32) by the enactment of meaningful No-Fault reform that caused Governor Byrne in February 1980 to reject an earlier version of the JUA (A-3455), stating that "A piecemeal solution is not in the best interest of the people of this State." Governor Byrne's resolve to accept nothing less than a comprehensive solution continued through the close of his second term as he refused to sign S-120, a forerunner of the present New Jersey Insurance Fraud Prevention Act (L.1983, c.320) and one of the bills in his own Administration's package of auto insurance reform legislation. Addressing the issue of overall system cost he said:

> "It has become too easy to sue a third party for damages due to pain and suffering. The heavy costs of litigation has been passed on to drivers. A person should not be free to commence such law suits unless he has suffered a serious injury. Those grappling with reform of the no fault law should not lose sight of the basic trade-off made when the no fault system was enacted. The no fault law affords unlimited medical benefits to injured parties and certain limited benefits for economic losses -- without regard to a driver's fault. These benefits are costly, but as a matter of public policy, it was decided, quite rightly, that payment of such essential reparations should not depend upon who was at fault. In order to keep the cost of insurance down while providing no fault benefits, however, the ability to sue for non-economic losses due to pain and suffering was limited. If such law suits are not restricted, coverage will simply be too costly to afford.
>
> For too long, the public has awaited solutions to these problems. I am hopeful that the new Legislature and Governor Kean will be able to reach agreement on the essential elements of reform."

The newly elected Kean Administration and a majority of legislators apparently viewed reform of New Jersey's residual market (Assigned Risk Plan) and insurance industry rating practices on one hand and of the No-Fault law on the other as issues which could be addressed separately. Priority was given to the former (A-1696 was signed on February 10, 1983) with changes in the No-Fault law accorded secondary consideration (New Jersey Automobile Insurance Freedom of Choice and Cost Containment Act of 1984, A-3981, P.L. 1983, c.362 approved October 4, 1983). Rather than enacting a uniformly applied and meaningful lawsuit threshold, the latter legislation mandated that a "Whitman's Sampler" of choices be given to policyholders (Report at Pgs. 30-33). These choices overly complicated New Jersey's auto insurance system for consumers, producers and insurers. Though widely touted, the options ultimately were not well accepted by the driving public (see Exhibits Q and R).

Recognizing that "the job still remained to be completed", Governor Kean continued to press for a mandatory verbal threshold. His January 10, 1989 Annual Message summarizes his efforts:

> "Practically from my first day in office I have tried to reform -- and reduce -- the cost of auto insurance. In 1983, we gave drivers choices they had not had before in order to reduce the cost of their personal injury protection and their comprehensive and collision coverage. We also gave drivers a choice to maintain the low $200 threshold and pay higher premiums, or take a higher threshold for pain and suffering lawsuits and save money.
>
> In retrospect, this was destined to meet with only partial success because we still had no disincentive to sue and still had a system with a built-in encouragement to go to court. Nevertheless, it was the best legislation we could come up with at the time, and I signed it, reluctantly, arguing that the job still remained to be completed ...
>
> As I have said for the past seven years, we must have a verbal threshold. A mandatory verbal threshold is nothing more than an agreement by all drivers to sue only when they have suffered very serious injuries. New York, Michigan and Florida all enacted no-fault insurance, and all enacted a

> verbal threshold. Last year New York's premiums were 14 percent less expensive than ours, Michigan's were 20 percent less and Florida's 36 percent less. A reporter asked a Michigan official about their rates and she said, "Whenever we get complaints about how expensive insurance is or how tough it is for the companies to pay for high-risk drivers, we point out that it's nowhere near as expensive as New Jersey's.
>
> We still do not have a mandatory verbal threshold. I still deeply believe we need one. We will never be able to lower rates under no-fault until we get the verbal threshold."

One can only speculate as to whether the No-Fault cost containment reforms and JUA funding changes finally enacted in the Summer of 1988 because of consumer grass roots involvement (Report at Pgs. 84 and 86) would have come sooner had the Department of Insurance better warned the public as to the true nature and extent of the JUA's mounting deficit and taken action to adequately fund it. The Majority apparently accepts the Department's argument that had the Commissioner started to fully fund the JUA on a statutory basis, RMECs and rates would have continued to increase (Report at Pg. 62 and Exhibit XX). But perhaps it is more likely such early action on the Department's part would have prompted the public to demand an improved No-Fault law and either a mid-course correction in the JUA, or movement to replace it altogether before future generations of motorists became burdened with $3.1 billion in bills from old claims.

Apart from the costs attributable to New Jersey's rather unique demographics (Report at Pg. 11) and the "dual system" (Report at Pg. 18), there were predictions before the JUA law was enacted that the new mechanism would operate at a deficit largely for the reasons cited at Pages 38 and 54. Even at that early time, some insurance industry officials pointed out that a JUA does not provide servicing carriers with the same degree of incentive to be as efficient in operations and claim handling as insurers operating under the Assigned Risk

Plan (attached), but other features of the JUA apparently were viewed as more attractive than changing the Plan (see, for example, Report at Pg. 8).

The Legislature recognized the potential of a shortfall in JUA income and took steps to assure that the mechanism would nevertheless remain financially viable. Significantly, considerations appropriate for operating the JUA on an insurance company solvency basis -- not on a cash flow Social Security-type funding arrangement -- were incorporated into the law. Statutory language called for a Plan of Operation providing for "methods and standards for the establishment of adequate, actuarially sound reserves for unpaid losses, including provision for incurred but not reported losses" (A-1696, P.L. 1983, c.65, §18(a); §19(o)) and for JUA revenue filings to include "projected income, expenses, losses and reserve requirements ..., any adjustment in previously established reserves for unpaid losses and loss adjustment expenses necessary to make such reserves adequate and actuarially sound" (A-1696, P.L. 1983, c.65, §20b).

The Majority of this Commission apparently accepts the justification given by the Department (Report at Pg. 82) for disregarding those statutory provisions and putting the JUA on a cash-flow basis; primarily, that the JUA was in its infancy and (1) all of its revenue sources had not matured and (2) it did not yet possess enough data from which to make credible forecasts of its financial position. But the legislation creating the JUA even anticipated and addressed the fact that characteristics of the new mechanism were such as to make absolute accuracy in its statistical projections impossible. Rather than mandating cash-flow operation, A-1696 (§20b) envisioned a procedure whereby if for any reason the JUA's actuarial projections (or the Commissioner's evaluation of those projections) proved to be wrong, a <u>subsequent</u> upward or downward adjustment would be made in any needed residual market equalization charge:

> "At the end of the first 12 months of the operation of the association and at least annually thereafter, the board shall also include in its filing with the commissioner a review of the previous year's experience, setting forth the income losses, and reserve requirements, including any adjustment in previously established reserves for unpaid losses and loss adjustment expenses necessary to make such reserves adequate and actuarially sound, and expenses of the association during the previous year. If a profit is found by the commissioner to have been realized, such amount shall reduce the residual market equalization charge levied on policyholders pursuant to subsection d. of this section. If a loss is found by the commissioner to have occurred, such amount shall increase the charge levied on policyholders pursuant to subsection d. of this section. The filing shall be accompanied by such statistics and other information as the Commissioner may deem necessary..."

Even in the face of this language, the Department did not, as it conceivably might have, argue that JUA actuaries were wrong (and consistently so over several RMEC filings - see Report at Pgs. 80-84 and Exhibit XX) by 25%, 50% or as much as 75% and implement a smaller than requested RMEC with an appropriate adjustment to be made in a later year with the benefit of more mature experience. Instead, the Department in 1985 formally embarked upon a cash-flow method of operation for the JUA. Even more incredible was the fact that in a two sentence June 19, 1986 opinion, the Appellate Division of the New Jersey Superior Court upheld the Department's position upon being challenged by the JUA Board. One wonders whether the complexity of the issue resulted in the court's giving undue deference to the regulator or whether the JUA clearly failed to meet its heavy burden of proof under our law to demonstrate that the Commissioner's action was unreasonable, arbitrary or capricious. Although the Supreme Court was requested by the JUA to reconsider the Appellate Division's decision, it declined to do so.

The stage was set and in the second quarter of 1986, the JUA started paying out more cash per month than it received (Report at Pg. 85). At the end of June of that year, a group of insurance company executives met with Governor

Kean to express their grave concern that the JUA was the largest insolvent provider of auto insurance in the country and that it would cause a financial catastrophe in New Jersey in 1988 or 1989. The response was enactment of S-2790 in 1987 (Report at Pg. 84), but that effort proved insufficient. Not having been properly warned by the Insurance Department, unsuspecting consumers were naturally shocked to be hit with RMECs of up to $73.00 per car (full coverage) on January 21, 1988 and another $79.00 (full coverage) on August 1, 1988 in addition to already existing policy constants they paid to the JUA of up to $70.00 per car. Policyholders were therefore paying as much as $222 per car so that the JUA would not run out of cash.

The $3.1 billion unfunded liability of the JUA (and a similar unfunded liability of the UCJF) now complicates making changes in the State's auto insurance system. Since 1972, New Jersey law has required all car owners to maintain liability insurance coverage in limits of at least $15,000/$30,000/-$5,000. Apart from premiums, auto insurance policyholders contribute significant amounts of money to the JUA through policy constants and RMECs and the combined burden is such that more and more persons probably have chosen to drive uninsured vehicles. From time to time, suggestions have been made that abandonment of the liability insurance requirement would eliminate a significant cost for drivers with little or no assets to protect as well as various subsidies imposed by the State on some purchasers of insurance in an effort to keep coverage affordable for others. Commentary and recommendations offered in 1986 by the Senate Special Committee on Automobile Insurance Reform are pertinent:

> Critics of mandatory liability insurance note that inequities result when individuals are forced to buy liability coverage to protect assets which they do not even possess. Ironically, the persons who, because of the structure of the risk classification system, pay the most for liability insurance are those persons who often have the fewest assets to protect. An 18-year-old driver in Newark, for example, would pay the most for this coverage, yet would

most likely own little property which would require protection from suit.

> For these reasons, and because of the great difficulty in enforcing the mandatory insurance laws, the Committee believes that the issue should be studied further by the Legislature and that consideration be given to eliminating the requirement (Senate Special Committee Report at page 69).

If the Legislature were to rethink the need for and repeal the compulsory liability insurance law, it is likely that numbers of persons who presently purchase insurance through the JUA would no longer buy liability coverage and the JUA's population would decline. If the JUA had been soundly funded, one would expect that there also would be a corresponding reduction in its losses and revenue needs, since it would be insuring fewer people and paying fewer claims. But the JUA needs today's premium, policy constant and RMEC (and DMV surcharge) dollars to pay for yesterday's losses. If liability insurance were no longer required by law, how would the JUA debt be paid? Would the burden be spread over a smaller number of insured drivers, thereby increasing their relative costs? Would it be more appropriate to substitute some general source of funding for RMECs and policy constants such as increased Division of Motor Vehicle user fees (license, registration, inspection), a gas tax, or bonds?

The prospect of repealing the compulsory liability insurance law likewise complicates funding of the Unsatisfied Claim and Judgment Fund's deficiency with respect to claims which have already occurred. The Majority apparently accepts the Insurance Department's evaluation that such deficiency is "at least $600 million" (Report at Pg. 23) while the UCJF Board of Directors projects that unfunded liability to be in the magnitude of $2 billion.

Auto insurers presently pay an assessment to the Fund, determined annually by the Commissioner of Insurance (now 3.3% of liability and PIP premiums), which is passed along to policyholders. Even if the medical costs of

future car accidents were to be shifted from auto insurers to health insurers and a catastrophic injury fund created, the ultimate cost of the old claims would have to be paid. How and by whom?

Incredibly, between the JUA and the UCJF, the total unfunded New Jersey auto insurance debt now approximates $5 billion and truly represents one of this State's most perplexing problems. A realistic strategy should be developed to begin to reduce that debt and a commitment made to avoid future cash-flow underwriting schemes.

A final observation is in order with respect to the reasons JUA losses and auto insurance costs in New Jersey are relatively high. As earlier noted, the Commission's Report (at Pg. 11) discusses the State's unusual demographic characteristics. Another important factor not explored by the Commission is the level of attention given by law enforcement to crimes which impact upon the cost of insurance, be they in the area of driving without required coverage or car theft. An investigative report published in the June 14, 1989 edition of The Star-Ledger under the headline "Lesser criminals now going free" (attached) contains the following thought provoking comments attributed to Hudson County Prosecutor Paul DePascale:

> "The level of enforcement is public policy, and that has us going after drug crimes," DePascale continued.
>
> Asked to what extent his office is involved in investigating and prosecuting other crimes, DePascale replied, "Like what? Like auto thieves?
>
> "No one goes after auto thefts anymore. We don't have the resources. In that instance, insurance is a substitute for law enforcement. The police have more serious crimes to worry about," the outspoken prosecutor said, explaining further:
>
> "Maybe insurance rates have to go up to pay for auto thefts. Somebody has to pay, whether it's for police protection or insurance protection.

> "We have a system that follows a path of least resistance. When insurance can fill a void, such as in the area of auto thefts, we move on. That's the nature of law enforcement."
>
> DePascale pointed out that there are 2,000 law enforcement officers in Hudson County working three shifts to protect the safety of 650,000 residents.
>
> "In a sense, the situation is the same anywhere else in the state. The public has to know that we are doing all we can," he said.
>
> "We are designed as a law enforcement system to handle between 7 percent and 10 percent of the crime problem, and we're funded to handle only that, not 100 percent," DePascale emphasized.

It thus appears that, intentionally or not, New Jersey's auto insurance costs have come to reflect the priorities of the State's criminal justice system.

2. Arguments about the relative number of industry representatives appointed to the JUA Board serve as distractions from the fact that since inception, the Commissioner has had full authority over that body.

While I have no objection to composition of the JUA Board as modified by the 1988 law, too much has been made of the relative number of insurance company and insurance producer representatives on the prior JUA Board (Report at Pgs. 69-71). As a practical matter, Board actions of consequence were undertaken in accordance with provisions of the Plan of Operation. And provisions of that Plan always have been subject to the prior approval of the Commissioner (A-1696; L.1983, c.65, §18b). In fact, the Commissioner's power went beyond approval or disapproval. He had the ultimate authority to promulgate his own provisions of the Plan over Board objection:

> d. The commissioner shall annually review the plan of operation and, not later than April 1, 1985 and not later than April 1 of each year thereafter, shall approve or amend the plan of operation; and any amendments to the plan adopted by the commissioner pursuant to the annual review shall be binding on the board as of the effective date of the amendments. The commissioner may review the plan of operation at any other time, and may propose amendments to

> the board. If the board does not adopt amendments acceptable to the commissioner within 30 days, the commissioner may certify amendments and their effective date to the board.

Funding the JUA on a cash-flow basis is one example of an amendment to the Plan of Operation promulgated by the Commissioner.

The minutes of the JUA Board meetings will reflect the fact that the insurance industry representatives often differed amongst themselves on issues and did not vote as a block. The minutes also describe the active involvement of the Commissioner's representatives in the meetings -- meetings which as an additional safeguard were open to the public, the press, the Public Advocate and concerned members of the Legislature.

A final word is in order with respect to the three public members who served on the prior Board. Their sponsors (the Governor, the President of the Senate and the Speaker of the Assembly) could have selected individuals from virtually any walk of life -- from nationally recognized consumer representatives to certified public accountants to professors of insurance. Those who were chosen served the citizens well and with dedication. Their presence was welcome and one hopes that in the course of deliberations they conveyed back to their sponsors some independent sense of the gravity of New Jersey's auto insurance problems.

3. The Majority recommends adoption of a "Good Driver Protection" program, but rather than just categories of "good" and "bad" there is a wide spectrum of driving risks and there should be a corresponding spectrum of rates.

Over the past years, New Jersey essentially has had two markets, a voluntary market in which few companies wrote business and a residual market. That state of affairs may ultimately underlie the perception that there likewise are only two types of risks -- either "good" or "bad".

In other states, one finds active voluntary markets with ranges of rates which correlate to the relative degrees of risks presented by various drivers. The 1988 legislative reforms represent New Jersey's first steps in that direction.

Rates for some drivers in New Jersey's JUA are gradually moving away from the tie required by prior law to rates charged in the voluntary market. That movement opens up the prospect for the voluntary market to begin to serve those drivers whose risk characteristics would lie more in the middle of the spectrum. And one would expect that the rates which the Commissioner might approve for insurers to charge such risks presumably would be less than those used by the JUA (which would finally assume its intended role as insurer of last resort), but higher than rates charged for the best risks. As an alternative to reintroducing the notion that there are only "good" or "bad" drivers as might be defined by law, the broad spectrum of voluntary markets and rates envisioned by the 1988 reforms should be given an opportunity to come into being and work. Rather than trying to enact a law now which will attempt to forecast and impact upon market conditions in 1993, would it not be better for the Legislature to monitor developments and, as the final year of the JUA depopulation program approaches, consider what further action might be necessary?

4. The Commission has not discussed what might be meant by the "more modern economic, financial, accounting and statistical theories, practices and methodologies" which it recommends should be injected into the insurance rating law.

The Majority recommends that the insurance rating law be modified to mandate that the Insurance Commissioner consider more modern economic, financial, accounting and statistical theories, practices and methodologies in addition to standard actuarial techniques in evaluating rate petitions (Report

at Pg. 121). Unfortunately, no testimony was heard from persons which might have fleshed-out what actually is intended.

Any industry and profession should be open to the discussion and evaluation of new ideas. My concern lies with the fact that the recommendation is so broad that it conceivably includes methodologies similar to those employed by the Department to operate the JUA on a cash-flow basis rather than by making adequate provision for losses as they occurred.

It also should be remembered that New Jersey has a strong Excess Profits Law which requires the return of funds beyond a specified amount to policyholders irrespective of what methodology is used in the initial rate application process and how inaccurate actuarial predictions in retrospect may have been.

5. The collateral source rule should be reconsidered with respect to auto accidents.

I concur with the essential thrust underlying the Majority's recommendation that the collateral source rule should be reconsidered with respect to auto accidents. There should be a thoughtful reexamination of and efforts to harmonize the concepts embodied in our law which address the application of the collateral source rule with respect to PIP benefits (N.J.S.A. 39:6A-6), the exclusionary rule in automobile bodily injury liability actions with respect to evidence of PIP benefits paid or collectible (N.J.S.A. 39:6A-12) and the rule generally prevailing in personal injury actions (other than auto) since 1987 which requires disclosure by the plaintiff of duplicate benefits and the deduction of those benefits from any award recovered (N.J.S.A. 2A:15-97).

The issues are complex and, prior to the taking of legislative action, should be made the focus of deliberation more substantial than that given by this Commission.

6. Servicing carriers should reimburse the JUA for dollar losses occasioned by acts which violated the law, the Plan of Operation or provisions of their contracts.

The Commission heard no testimony concerning allegations of wrongful conduct by servicing carriers. There was no commentary from servicing carriers, auditors or the Department itself. Not even an explanation of the derivation and meaning of Exhibit 00 (which lists servicing carriers and speaks of "JUA Profit" in 1984-1987) was given.

Nevertheless, I have little difficulty in concurring with the proposition that servicing carriers should reimburse the JUA for any dollar losses occasioned by acts in violation of law, the JUA Plan of Operation or provisions of their servicing carrier contracts. Extensive audits recently have been concluded by Arthur Anderson & Company and Insurance Management Group. The servicing carriers apparently have yet to complete their review and respond. Early indications are that the nature and extent of the servicing carriers' obligations ultimately will be decided by the courts where their practices as well as the auditors' conclusions will be subjected to scrutiny under principles of due process.

The Report (at Pgs. 65-66) addresses the anticipated cost efficiency of the "new team" of servicing carriers which began operations in early 1989. At the time the Department made known its intentions to shift the vast majority of JUA policies to the new organizations over the short course of a year, concern was expressed that the action was "too much too soon" and that a more gradual phase-in period would prove better for JUA policyholders (attached). The Department nevertheless directed that the transfer take place as planned and indications now are that service has in fact deteriorated, as expected (attached).

One should question to what extent apparent efficiencies or savings in cost reflect real differences in service to consumers. Contrasted with recent published reports about the performance of new servicing carriers is the Commission's comment (Report at Pg. 8) that the former (insurance company) servicing carriers "generally have provided good service to consumers, as indicated by market conduct investigations by the NJ Department of Insurance".

7. A mandatory verbal threshold would help simplify New Jersey's overly-complicated auto insurance system.

Enactment of a mandatory verbal threshold probably will not produce significant additional dollar savings for the approximately 75% of New Jersey's auto policyholders now insured under the New York-style threshold which became available January 1, 1989 (Report at Pg. 106). Adoption of a uniformly applied threshold will, however, help to simplify our overly-complicated insurance system for consumers. And there may well be expense savings which can be passed along to them if the cumbersome procedures relating to threshold selection, recording, reporting and accounting (through the Automobile Insurance Risk Exchange) can be eliminated.

A comment should be made concerning the potential Achilles' heel of our current verbal threshold. In recommending the New York-style threshold to the Legislature (Conditional Veto Message - S-2637 (3rd Reprint)), Governor Kean expressed his intentions as follows:

> This verbal threshold specifically sets forth those injuries which will be considered "serious". Lawsuits for non-economic injuries, such as pain and suffering, will be allowed for these enumerated "serious injuries" only. It is my intention that the term "serious injury", as defined in this recommendation, shall be construed in a manner that is consistent with the New York Court of Appeals' decision in Licari v. Elliot, 57 N.Y. 2d 230 (1982). Whether a plaintiff has sustained a "serious injury" must be decided by the court, and not the jury. Otherwise, the bill's essential purpose of closing the courthouse door to all lawsuits except those involving bona fide serious injuries will be

> diluted and the bill's effectiveness will be greatly diminished. In addition, strict construction of the verbal threshold is essential; any judicial relaxation of this plain language will impede the intent of maintaining the substantial benefits of no-fault at an affordable price.

It bears remembering that under New Jersey's system of submitting auto accident injury claims of less than $15,000 to arbitration (N.J.S.A. 39:6A-24), decisions about an injury's severity will be made by attorneys -- not "the court". How tightly they will close the courthouse door to all except those with serious injuries will depend on the definition they give to threshold language which includes concepts as uncertain as:

* "permanent consequential limitation of use of a body organ or member";

* "significant limitation of use of a body function or system";

* "medically determined injury or impairment of a non-permanent nature which prevents the injured person from performing substantially all of the material acts which constitute that person's usual and customary daily activities for not less than 90 days during the 180 days immediately following the occurrence of the injury or impairment".

It is much too early to evaluate the effectiveness of our threshold. The phase-in of the new threshold choices only began January 1, 1989. To establish precedent, claims will have to work their way through arbitration, court trials and review by the Appellate Division and Supreme Court -- all of which can take years. At this point, it is appropriate to express concern that the Governor's intentions may be frustrated by a tendency on the part of our system to conduct "business as usual" and allow recovery for injuries less than "serious".

NEW JERSEY MANUFACTURERS
INSURANCE COMPANY
WEST TRENTON, NEW JERSEY 08628-0118

AREA CODE 609
883-1300

October 26, 1988

Honorable Kenneth D. Merin
Commissioner of Insurance
State of New Jersey
20 West State Street
CN325
Trenton, New Jersey 08625-0325

Dear Commissioner Merin:

RE: 1988 NJAFIUA Servicing Carrier Bid Process

Your letter of October 25, 1988 addressed to Jack Trope, Chairman of the Board of Directors of the New Jersey Automobile Full Insurance Underwriting Association (JUA), was received today and the enclosures reviewed.

The purpose of this letter is to document my decision to vote against the execution of contracts in the indicated policy volumes with the five companies you have approved.

New Jersey Manufacturers Insurance Company has been a significant writer of private passenger automobile insurance in New Jersey. Prior to the advent of the JUA, by reason of our voluntary premium volume, the Company was required to write a considerable number of the residual market automobile insurance policies. At the high point of the program, the Company serviced almost 100,000 assigned risk clients.

While we have not been a JUA servicing carrier, our continuing involvement with that Organization, as a Board member and duties on several Board Committees, has resulted in a conviction that the problems of JUA business are not substantially different from those of the former assigned risk plan. The residual market has been and will continue to be more difficult and costly to process than voluntary business.

An officer of this Company served on the Bid Review Committee and was essentially in agreement with the recommendations contained in its extensive report. One of the concerns of this Committee, also held by this Company, is that the new entities seeking servicing carrier contracts do not have the ability at the indicated high volume levels to deliver and maintain a proper degree of service to which JUA policyholders are entitled (and have received). While the problems which have confronted the JUA are many and varied, poor

service has not been one of the major issues. We are convinced that the five potential servicing carriers do not now have and will not be able to develop in the tight transition time frame the facilities, staff and expertise to handle the number of policies noted in your letter without serious deterioration in the quality of service which will be provided to JUA policyholders.

It is for the foregoing reasons, I am unable to support the recommendations and must vote against the awarding of contracts on the basis outlined.

Yours very truly,

NEW JERSEY MANUFACTURERS INSURANCE COMPANY

Donald F. Leypoldt
Senior Vice President

dfl/raz

NATIONAL INSURANCE
CONSUMER ORGANIZATION

December 1, 1989

Commissioner Kenneth Merin
Department of Insurance
State of New Jersey
20 West State Street CN325
Trenton, NJ 08625

Re: Auto Insurance Study Commission

Dear Commissioner Merin:

This is my minority report for the captioned report.

Fundamentally, our report is too little and too late. Events have gone way beyond what we tried to do. The election campaign, most of which followed our decisionmaking, changed the very nature of the debate.

I disagree very strongly with the idea expressed in the letter to Governor Kean that the rollback of 20% is opposed by this Commission. We never voted on that and, to my knowledge, it was never discussed. Further, a federal court decision in Nevada ruled that the 15% rollback in that state was constitutional.

On Page 1, you say we oppose abolishing the JUA, but in the cover memo, we didn't. I think the cover sheet best expressed my view.

On Page 62, we should add a section on the audit reports of Arthur Andersen and Insurance Management Group which found such extensive inefficiencies, according to the Department's August 3, 1989 press release, as:

> "Quantifiable overpaid claims, $428 million;
> Excess servicing carrier fees, $375 million;
> Retained installment fees, $50 million;
> Quantifiable premium errors, $21 million
> Use of high-cost subcontractors, $20 million; and
> Monetary errors, $14 million."

It strikes me that not adding a summary of this information would be a grave disservice.

121 N. Payne Street
Alexandria, Virginia 22314
(703) 549-8050

Regarding the recommendations:

#1 - I could be for this only when and if good driver protection is adopted so good drivers, as defined by the legislature, are given the absolute right to get insurance from the company of the good driver's choice. Good Driver Protection is the way to depopulate.

#3 - To say that "there is no law requiring motorists to buy coverage for Comprehensive or Collision" is true, but what about the lender requirement?

#11 - To favor more pricing freedom before competition is active through adoption of #15 - 19 is foolish, in my view.

#13 - Based upon the audit findings mentioned above, which also showed gross inefficiency in the voluntary market, I believe that efficiency standards should be adopted for ratemaking in New Jersey.

#15 - I believe that the only way to assure useful information for a consumer is to computerize the information so a list of the least expensive insurers, specific to the consumer, could be run off.

#16 - 19 - I am very pleased that we endorsed these powerfully pro-competitive steps.

I am greatly opposed to limiting PIP benefits and making them optional (Page 132). The fair trade off for the verbal threshold we propose at recommendation #5 is rich benefits, not slashed benefits.

I also oppose the introduction of the scavenger "non-standard" companies into the New Jersey market, unless good driver protection is adopted.

I also think we should make clear to the public that the $3 billion deficit in the JUA is a blessing, not a curse, in that it is money in their pocket that the industry would have had, had they had their way.

Overall, I believe we have some good recommendations in this report but we were too slow in delivering them to be as useful as they might have been several months ago.

Yours very truly,

J. Robert Hunter
President

JRH/ljb

NATIONAL INSURANCE
CONSUMER ORGANIZATION

December 1, 1989

Commissioner Kenneth Merin
Department of Insurance
State of New Jersey
20 West State Street, CN325
Trenton, NJ 08625

Re: Explanations of Recommendations 16 - 19

Dear Commissioner Merin:

In accordance with your request, the following are explanations of recommendations 16 - 19.

#16 - The state anti-trust law is not applied to the business of insurance. We believe it should be because it will enhance competition. This would end the ability of insurance companies to agree on prices or to engage in other anti-competitive joint activities. Pro-competitive joint activities, such as historic data collection, would continue to pass muster under anti-trust law enforcement.

#17 - The state law that prohibits group purchase of auto insurance drives up cost. Significant savings are possible if auto insurance could be sold to groups. For example, in group health insurance overhead costs are only about one-quarter as great as the similar costs for individually sold health insurance.

#18 - Removal of laws prohibiting agents from offering discounts to potential customers is anti-competitive. Removal of similar rules for sale of refrigerators, stock brokers, etc. has saved consumers significant money and has led to discount stores and discount brokers, enhancing consumer choice.

121 N. Payne Street
Alexandria, Virginia 22314
(703) 549-8050

#19 - Banks are uniquely qualified to sell insurance: they are in the financial services sector, they are convenient for consumers and they have shown the capacity to offer very competitive insurance products (e.g., Savings Bank Life Insurance in Mass. and NY). There must be control of potential tie-in sales, however, so that such abuse (such as that which exists in credit life insurance) can be avoided.

Very truly yours,

J. Robert Hunter
President

State of New Jersey

DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF MOTOR VEHICLES

Peter N. Perretti, Jr.
Attorney General

25 SOUTH MONTGOMERY STREET
TRENTON, NEW JERSEY 08666

GLENN R. PAULSEN
DIRECTOR

April 17, 1989

The Honorable Kenneth D. Merin
Commissioner
Department of Insurance
CN 325
Trenton, New Jersey 08625

RE: Auto Insurance Study Commission Ballot

Dear Commissioner Merin:

As an ex officio member of the Auto Insurance Study Commission, I view my role on the commission as limited to commenting on issues that directly relate to Motor Vehicle matters.

In line with that, I still have serious concerns regarding the collection of catastrophic fund revenue from driver license or auto registration fees. It is not a procedure that has shown much success in the past, nor is it feasible for Motor Vehicle Services to implement at this time. Please call if you would like to discuss this issue in greater detail.

Sincerely,

Glenn R. Paulsen
Director

State of New Jersey

DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF MOTOR VEHICLES

PETER N. PERRETTI, JR.
ATTORNEY GENERAL

25 SOUTH MONTGOMERY STREET
TRENTON, NEW JERSEY 08666

GLENN R. PAULSEN
DIRECTOR

June 15, 1989

Kenneth Merin, Commissioner
Department of Insurance
20 West State Street
CN 325
Trenton, New Jersey 08625

RE: NJ Auto Insurance Commission Study Ballot
(No-Fault Medical Coverage Issues)

Dear Commissioner Merin:

If the Commission is to file a final report subsequent to the June 21, 1989 meeting, I would request the following comments be included:

Ballot Question #10
Establish a Catastrophic Fund, with funds from gas tax, driver's license fee or auto registration fee.

As Director of the Division of Motor Vehicle Services, I must express my serious concerns regarding the financing of such a fund through additional driver license or auto registration fees.

In the recommendation for the establishment of a catastrophic fund (Recommend #2 p83, May 11, 1988 Working Draft), it is pointed out that the UCJF operates on a cash-flow basis, but it would be more "industry-like" to operate on a statutory basis whereby reserves are set aside. Under a statutory system, the UCJF would be more than $1 billion in debt. However, there is no mention in the recommendation as to how that debt would be satisfied prior to the establishment of a new Catastrophic Fund.

The collection of the additional fee would result in a substantial increase in MVS administrative costs in order to properly collect, monitor and transfer the funds, establish an adequate enforcement mechanism, and re-program the Division's computer.

It is plausible that the cost of such an operation would outweigh the insurance premium savings to the consumer if UCJ funding were no longer derived from the insurance industry pooling formula. It is apparent that keeping the fund solvent would cause the price of NJ driver licenses or registrations to sky-rocket.

During the restructuring phase of Motor Vehicle Services, it was recommended that the New Jersey Merit Rating Plan surcharge program be moved from this Division, as we are not a collection agency. Adding catastrophic fund fees to motor vehicle registration or driver license fees would further inhibit this Division's ability to provide the services mandated by law and due the public.

Sincerely,

Glenn R. Paulsen
Director - MVS

ALFRED A. SLOCUM, PUBLIC ADVOCATE
MINORITY REPORT TO THE AUTOMOBILE
INSURANCE STUDY COMMISSION REPORT

On July 1, 1989 the State of New Jersey moved its automobile rate setting mechanism one step nearer to a file-and-use system. As of that date insurance companies are permitted to set their rates at three percentage points above certain consumer price indices without the prior approval of the Commissioner of Insurance or the intervention of the Public Advocate's Division of Rate Counsel. On the basis of a significantly divided vote, the Automobile Insurance Study Commission recommends that insurance rates be allowed to increase in a streamlined, efficient manner.[1]

The vote was somewhat self serving since it simply asked for reaffirmation of a policy conceived by the industry in concert with the Department of Insurance (hereinafter called the

1. The vote was significant in its division because only five of the Commission members recommended the CPI-plus 3 percent flex rating system as the means for accomplishing the recommendation's goals; two members would have implemented a "file and use" system, that is, no prior approval and no set rates (which does not provide for streamlined, efficient increases); one member abstained; and one member, the Public Advocate, voted for maintaining a "prior approval" rate filing system (which does not presuppose increases at all). See, Recommendation 11.

Department) which has already been implemented in law;[2] nothing short of reconsideration of this policy by the Legislature and the Governor, or its invalidation by the judiciary, will change that policy. Unfortunately, the parameters of inquiry engaged in by this Commission were much too limited to expect any significant change in policy by the Legislature or the Governor as a consequence of a review of the majority report.

In large measure this report focuses almost exclusively on limitations to claims and benefits coverage as a means to provide for reductions in the costs of our insurance system; the hope being that such savings would be reflected in the rates charged insured motorists. Proposals to increase price competition and efficiency in our automobile insurance delivery system receive inadequate attention in the majority's report.

The Department informs us that the typical adult with a clean driving record in an average territory will pay $890 under the "verbal threshold" option and $996 under the "no limitation tort" option for car insurance.[3] And, we are advised by the

2. Sec. 5, P.L. 1988 c. 156, (November 14, 1988).

3. Solving the Auto Insurance Crisis in New Jersey, David N. Grubb, Special Deputy Commissioner, N.J. Department of Insurance, April 10, 1989. Exhibit D.

Department that automobile insurance premiums can be expected to increase in the range of 75 percent over the next five years,[4] or $1,558 for the threshold option and $1,743 for the tort option by 1994. The typical automobile insurance premium as reported by the Department represents about five percent of the average personal income for the State after taxes. According to the New Jersey Department of Labor Data Center, the State personal income in 1988 before taxes averaged $22,882. To keep pace with the increase in automobile rates expected by the Department, personal income would have to reach an average of $38,294 by 1994. Consequently, New Jersey's driving population can look forward to an even bigger insurance bite, reforms notwithstanding.

The truth of the matter is that, for the great majority of New Jersey's motorists, automobile insurance rates are already just too high for the coverage provided. Discussions about typical rates and average incomes do not convey the reality of single income families, the poor and those earning below average salaries, faced with the prospect of doing without more of the necessary staples of life in order to meet the obligation to maintain automobile insurance; nor do these figures convey the

4. Ibid, at p. 1.

sense of injustice and indignation good drivers feel when faced with unreasonably high automobile insurance bills.

Reforms which would manage increases in automobile insurance rates or even contain them at current levels fail to speak to these injustices and skew the very purpose of State regulation in favor of insurance providers. The quid pro quo for the regulation of the insurance industry is the protection that the state provides that industry from the economic maladies that affect industries in the open market and which would undermine the financial viability of insurance companies, thereby hampering their ability to adequately meet the risks against which policyholders insure. The insurance industry should legitimately have protection from competition but not immunity from competition. This statement reflects the original purpose of the State's venture into insurance industry regulation; that of assuring the public that insurance companies were maintaining adequate reserves to meet their contractual promises to protect the insured from financial harm. The State has moved beyond this basic role to one which today attempts to ensure both the availability and affordability of automobile insurance as a matter of public necessity. It is argued in the majority report that the State's Joint Underwriters Association (JUA) successfully ensures the availability of automobile insurance. The costs, however, are menacingly high--both in terms of

individual premiums and the multi-billion dollar deficit amassed by the Association--thwarting the goal of general affordability.

The necessity of affordable automobile insurance is of societal importance as well. The consumer becomes less venturesome, more conservative in outlook without the ability to economically and safely spread the risks of activities. The State's economy suffers whenever its citizens hesitate to accept reasonable risks because of concerns for the costs of such activity.

This Commission fails to address the real problems which face our State's automobile insurance system, in particular, the large unfunded deficit of the JUA and the State's inability or unwillingness to control automobile insurance costs through its existing regulatory mechanism.

The Commission's recommendation on the JUA's unfunded deficit is for the State not to rush to pay the statutory (as opposed to cash flow) deficit, but to float the debt while the Association continues to operate on a "cash-flow" basis.[5] While the Department of the Public Advocate agrees in principle that the

5. See, Recommendation #4.

State should not rush to pay off this deficit, the recommendation ignores several critical questions about costs raised by this proposal,[6] including but not limited to who should bear the cost of debt service, and who was the beneficiary of debt accumulation. Data review is required.

Much has also been made of the delay inherent in our system of rate setting and the involvement of the Public Advocate's Division of Rate Counsel. Along with increasing accident rates and repair costs, delays in the approval of rate increases has been offered as a reason for high automobile insurance premiums in New Jersey. Closer to the truth is the reality that the lack of information justifying rate request increases on the part of providers causes much, if not most of the delay in the rate approval process.

Often, the petitioner's responses to discovery requests are much like their contentious responses to initial requests for payment of major claims. Invariably, requests for payment by the Rate Counsel are answered with a single negative response, "No," resulting in years of litigation before the claim is satisfied.

6. See, Infra., p. 19.

The insurer's refusal to swiftly cooperate in the rate making system is the source of much of the industry's claimed delay.

This same lack of information about the costs associated with automobile insurance underwriting prevents our current system from becoming an effective deterrent to excess profit-making. The insurance industry, in general, has not been forthcoming with verifiable data corroborating its claim of widespread losses in automobile underwriting operations in New Jersey. Notwithstanding these claims, the A.M. Best Company's Insurance Stock Index for July 24, 1989 lists an 11.7 profit/earnings ratio[7] for the publicly held property/casualty sector, a rate above average for established companies. Yet the industry claims it is over regulated in New Jersey resulting in limited or no profits.

Indeed, an indicator which insurance industry representatives use as evidence of the unfavorable economic conditions in New Jersey is the number of private passenger automobile insurance companies leaving the State due to alleged over-regulation. However, while there has been an increase of 82 automobile

7. This ratio reflects the value the marketplace puts on a company's earnings and the prospect of future earnings; John Downes, Jordon E. Goodman, Barron's Finance and Investment Handbook, Second Edition at 113.

insurance underwriters nationally from 1982 to 1987, 26 states and the District of Columbia experienced declines in underwriters; New Jersey went from 229 to 213 automobile insurance underwriters (16 fewer than 1982) but Alabama, Idaho and South Carolina, as well, have 18, 22 and 25 fewer underwriters respectively and two "true" no fault states, New York and Michigan, have 20 and 37 fewer underwriters respectively.[8]

The industry's inability to dispel the consumer belief of excess profiteering was reflected in the passage of California's Proposition 103 calling for a twenty percent rollback of automobile premiums. Legislation calling for a State constitutional amendment to permit the voters to decide the desirability of a rollback of automobile insurance rates passed in the New Jersey Assembly this session.[9] Bills calling for the rollback of rates have been considered in recent months by the legislatures of Arizona, Illinois, Ohio, Indiana, Nevada and

8. See, Best's Insurance Management Reports, A.M. Best Company Release #2, p. 3, January 9, 1989.

9. ACR-140 and ACR-142 were approved by votes of 70-6 and 75-2 respectively on July 10, 1989.

Michigan.[10] Other automobile insurance reform legislation has been considered in Texas, Pennsylvania (where about 100 bills on the subject have been introduced), Ohio and Michigan.[11] In South Carolina the Insurance Commission and Chief Insurance Commissioner called for a six month freeze on rates to permit their legislature to consider automobile insurance legislation.[12]

In concluding the public hearing of June 26 on ACR-140 and 142, New Jersey's Assembly Insurance Committee Chairman, Gerald Zecker, expressed his disappointment with the lack of cooperation his Committee had received from New Jersey's insurance industry.[13] Assemblyman Zecker, a former insurance claims agent, chided the industry for failing to work with the Committee to improve the State's insurance delivery system. The adversarial posture taken by the industry during that Committee's deliberations is consistent with behavior experienced during rate setting proceedings. The failure of the industry to recognize the necessity of maintaining cooperative relationships with

10. See, Best's Insurance Management Reports, A.M. Best Company, Release #4, 17, 19 23 & 29 (1989).

11. Ibid., Release #2, 16, 17, & 23 (1989).

12. Ibid., Release #3, Jan. 16, 1989.

13. The Star Ledger, July 17, 1989.

regulators and policymakers, and of fostering an open exchange of information, undermines the public's confidence in the rate setting process. Proposals such as the rollback initiatives mentioned earlier are testimony to the rate setting system's failure to adequately incorporate the public's price concerns into the process and represent attempts by motorists to regain a more equal footing with insurance providers.

A videotape presentation, prepared by the American Insurance Association, the Insurance Information Institute and the Insurance Services Office in Washington, D.C. and viewed at their annual meetings, made three very important points: First, the industry must be more attentive to public issues. Second, the industry must realize that the public holds it responsible. And third, the industry must build a base of good will.[14] New Jersey's automobile insurance underwriters would be wise to heed that message.

The Department of the Public Advocate does not endorse the use of rollbacks as a substitute for the careful crafting of automobile insurance rates which are adequate and fair for providers and consumers alike. Other reforms, such as the

14. See, Best's Insurance Management Reports, Release #1, A.M. Best Company, January 3, 1989.

reassessment of insurance industry accounting and financial procedures and the strengthening of New Jersey's Excess Profits Law, to provide within a confidential process more and better claims and expense data to the Departments of Insurance and the Public Advocate, would in the long run do more to lower and maintain rates at reasonable levels, than would one-time rollbacks. However, without a marked change in the adversarial posture toward full disclosure taken by the automobile insurance industry against regulators, policymakers and ratepayers, rollbacks may become the only mechanism by which the public's price concerns are adequately addressed.

The body of this minority report addresses specific concerns regarding the recommendations proposed by the majority. Perhaps the most notable feature of the majority's report is the number of important automobile insurance issues not discussed in it. The repayment of the JUA deficit has been mentioned as one of the issues which receives insufficient study by the Commission. Other JUA issues which would benefit from further examination include: how Insurance Department guidelines on cancellations and non-renewals of automobile insurance policies failed to prevent the shifting of drivers of good or moderate risks from the private sector markets to the JUA and what impact proposals to abolish the JUA will have on the availability of insurance. A number of issues related to price and competitiveness have been

ignored in the majority report, these include; the relationship between the federal antitrust exemption of the insurance industry under the McCarran-Ferguson Act and state insurance regulations and anti-trust laws, insurance industry accounting and financial procedures and their inconsistency with generally accepted accounting principles, the relationship of the business cycle to investment income and statutory reserves, an analysis of the costs of the tort liability system, the expected impact of the multi-tier rating system in the voluntary market to become effective November 14, 1989, and, finally, an in-depth examination of current proposals to rollback prices and implement a Michigan-type automobile insurance system in New Jersey.

Proposals which had originally been favorably considered by the Commission but which do not appear in the final report, include: requiring standard formats in rate setting filings and good driver protection. Delay in the rate setting process was discussed above; standard rate filing formats would shorten some of the delay and give regulators a base of information from which to review rate change requests. Good driver protection, more than any other proposal, has the potential to guarantee that low-risk motorists will not be denied coverage merely for actuarial purposes, while at the same time preventing such motorists from becoming JUA charges. The Commission has chosen to propose "bad driver" definitions and restrictions instead.

These two concepts will be distinguished in the body of this minority report.

In general, the concepts which this Commission did not explore, either consciously or by inadvertent omission, will require consideration in the near future if the State is to benefit from a complete and balanced treatment of the automobile insurance system in efforts to develop a rate setting mechanism which is just to all parties concerned.

THE RECOMMENDATIONS

The majority report contains recommendations which require careful study if they are to be useful in resolving the auto insurance crisis. Indeed, most of the positions taken by the Public Advocate are valueless without an explanation of the analysis employed to reach the decision. Each recommendation is discussed below.

Adequate JUA Rates

It is agreed that adequate rates tied to the JUA's own experience are necessary to maintain the solvency of the Association. It is not agreed, however, that inadequate rates constitute the primary or major cause of the JUA financial

crisis. Such a conclusion cannot be reached until an extensive actuarial investigation into the deficit has been undertaken and completed.

In 1988, a detailed analysis of a request that would have placed an additional $97 surcharge on every insured car in the State was prepared for the Public Advocate's Division of Rate Counsel. The report contended that the JUA could save money and reduce its deficit by changing the way it handles claim payments and payments of various fees and by more prudent investment. Prepared by a nationally known insurance expert, the report contended that the JUA had exaggerated its financial problems and pointed out the need for better financial management. The Division claimed the request had not factored in revenues generated by a $66 surcharge that was approved in early 1988 or the related 13.1 percent increase approved for the Insurance Services Office. Nevertheless, an emergency RMEC in the amount of $79 was approved by the Department.

On August 4, 1989 Insurance Commissioner Kenneth Merin announced that an audit of 15 JUA service carriers conducted by Arthur Anderson & Company and the Insurance Management Group of Stanford, Conn. found that the companies charged excessive fees,

made errors and approved overpayments totaling more than nine hundred million dollars.[15]

These findings cast significant doubt on the statement that inadequate rates were the primary or major cause of the JUA's deficit.

The text which accompanies this recommendation suggests that to establish the possible need for higher rates for bad drivers an eight year history of a motorist's driving record should be examined. The Public Advocate strongly disagrees. If implemented, the impact of such a recommendation on the driving public would be twofold; first, to determine your driving status, insurance companies would be permitted to examine driving records eight (8) years into the past, second, once determined to be a bad driver that classification and the accompanying higher rates would remain in effect for eight (8) years. The statute of limitation on most crimes permits the state to go back only seven (7) years. The subject matter of this recommendation is civil, versus criminal, in nature, and requires the imposition of a lesser standard of review. While three (3) years may prove too

15. "Merin acts for JUA restitution," The Star Ledger, August 4, 1989 p. 1, 13.

short, eight (8) years is certainly too long a period to consign a driver to higher insurance rates.

The recommendation also calls for a legislative description of a "bad driver" based on Michigan law. However, the recommendation fails to point out that Michigan, in addition to a definition of "bad driver," has protection from arbitrary cancellation or nonrenewal of automobile policies for good drivers. Of the approximate two (2) million motorists now in the JUA only 800,000 are higher risk drivers, however, some 1.2 million cannot be classified as high risk drivers.[16] The majority's recommendation attacks the problem of who should be placed in a residual market from the wrong end. Several states (Massachusetts, Michigan, Hawaii, New Hampshire and North and South Carolina) have implemented rules which require that insurance companies take, in the voluntary market at their normal rates, any applicant qualifying as a "good driver" under legislatively established criteria based on the individual's driving record. This would leave the JUA as a residual market only for objectively established "bad" drivers.

16. See, N.J. Dept. of Insurance News Release at page 2 of Exhibit II infra.

Such an applied criteria would allow JUA rates to make feasible the goal of rate equity while significantly depopulating the JUA.

"Good driver protection" makes an affirmative statement as to the responsibility of automobile insurance underwriters towards good drivers. Such protection is necessary if New Jersey is to keep drivers from being unjustly placed in a residual market by insurers and as a check on the growth of the residual market population.

Depopulate the JUA and Adopt Michigan's Essential Insurance Act

The recommendation to depopulate the JUA is already law[17] and as a consequence this recommendation proposes only that Michigan's Essential Insurance Act be adopted in New Jersey. The Michigan Act has been credited with maintaining lower rates in that state. However, the wholesale adaptation of laws foreign to New Jersey requires careful analysis of the operating environments of the insurance industry in both states.

17. See, Sec. 26, P.L. 1988 c. 119 (C.17:30E-14), Sept. 8, 1988.

In Michigan, for example, a 1986 State Supreme Court decision has expanded the circumstances for which an accident victim may sue for pain and suffering; legislation has been introduced to remedy this situation.[18] The Study Commission addresses independently the issue of the verbal threshold for tort liability while at the same time recommends the addition of Michigan's Essential Insurance Act wholesale. An analysis of each aspect of the Michigan Insurance Act never took place and is therefore absent from the majority's report. The Public Advocate, therefore, rejects the recommendation, as laudable as Michigan's statute might be. An analysis of the JUA depopulation issue is inappropriate here.

Stop JUA Comprehensive and Collision Coverage

The late inclusion of this recommendation occurred with much too little discussion among Commission members and the Public Advocate finds it highly disturbing. The definition of a "high priced" automobile is no longer limited to luxury models; it includes those automobiles owned and operated by the average citizen albeit as a major expense. The cost of replacement parts and repairs are costly for all drivers, good or bad, whether you

18. See, Best Insurance Management Reports, Release #17, A.M. Best Company, April 24, 1989 at p. 3.

are in an at-fault collision or are the victim of nature's whim. This proposal then is particularly unfair when you consider that it would leave some one (1) million good drivers in the JUA without comprehensive or collision coverage. While adequate restraints may be needed to keep high-priced sports cars and other luxurious vehicles from being over-represented in the JUA, the remedy proposed here is far more costly, from a societal perspective, than the problem which it is intended to resolve. The "good driver protection" discussed earlier is a better proposal, as it would limit the ability of insurance companies to shift the owners of such vehicles into the residual market on the basis of their actuarial risks alone.

The State Should Not Pay JUA Deficit But Float Its Debt

This recommendation raises two important issues which could have been better analyzed as two questions. With the two points linked in a fashion which required one vote, the Department of the Public Advocate could only vote no.

There is no discussion in the majority's report concerning who will pay the interest needed to "float" the debt, how such a policy might affect JUA rates or what impact this proposal will

have on a decreasing JUA population. Additionally, no rationale is forthcoming as to why this recommendation should be implemented while several investigations into the deficit are still ongoing and before responsibility for the deficit's creation has been established. The Public Advocate does not agree that the argument that insurance companies should pay the JUA's deficit is too simplistic, if that is where the fault, partial or whole, lies. In a truly free and competitive business environment, where the consumer is presented with real choices among service providers, insurance companies would be prevented from passing on to consumers the cost of a financial assessment for the JUA deficit and they would be required to pay the assessment out of profits. In such an environment an assessment of this type would bring about two important consequences; first, insurance companies which contributed the most to the creation of the deficit would be required to absorb more of the cost from their profits;, second, companies which had complied with the spirit of the law, protected the voluntary market and did not engage in wholesale dumping into the JUA, would gain some competitive position in the industry.

Of the 44 jurisdictions in this county which have a residual market mechanism, only New Jersey fails to assess the insurance providers operating in the State for losses in that market. It is all too clear that industry assessments for losses can operate

as a deterrent against the industry's undermining of the purpose of residual markets and, in fact, may serve as an incentive to control costs in such markets as well.

Finally, if State policymakers ultimately deemed it desirable to float the JUA deficit rather than seek to fully fund it, automobile insurance providers, not the State, should be required to finance the cash debt at low or no interest, based on some equitable formula. In the alternative, the funds to be collected as repayment of some $900 million in mistaken and overpaid claims paid out by JUA service carriers should be used to establish this loan fund, thereby eliminating the need for further RMEC's.

It must be understood, that while the State created the JUA, it was managed and operated by the insurance industry. The industry ought not be allowed to escape responsibility for the JUA deficit.

Mandatory Verbal Threshold

We do not support a mandatory verbal threshold unless it is accompanied by an immediate guaranteed rate reduction at a level of savings commensurate with the level of intrusion on consumer's traditionally protected rights. A mandatory verbal threshold is untenable in a free market society. An optional verbal threshold

with a schedule of pain and suffering awards, as is utilized in the workmen's compensation system, is preferable. This would add a measure of certainty to loss calculation for insurance companies while preserving choice for the consumer, and reducing litigation costs.

The Public Advocate has endorsed choice between no-fault coverage and tort coverage as exist under current New Jersey law. This position is supported by the Alliance of American Insurers. This 170-member trade association has dropped its previously stated position in favor of pure no-fault and has adopted a policy supporting the consumer's right to choose between no-fault coverage and coverage permitting the filing of tort claims.[19] Indeed as the record reflects, Commissioner Merin of the Department represents to the Commission members that some 85% of all policies written this calendar year opted for the verbal threshold. The onerous results of a no-fault system with the right to sue for pain and suffering have already been avoided, what is to be gained by tampering with traditional notions of tort liability?

19. See, Bests Insurance Management Reports, Release #14, A.M. Best Company, May 1, 1989 at p. 1.

Catastrophic Injury Fund

A gas tax as a means of financing the fund is preferable. Motorists with greater road exposure would pay a higher share into the fund consistent with their higher potential exposure to risks. There is much less correlation between driver's licenses or automobile registration fees and potential risks.

The Public Advocate does not support a catastrophic injury fund which would cover costs below $75,000, the existing level of the Unsatisfied Claims and Judgment Fund, as discussed in the recommendation's supporting text.

It is unclear what is meant by "allowing for annual adjustments in the program" in the last paragraph of this recommendation's supporting text. The Public Advocate would support increases in the $75,000 threshold in accordance with any adjustment in the national or regional consumer price index for medical services. Any other interpretation would require a clearer explanation of this part of the recommendation.

JUA Data

This recommendation is already required by existing law.[20] JUA data, if properly analyzed, will establish the true costs associated with the operation of a residual market and will justify the use of adequate rates. This actual data may also be used to evaluate the costs and claims experience information offered by voluntary market insurance providers as justification for rate increases.

The supporting text of this recommendation states that without a uniform data tracking system it became difficult for the JUA to evaluate the expenses, settlement practices and underwriting practices of its service carriers. The failure of some service carriers to credit the JUA with income earned on JUA-designated reserves is cited as an example of the need for uniform data tracking.

We strongly disagree with the premise that uniform procedures were necessary to correct this abuse of the public's trust. Any procedure that was operational should have sufficed.

20. See, Sec. 23, P.L. 1988 c. 119, effective September 8, 1988 and Sec. 3 P.L. 1988 C. 156, effective November 14, 1988.

It is unquestionable that income not derived as a direct result of a company's economic activity, versus its custodial responsibilities under a service contract, is not income produced by such company and must therefore be returned. Under service carrier agreements, the administrative costs associated with handling JUA business were handsomely compensated. Confusion about procedures does not justify the taking of these funds. The JUA should be reimbursed these funds with interest and penalties, if applicable.

JUA Board

Again, this recommendation is already law[21] and while the majority vote confirms its necessity, there is no need to restate this issue in this report or consume any of the Commission's time on it.

21. See, Sec. 17 P.L. 1988 c. 119, effective September 8, 1988.

Refund of Service Carrier Overpayments

Refunds of overpayments to JUA service carriers should be made with interest at the prevailing prime rate for the period during which the payments were wrongfully held. Punitive damages should be charged against service carriers who willfully overcharged the JUA, as stated in the committee statement accompanying the automobile insurance reform bill approved November 14, 1988.[22]

Insurance Rate Increases

Once more, this recommendation already exists in law,[23] however, the issues presented here are of such magnitude as to justify resonance.

The Public Advocate has opposed automatic rate increases based on the CPI-plus 3 percent flex rating system because of the compounding effect these rates can have within a relatively short number of years. Current inflation rates of four to five percent

22. See, Senate Labor Industry and Professions Committee Statement, Assembly No. 3702, P.L. 1988 c. 156 at N.J.S.A. 17E-30-13 as amended, November 14, 1988.

23. See, Sec. 5 P.L. 1988 c. 156, effective November 14, 1988.

will bring about automatic rate increases of from seven to eight percent annually. Over a five year period CPI increases of four percent annually can compound to 21.6 percent, however, if 3 percent is added annually to the CPI, the increase in rates will be 40.25 percent over the same five year period. The potential such increases have for becoming a catalyst to spiraling inflation in insurance and related industries must also be considered.

The flex-rating system is non-competitive and an admission that the insurance industry on its own initiative cannot maintain profits while holding down costs, as is required of every other industry in our free market system.

The flex-rating law presumes rate inadequacy. This may prove an onerous presumption for policyholders, placing the notion of free market competition on its head. The burden of proof in a regulated industry should lie with those seeking rate adjustments, for they are the repository of such data, not the public or their representatives.

Strong objection is taken to the language of this recommendation's supporting text which describes the Department of the Public Advocate's insistence on more data to support rate increase requests as nitpicking. Without such data it is the

duty of any state agency charged with the responsibility of protecting the public's interest to insist upon full disclosure and to use every mechanism at its disposal to protect the public.

During 1988, the Division of Rate Counsel was successful at negotiating lower automobile rate increases. ISO, representing 200 insurers in the State, requested a 17 percent increase. The Division recommended only a 5.5 percent increase after extensive work on the case; the Department of Insurance awarded ISO a 13.1 percent rate hike. Several other rate requests were negotiated downward. The increase for the Automobile Insurance Plans Service Office (AIPSO) was pared from 26.7 percent to 12.5 percent. A 30.1 percent increase sought by Colonial Penn was reduced to 25.6 percent. Prudential agreed to an 8 percent boost after seeking 12 percent while Liberty Mutual, which asked for a 10.4 percent increase, was granted no increase, consistent with the recommendation of the Division. Allstate Insurance, which sought a 13.5 percent increase, settled for 8.8 percent.

The flex-rating system signed into law last November eliminates the role of the Public Advocate's Division of Rate Counsel as intervener in rate filings on behalf of the public interest. The impact of this legislation is yet to be assessed; however, it is highly unlikely that the absence of Rate Counsel

intervention in rate filing proceedings will result in lower rates or a diminution in the rate of premium increases.

Further, the penumbra created by this decision to remove the Rate Counsel from its established role of protecting the public interest in rate filings, leaves one with the impression that a wealth of information clogged the rate filing process resulting in long delays in requests for rate increases. In fact, the lack of information adequate enough to support rate requests, and its pursuit, caused much of the delay.

Disallow Expenses Based on National Averages

Paragraphs 3 and 6 of the majority report distort the meaning of the recommendation and, in effect, disclaim the change being proposed.

The point of the recommendation should be that expenses based on figures derived from national averages should not be substituted for actual or allocated expenses when those expenses do not vary with the volume of premiums underwritten. It does not argue that expenses which are larger than average should not be reimbursed at actual costs if costs are properly accounted for. As stated in the supporting text of the majority report, there is no reason for charging postage at a rate 1.3 times

higher because New Jersey's average premium was 1.3 times that of the "average" state. In short, it does not stand to reason that because the average premium is higher that the rate of all associated expenses are higher as well. More detailed expense data does not address this particular problem. Consequently, paragraphs 3 and 6 are inappropriately placed in the supporting text of this recommendation.

Recommendations to Increase Competition

As stated earlier, proposals to increase competition within the automobile insurance industry have not been given due consideration by the Commission. Below are discussed four specific proposals which are supported by the Public Advocate.

Repeal anti-trust exemption

In 1943, the United States Supreme Court held that insurance industry activities conducted across state lines were not beyond the regulatory power of Congress as expressed in the Sherman Anti-trust Act.[24] This decision clarified earlier Court dictum which had stated that the issuing of insurance policies was not

24. United States v. South-Eastern Underwriters Association, 322 U.S. 533 (1943).

interstate commerce.[25] Fearful that they could no longer regulate or tax the business of insurance within their boundaries, the states lobbied Congress for a legislative remedy. In 1945, Congress passed the McCarran-Ferguson Act which provided that "the business of insurance. . . shall be subject to the laws of the several states which relate to the regulation or taxation of such business."[26] The Act also provides a limited exemption from federal anti-trust law, in that the Sherman, Clayton and Federal Trade Commission Acts were made applicable to the extent such business of insurance is not regulated by state law.[27]

The insurance industry of 1989 is vastly more complex and national in scope than even that which existed in 1945. The McCarran-Ferguson Act maintained a major role for state government regulation in a predominately interstate insurance market. The Act preserves this state role at the expense of the additional protection which could be provided consumers under federal anti-trust laws. The Federal government and the states have become very sophisticated in the regulation of many areas of joint concern where they share jurisdictional interest;

25. Paul v. Virginia, 8 Wall. 168, 183 (1869).

26. 15 U.S.C. Sec. 1012.

27. Ibid.

regulation of the insurance industry no longer needs to be the exception. The benefits derived from the existing arrangement, which reverses federal notions of pre-emption and acquiesces to state laws, no longer justifies the economic burden it has imposed on ratepayers.

Repeal anti-group laws

Consumers of group medical services have benefited greatly from their ability to have contracts purchased in bulk on their behalf by employers. Group bulk purchasing has the potential for maintaining low costs by requiring underwriters to compete for group contracts while it provides for better service to customers. Additionally, properly composed groups may have the effect of more evenly spreading risks among automobile insurance underwriters.

Repeal anti-rebate laws

Rebates would lower the cost of an insured's premium by permitting insurance brokers and agents to discount policies they issue. This recommendation would introduce competition at the retail level of the insurance industry.

In 1986, the Florida Supreme Court declared the State's anti-rebating law unconstitutional and the Florida Department of Insurance has issued a favorable ruling on its first proposal to rebate an agent's commission.[28] Michigan's anti-rebate laws are also facing a constitutional challenge.[29] New Jersey's anti-rebate laws are antithetical to a free-market society and should be repealed.

Allow banks to sell insurance

States which have allowed banks to enter the life insurance underwriting business have benefited from the greater efficiency of these institutions and the lower premium costs which have resulted as a consequence to their entrance into the market.

Legal challenges to a similar provision in California's Proposition 103 have failed. A Superior Court judge in Sacramento found no showing of irreparable harm to insurance agents and brokers that would lead him to issue a temporary restraining order against the issuance of insurance licenses to

28. See, Best's Insurance Management Reports, Release #7, A.M. Best Company, February 13, 1989 at p. 1.

29. Ibid.

provision permitting the issuance of insurance licenses to banks.[31]

31. Calfarm Insurance Company v. Deukmejian, 258 Cal. Rptr. 161, 184, 771 P.2d 1247, 1270 (May 4, 1989).

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December 4, 1989

Hon. Kenneth D. Merin
20 West State Street
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Re: New Jersey Auto Insurance Study Commission recommendations

Dear Commissioner Merin:

The Committee's recommendations assume the continuation of the JUA. I believe that reforms that have been introduced by statute and the JUA Board will ultimately result in its effective future performance in the residual market. Thus, I support that assumption.

I recognize, however, that Governor-Elect Florio has announced his intension to replace the JUA with a new residual market mechanism. If he does so, it is essential that the new structure be based upon what has been learned from the JUA experience. It is this issue that this brief statement is intended to address.

There are three elements necessary for a residual market mechanism to be successful:

- accountability of and control over the actual operation of the mechanism by a single entity representing the public interest

- limiting the population of the new mechanism such that it insures only the worst risks with all other risks covered in the voluntary market

- funding adequate for the "higher risk" population that would be insured by the residual market mechanism

None of these elements were present in the original JUA legislation. Recent reforms have moved in this direction. A new mechanism can be structured which will further enhance the ability of the system to address these factors.

Accountability and control

While the extent of "waste" in JUA operations is still debatable, what is beyond question is that some servicing carriers did not perform as well as expected in handling their underwriting and claims responsibilities and that the servicing carrier fee originally adopted was too generous. Recent reforms have moved to address those problems, including increased central office staffing, development of stricter uniform claims handling guidelines and competitive bidding for servicing carrier contracts. In addition, the JUA is now run by an all public Board of Directors. I believe that if a new mechanism is created, it must build upon this movement toward an effective central office structure operating in the public interest.

To further strengthen the ability of the residual market mechanism to run "a tight ship", I suggest consideration of the following:

- In some manner, those handling underwriting and claims must be provided with an incentive to properly handle those policies and claims (and subject to "penalties" if they do not). One approach worth serious consideration would be to have all underwriting and claims handling done by employees of the residual market mechanism. The current statutorily mandated system of contracting with outside vendors (e.g., servicing carriers) has three inherent flaws. First, the way in which a servicing carrier maximizes its profit is by limiting its operating costs. Limiting its costs may be inconsistent with optimal performance and, in fact, there is little incentive for a carrier to diligently work to control claims as the money saved does not affect its bottom line. Second, it is more difficult to monitor and control multiple vendors with their own internal systems than to supervise a uniform in-house system. Third, the notion of profit is built into an outside vendor system. An in-house system can squeeze profit out of the equation. This is not to say that all servicing carriers have done or will do an inadequate job; rather the point is simply that those who do a good job do so in spite of the system, not because of it, and an in-house system has the potential to better achieve the goals of maximum accountability and efficiency. If a servicing carrier system is to be retained, some mechanism should be developed which would reward "superior" performance and penalize "poor" performance.

- Strong central management under public control is essential. The residual market mechanism should have a strong board and a general manager with more authority. At present, a part-time Board and Commissioner of Insurance (also "part-time" in terms of the JUA) share power over the residual market with significant limitations placed upon the full-time JUA General Manager. I believe that authority should be more centralized in the full time staff of the residual market mechanism with a public Board setting broad policy and the Commissioner of

Insurance providing regulatory oversight. The Governor should have a veto over the minutes of the Board (and obviously would have appointment power), but the Commissioner of Insurance should not have the unilateral authority to place provisions in the Plan of Operation. That authority is unnecessary if the Board is all or primarily public members and, as emphasized above, a strong centralized and unitary management system is most likely to run an efficient and effective operation.

- Producer costs should be reduced and accountability increased. Serious thought should be given to have the residual market mechanism act as a direct writer with an in-house agency force. This would avoid or reduce commission costs and increase accountability. In addition, insureds could be required to produce a "declination" from a voluntary market company before being able to buy insurance from the residual market agent. This would ensure that only drivers who truly cannot obtain insurance in the voluntary market are insured in the residual market. If the outside agency system is to continue, commissions should be reduced to minimum levels to reduce costs and ensure that there is no incentive to place a driver with the residual market unless it is absolutely necessary to do so.

What should not be done is to return to an assigned risk plan mechanism. That plan has many more flaws than the current structure. Under an assigned risk plan, there is no way to monitor and control performance, no efficiencies of scale, no uniformity and little public control and accountability. Each agent deals with dozens of companies. The residual market consumer gets "stuck" with whatever company he or she is assigned to, regardless of the quality of the service provided. I am convinced that a tightly controlled, uniform, publically-operated system will provide better service for the public at lower cost.

Limiting the size of the residual market mechanism

One of the major causes of the JUA's problems has been the failure of the voluntary market to write policies for other than the cleanest risks. The new mechanism must not be allowed to grow to 50% of the marketplace or even close to that size. Two possible mechanisms for achieving this goal are (1) the recent reforms requiring depopulation of the JUA and (2) the Michigan Essential Insurance Act provision (recommended for adoption by the Commission) which requires insurers to insure drivers with certain underwriting characteristics. Any new legislation must limit the size of the residual market or it will fail.

Adequate rates for the residual market mechanism

Another major cause of the JUA deficit was the requirement that the JUA's substandard risks pay rates tied to "preferred" voluntary market rates which excluded JUA experience completely. Such a system has compelled non-JUA drivers to subsidize JUA drivers in amounts far in excess of that which is acceptable to

the public. New legislation can choose any one of a number of different ways to fund the system. I do not intend to recommend one approach over another. However, I would emphasize that the package of funding that is chosen must be based on realistic criteria and not upon "wishful thinking". If funding is based upon "wishful thinking", we will be facing a crisis again in but a few short years.

This is not to say that there are no ways to control costs. The JUA has moved to tighten controls over claims handling and these efforts should be continued and expanded. In addition, this Commission has made recommendations which have the potential to limit costs -- such as the establishment of an "efficiency" standard for insurers and changes in how allocated expenses are calculated. Efforts to reduce accidents (by improving our highways or cracking down on drunk drivers, for example) can also reduce costs, as would control of health care costs.

In addition, I believe that the new Governor should seriously consider reducing the number of mandatory coverages to give consumers a chance to further reduce premiums if they so choose. I would recommend that only those coverages pertaining o physical injury be required (e. g., PIP, BI) and that all ther coverages be optional. Thus, PD and UM would be optional coverages as are collision and comprehensive now. Those with expensive automobiles or with other assets to protect can buy the full package of automobile insurance that is available. Our poorer citizens who have few assets to protect would need to buy only those coverages pertaining to physical harm to individuals.

In short, I support all efforts to squeeze waste out of the system and to maximize consumer choice. Once that is done, however, the rates must be what they need to be whether or not they are what we might all like them to be.

Conclusion

I realize that some of these comments were not discussed with the full Commission (although some were). However, given the changing "automobile insurance environment", I felt that I would be remiss in not sharing the above thoughts. I recognize that these suggestions are not "the solution" and that there may be a downside to some of the ideas expressed. My intent in writing this separate statement is not to "provide all of the answers" to our insurance problem, but simply to point those who would change the system toward some of the right questions. I hope that the Governor-elect and new Legislature may find these observations useful.

Sincerely,

Jack F. Trope