

P U B L I C H E A R I N G

before

ASSEMBLY COMMERCE, BANKING AND INSURANCE COMMITTEE

on

AUTOMOBILE INSURANCE

Held:
February 16, 1977
Assembly Chamber
State House
Trenton, New Jersey

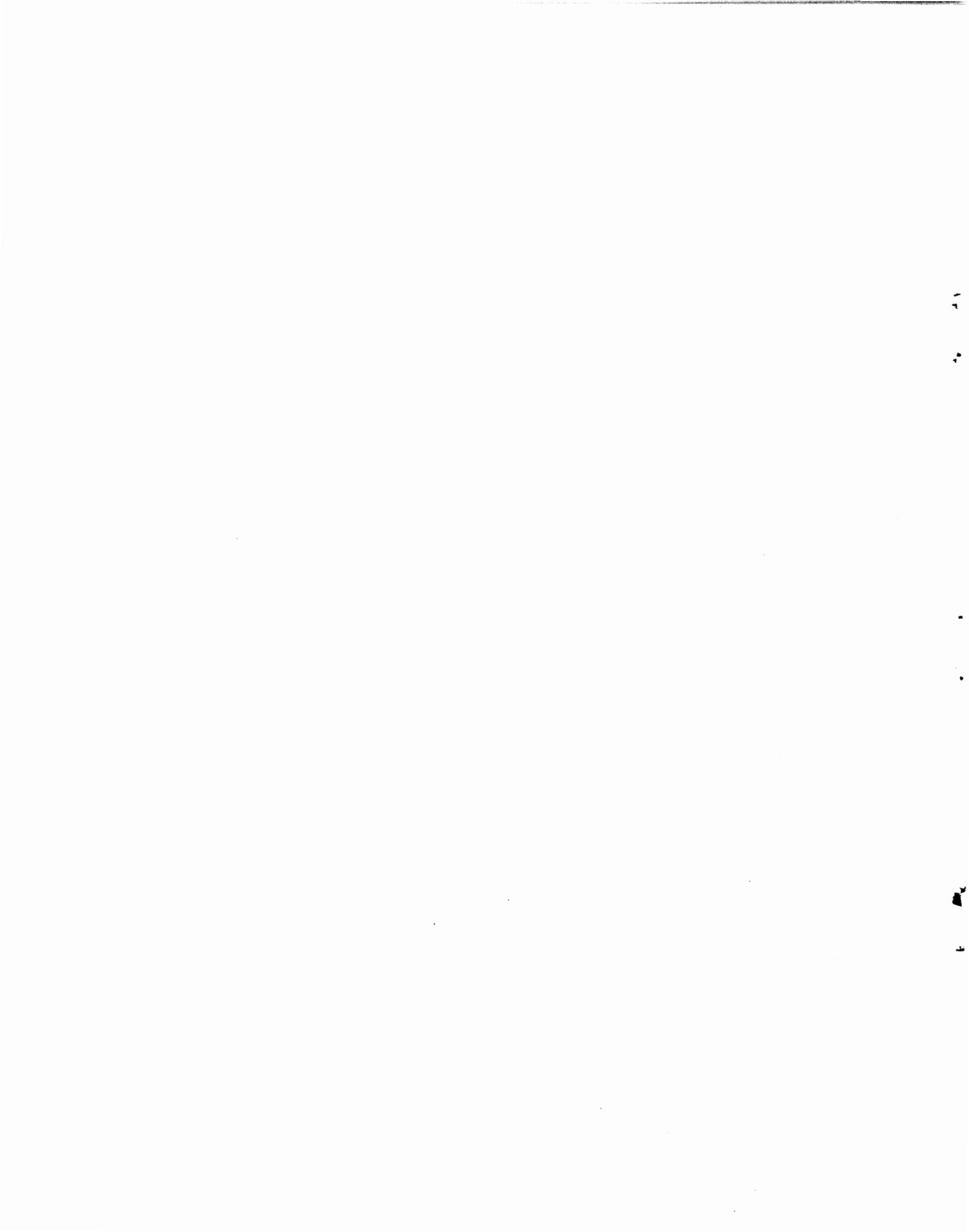
COMMITTEE MEMBERS PRESENT:

Assemblyman James W. Bornheimer (Chairman)
Assemblyman Michael F. Adubato
Assemblyman Donald DiFrancesco
Assemblyman Carl A. Orechio

* * * *

I N D E X

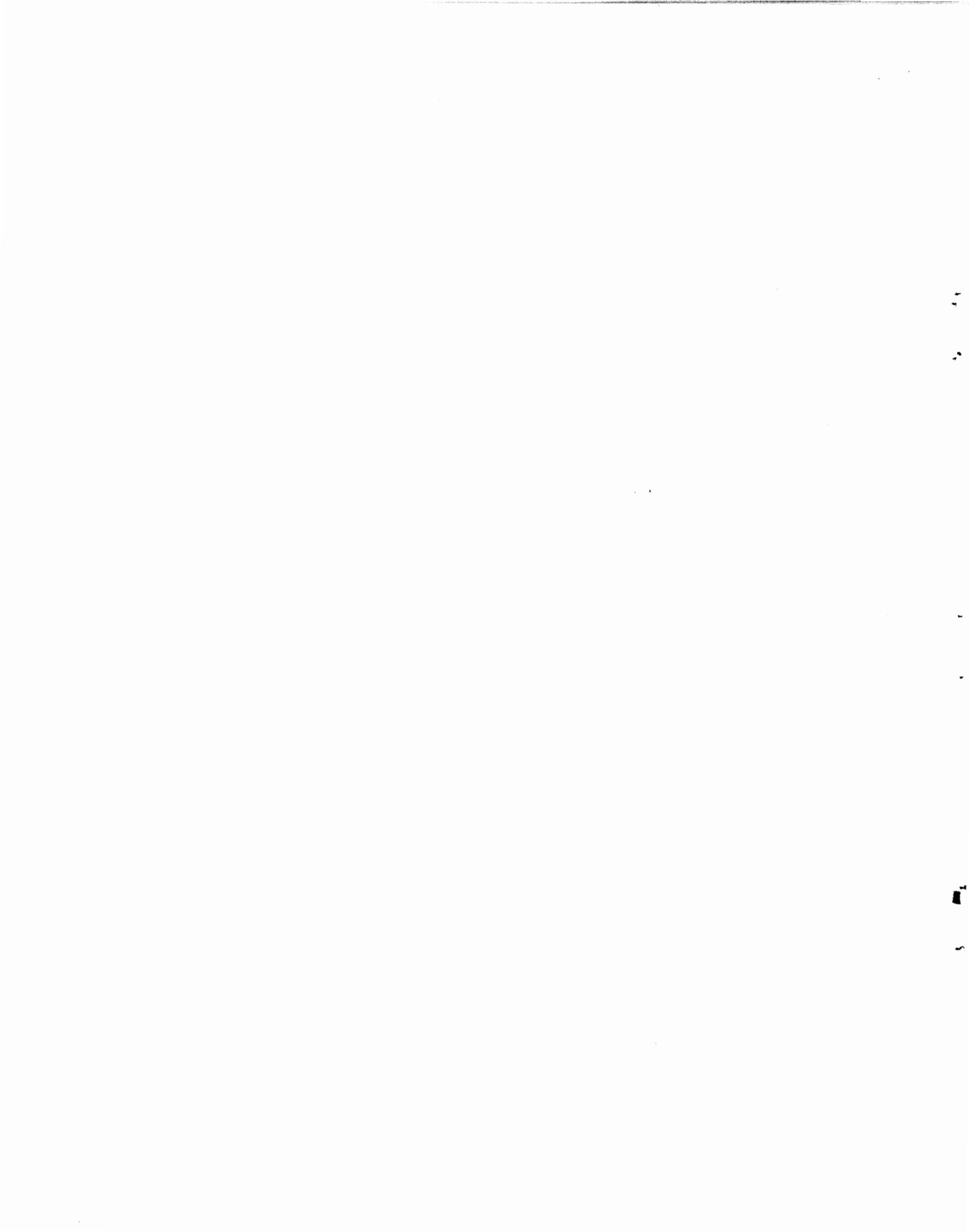
	<u>Page</u>
Donald H. Stewart Assemblyman District # 3	1
Peter Shapiro Assemblyman District #28	6
T. Lawrence Jones President American Insurance Association	9
Norman De Neef Manager, Automobile Underwriting Department Selected Risks Insurance Company	17 & 1x
Charles H. Marciante President New Jersey State AFL-CIO	20
Jules A. Borrus President Insurance Brokers Association of New Jersey	29
John J. Corbley Executive Director Maryland Automobile Insurance Fund	32
James Sheeran Commissioner Department of Insurance	1A
John Nangle Counsel National Association of Independent Insurers	11A & 4x
William Fox Regional Vice President American Mutual Insurance Alliance	12A & 10x
Jasper Jackson Office of the Public Advocate	14A
Jerry Lieb President Independent Insurance Agents of New Jersey	19A & 26x



Index - continued

	<u>Page</u>
James Davies President Mutual Agents Association	20A & 53x
Edward Lubowicki Insurance Agent	21A
Harry Hoonan President Civic Club of Holiday City Toms River, New Jersey	23A
James O'Connell Freehold, New Jersey	24A

1-16:II
17-48:I
1A-25A:III



ASSEMBLYMAN JAMES W. BORNHEIMER (Chairman): I would like to call this hearing to order. Just to give you a simple statement as to what this hearing is all about, we all know there are problems in the insurance industry, one dealing with no-fault, and one dealing with the availability of the free market for insurance, and another dealing with malpractice, and others dealing with the availability of insurance at reasonable rates for municipalities and school boards. We have three or four different bills in our committee which tend to direct themselves to these matters, and we are using them as a basis for having this hearing.

We have a list of witnesses who wish to testify. If there is anyone else who wishes to testify, please give Miss Purola your name, and she will schedule you for sometime today.

My fellow Assemblymen present here today are Assemblyman Orechio and Assemblyman Di Francesco. I am Assemblyman Bornheimer. The first witness to testify is the Honorable Donald Stewart, an Assemblyman from south Jersey.

A S S E M B L Y M A N D O N A L D H. S T E W A R T: Thank you, Mr. Chairman. I did not address my immediate remarks to the bill that is under question, the Jackman proposal, for two reasons, one, as a legislator, I do not take it that seriously, I can't believe that the State of New Jersey would want to get into the auto insurance business. And, secondly, as an insurance agent, I guess I would probably welcome that competitor, because I can't think of anyone who would be less competent to handle the auto insurance business than the State of New Jersey. So I would rather not talk about that bill, unless you have some questions you want to ask when I get to the end of my statement, but rather talk about the no-fault picture in its entirety.

I came here today because I was a member of the original, not the original insurance committee, but the insurance committee in 1972 when the Cahill no-fault plan passed the legislature. I don't think there are any members of that committee left today in the legislature, other than the Speaker of the House --- I am sorry, Assemblyman Orechio was also on that Committee, so he can correct any of the mistakes I might make, based on my memory of what happened and how we got to the problem that we are in today.

I am also, as Assemblyman Orechio remembers, the individual who amended the no-fault law on the floor of the Assembly that day four years ago to include the provision to lower the insurance rates by 15%. In some of the things that I have read, in many cases that is being blamed for the problems that we face today. I personally don't agree with that particular feeling, and I will explain that to you as we go along, or if you have any questions concerning that, I will be glad to talk about that.

I also am an insurance agent who is having difficulty finding a product to sell today, and I think, as you mentioned in your brief remarks in the beginning, the problem really is bigger than just no-fault auto insurance. Many agents - and I see there are agent representatives here today - can tell you that several times throughout the last couple of years they have been told by insurance companies that they cannot write any new business at all in the State of New Jersey - let alone auto insurance or homeowner's or fire insurance or commercial. They were told to just stop doing business completely. It is very tough for any businessman to be in business when he doesn't have a product that he can sell. I think if I were here just as an insurance agent speaking from the safety of that office, and not having to answer to the general public as I do as an elected official, I would probably be here right now saying, "Let's just make a few amendments to the no-fault plan, and

then seriously consider an open rating system or an open rating law for the state that would open up the market and allow competition to set the rate." But as a legislator, we don't quite have that prerogative. We have to realize that we are going to be held accountable for the actions that we take, and I also feel that although open rating has merits, and might work over the long haul, we as legislators would invite the wrath of the citizens of the State of New Jersey if we allow auto insurance in this State to go unregulated starting tomorrow morning.

I would like to talk a little bit about the original Cahill no-fault plan, and try and point out to those who might be here today to criticize the plan, and to the Committee members who aren't familiar with what transpired back then, a little bit about how we got to where we are. As you may remember, the original no-fault bill had a \$100 threshold when it was introduced to the Committee. That Committee amended the bill to a \$500 threshold. You also probably are aware that that subsequently was reduced in a floor amendment by the sponsor of the bill in conjunction with some severe lobbying from the trial lawyers of the State of New Jersey. Many on that committee thought that the threshold should be at least \$1000, and that is four to five years ago. You know as well as I do where it is now, to \$200.

The problem that we experience today is the unlimited medical expense field. If my memory serves me correctly, the proposal for unlimited medical expenses and the proposal for loss of wages was something that popped up late in the committee meetings. It was an issue that someone developed as the plan was almost in its final form, and we received, I think, some very bad information from the Department of Insurance on exactly what effects that proposal might have on the policyholders and their premiums in the State of New Jersey. The Department gave us information that there would be little or no effect on the premiums in New Jersey if we went to an unlimited medical payment plan. We were told, from the files that I have researched through, that their files, the files of the Department and the files of the insurance companies indicated that most claims were of a small nature and that they were under \$500, under \$1000, under \$2000, and this change to an unlimited medical payment system would not adversely affect the rates. As has been pointed out in the years since then, evidently someone forgot to realize that in those days we had a limit on medical expenses of \$1000 or \$2000 depending on what the person bought, and probably that is why none of the insurance company files indicated large payments for medical expenses, because they didn't bother to keep records on claims they didn't have to pay.

We also were told that the \$500 threshold that was instituted by the Committee was going to bring about 35% to 45% - and I am speaking from memory now - in insurance savings to the premium payors of the State of New Jersey. We were told that if we amended the bill back down to \$200, which ended up being successful on the floor of the Assembly, that there would be a minimum of 25% savings to the policyholders of the State of New Jersey, and also we were told that we would also see a rate reduction in Blue Cross and Blue Shield rates because the auto insurance would be primary now, and Blue Cross and Blue Shield would have a great load taken off their back. I don't recall ever seeing that happen. My memory is not that great, but someone else here today may be able to comment on that, or your committee might be able to check into that, but as far as I know, Blue Cross and Blue Shield never did see a rate reduction. In fact, it has probably gone up even higher than the auto insurance has over that period of time, despite the fact that auto insurance is probably picking up a great many of the claims that normally were paid under Blue Cross and Blue Shield.

This, by the way, was the reason that I insisted that day on the Assembly floor that the bill mandate a 15% savings. If the industries claim and the department claims and the sponsors claim that a \$200 threshold would bring about 25% savings, certainly mandating 15% was not unreasonable. That was the reason we did mandate it at that time, as those of you who were here remember.

I think those critical misjudgements, plus some of the normal problems that are created in the loopholes that develop in any new bill that we have, helped create the mess that we find ourselves in today. As you know, with any piece of legislation after a period of a year or two, we find that we have to make some changes in it. I think that is true with no-fault, despite some of the major flaws. I can remember very well the day - and I think some of you can - that the legislature let the trial lawyers, I think, among others, con us into reducing that tort threshold down to \$200. I stood over there in that corner of the legislature and said then, and I repeat it now, that the plan we were passing was a farce, and that it wasn't going to work, and that the only reason that I could support it, and that many others supported it, was the fact that we were mandating that 15% reduction in auto insurance premiums. We hoped we would never have to come back and say we told you so, it is not going to work. That day is here and it has been here for a year or so, and it doesn't do any good to tell some of you people we told you so, because you are not the individuals who were responsible at that time, and it doesn't solve the problem that we find ourselves in today.

The witnesses who are going to testify today are going to point out some of the many problems that no-fault has, and many of the benefits that it has, by the way. It has been a real beneficial plan to the consumer, picking up many of the medical expenses that we normally never would have had picked up. But I would like to point out just a few things that I think should be changed and changed quickly in our no-fault system. One, of course, is the threshold. I think that will be touched on many times by many people here. It is obvious that \$200 is ridiculous today. We have even raised the amount of small claims court from \$200 to \$500, and to go along with the \$200 threshold is just outrageous. I personally feel that maybe we ought to go to a verbal threshold, something that would say after so many weeks of disability or after so many days of disability, or some take off on that idea, that you would be entitled to bring tort action after that case. If we can't do that, then I think we ought to at least go to a \$1000 threshold with a cost of living factor that will allow the Commissioner of Insurance to increase that each year, so they wouldn't have to keep coming back to the legislature.

The reason for a verbal threshold, and the reason I keep getting back to it, is that many of the things I have read and many of the things I have seen in my files and in talking to other agents across the State has been the abuse of this threshold by the medical profession for one, and by the attorneys for another, and by the policyholders themselves. It is very easy to run up a lot of doctor bills trying to get over \$200. No one is going to discourage the doctor who is running up those bills, if that is what he is after in the first place, to get over the \$200 threshold, or \$500, whatever it is, and the trial lawyer, of course, is encouraging his client to get over that \$200 threshold also. If we did away with the dollar amount, we won't have the problem of everybody padding the bills, and we won't have the problem of the policyholder encouraging the doctor to pad the bill, in my opinion, anyway, or at least you would cut down on it.

I think we have to put a cap on the unlimited medical expenses, either through

the reinsurance bill, which I think you have already released from your committee, and is probably ready for a vote---

ASSEMBLYMAN BORNHEIMER: Yes, we have.

ASSEMBLYMAN STEWART: I think that is a good first step in changing some of this problem we are having with no-fault, if not making a tremendous dent in it, or maybe putting some sort of a lid on the amount of medical payments we will pay out, and then giving the insured the option to buy unlimited medical payments if he wants them. But the proposal that your committee has already released, I feel, is a very, very good one. I think we should look seriously into repealing our contributory negligence statute that we passed a couple of months after no-fault. Again, that was done to keep the trial lawyers happy at that time. In my opinion, it has done nothing but increase the case load and the suits against the auto insurance system.

We had talked about, four years ago, a binding arbitration system on claims up to \$10,000. That never did come about. Again, that might cut down on the case loads, and might bring about some savings to the insurance companies that can be turned back to the policyholders. I think we have to also set up some sort of mechanism to control the abuses that the medical profession has perpetrated on this system. I think this is a very important step. If there has to be a fee system that we arrive at through discussions with the medical associations in conjunction with the Department of Insurance, tied in maybe to the verbal threshold idea, whatever it is, I think we have to do it. I think we do it in other forms of insurance where they have a set fee schedule where at least we can compare it. As it is today, some of the charges that the hospitals charge, the doctors charge, are just unrealistic and they are not controlled whatsoever. And in many cases, they are drastically increasing the cost of auto insurance in the State of New Jersey.

I also think we have to reinstitute the principle of subrogation, about which I still think back and try to figure out what in the heck the logic was in doing away with that in the first place. Maybe someone else here can refresh my memory but I can't recall what the logic was in doing away with that. It seems to me that an insurance carrier that is paying the medical bills of an individual who is not at fault in an accident should have a right to go back against the company of the party that caused the claim to be reimbursed. The principle we had in mind was, number one, to lower insurance premiums; number two, to pay the claims, and to pay them fast. We can pay the claims fast with subrogation. The injured party's company will pay the claim, but I don't think we should preclude that company from going after the guilty party who caused that problem in the first place. That is also drastically affecting the reserves of the insurance companies and their ability to set up reserves for claims, and the agent's ability to underwrite.

These are just some of the suggestions that I had. There are going to be plenty more, and there are a lot of small sections to the no-fault statute that need cleaning up, and I am sure you are aware of them. I would like to refute some of the printed statements I have seen. Whether they have been misquotes or what, I don't know, but they were statements made by Commissioner Sheeran supposedly that the purpose of no-fault was to speed up the claim payments and to speed up the court process. The way I remember it, those of us who sat on that committee, those were considerations, but the main consideration was to try and come up with a plan that would lower premiums in the State of New Jersey. The court backlog was not the major concern of the members of that committee.

I think the charge that no-fault alone is driving up the cost of auto insurance in New Jersey is very inaccurate, and is using the system itself as a scapegoat. I shudder to think where the bodily injury rates in the state of New Jersey would be today if we didn't have the no-fault system. I think if we can resist the pressure from the special interest groups, we can still amend the statute to do what many hoped it would do four years ago, and that is, to save the policyholders of the State some meaningful premium dollars.

In closing, I would just like to say that I really think we are in a crisis situation in New Jersey. I think this committee realizes it. The companies are leaving the State, and those remaining are not taking on new business. The system that we have with the assigned risk is just encouraging companies to leave our state. We have been notified in our own office of two additional companies no longer writing business in the State of New Jersey through the assigned risk plan.

If this legislature doesn't act, I feel, in the next ninety days, we are going to find ourselves embroiled in a crisis that is going to be very, very similar to the infamous tax crisis we found ourselves in last summer. I really think that the time for public hearings is rapidly coming to an end and we have to sit down, even if it means a special session of the legislature, as much as we all hate to think about that again, to solve this problem. Even if it means that, before now and June, we have to solve this problem, or we are really going to put the auto owners of the State of New Jersey in a real bind in the coming year. I thank you very much for your attention. If you have any questions, I will be happy to try and answer them.

ASSEMBLYMAN BORNHEIMER: Don, what do you think about the facility method of giving out the assigned risk? They call it the agent's plan.

ASSEMBLYMAN STEWART: I have seen Commissioner Sheeran's plan.

ASSEMBLYMAN BORNHEIMER: That is the one that I am referring to.

ASSEMBLYMAN STEWART: I personally don't have any strong feelings one way or the other. I think we have to straighten this system out first. If we could straighten out the no-fault system and make it work, I would have no--- I personally think that would be an easier way of serving the public, looking at it as an agent. I know when we have someone who is involved in an accident, and they are insured through the assigned risk, it is like pulling teeth getting them some kind of claim service, as opposed to being insured by one of your carriers; you know who to call, you know the adjuster, and you are used to being serviced by them, and you don't have serious problems. So if you had every company mandated to take whoever walked in the door, each agent would be selling through their three or four carriers that they represented and it would probably be, as far as service is concerned, a lot better for the policyholder.

ASSEMBLYMAN BORNHEIMER: You know about Senator Menza's bill establishing the no-fault study commission.

ASSEMBLYMAN STEWART: Yes.

ASSEMBLYMAN BORNHEIMER: Do you favor that?

ASSEMBLYMAN STEWART: I think the time for studying is long gone.

ASSEMBLYMAN BORNHEIMER: In other words, basically it would be reporting back in June.

ASSEMBLYMAN STEWART: I personally feel that we better solve this by June, or we are in bad shape. We have been talking about this since - I have newspaper clippings from the Star-Ledger, the Courier, and from other papers, and wire service stories from last January, where they were pointing out things that we

are still talking about. We have to stop talking and get down to business.

ASSEMBLYMAN BORNHEIMER: Does anyone else on the panel wish to ask Don any questions? By the way, Assemblyman Aduato, the Vice-Chairman, has arrived.

ASSEMBLYMAN ORECHIO: I want to commend you on a fine presentation.

ASSEMBLYMAN STEWART: Thank you, sir.

ASSEMBLYMAN ORECHIO: You made some very good points and suggestions. Have you introduced any legislation that would implement your thinking?

ASSEMBLYMAN STEWART: Not at this point, no, sir.

ASSEMBLYMAN ORECHIO: Do you intend to?

ASSEMBLYMAN STEWART: Yes.

ASSEMBLYMAN ORECHIO: Are you familiar with the Kline report?

ASSEMBLYMAN STEWART: I am familiar with the fact that Mr. Kline is supposedly making a report, but if there is one, I have not seen it.

ASSEMBLYMAN ORECHIO: You don't know that it has been made to the Governor?

ASSEMBLYMAN STEWART: No.

ASSEMBLYMAN ORECHIO: I have no further questions.

ASSEMBLYMAN BORNHEIMER: Anyone else? Thank you, Don. The next witness we will hear from is the Honorable Peter Shapiro, another one of our colleagues.

A S S E M B L Y M A N P E T E R S H A P I R O: Mr. Chairman, members of the committee, I am not going to speak on no-fault today, but rather on an area of the auto insurance system that has been of great concern to my constituents and a great concern to myself, as well. I have brought some prepared testimony today of a constituent of mine who is very concerned with this same situation, who could not be here, and I would like to read that into the record. It is not very long. The situation I speak of is what I call the residential discrimination in automobile insurance based upon residential address.

I will read the testimony, which I should say, is very, very representative of the feelings in my district, and very representative of the feelings throughout Newark, and I would guess in every urban area that has found a similar situation to this.

I am quoting now from the testimony, "My name is Joan Bishof. I live in the City of Newark, the State of New Jersey. I regret not being here to personally present my opinions as to the unfair and discriminatory automobile insurance rates charged city residents. Assemblyman Shapiro has therefore accepted to read them for me.

"I have waited long for this opportunity to voice my anguish, concern and belief that as city residents I, my relatives, friends, and neighbors are grossly discriminated against because we choose to live in the old but still proud city of Newark.

"The antiquated automobile insurance rating system currently in use in New Jersey is based primarily on one's place of residence, where one's auto is garaged, uses of the auto, and driver's age and sex. As we all know, times have changed drastically and progress has been made. Drivers do not live in the towns and cities in which they work; drivers do travel considerable distances to their places of employment; they do leave quiet suburban streets, and these same drivers do travel into the heart of our fair city. I can safely state that nine out of ten persons I know living in the suburbs will each drive in Newark more miles per year than I do as a city resident.

"Though not the magnet for employment it once was, Newark still is considered the hub of business and commerce for the North Jersey area and attracts many out-of-city drivers on a daily basis. These same drivers entering and leaving our city on a daily basis are rated on the garage location of their cars, therefore, enjoying much, much lower automobile insurance premiums. I most assuredly question the fairness of this insurance rating structure.

"We are the owners of three automobiles - one full size and two compact size. We are a family of four drivers, two adults and two sons aged twenty-one and nineteen. Two of the autos are limited to pleasure and convenience and the third used to travel to Kean College in Union, New Jersey, a distance of approximately seven miles. Collision coverage is carried on one auto only. We have not one chargeable accident or violation and our annual automobile insurance premium is just short of \$2,000. Why? Mainly because we choose to live in a beautiful residential section of the city of Newark. If we were to move one-half block south of our present home or two blocks west, our auto insurance rate would drop 40% to 50% as we would then be living in the so-called suburbs of Irvington, Maplewood and South Orange. We can therefore assume that as far as the insurance industry is concerned city residents are considered to be second-class citizens.

"I will concede that in the large cities the number of accidents exceed those that occur in suburban areas, but I will never agree that these accidents are caused by and to the residents of the cities alone. I fortunately am employed in the insurance industry and have access to accident claim files. It is quite disheartening, to say the least, to come across a suburban family with numerous chargeable accidents paying an automobile insurance premium so far below what my family is subjected to pay as a penalty for living in a residential area in Newark. God forbid we should have an accident. I do not think we would be able to afford to pay for the chargeable increase.

"And I ask you, is this not considered unfair and discriminatory? Where is the justice? For too long the city resident has been discriminated against with regard to the premiums we must pay for our automobile insurance. An equitable rating system can and must be implemented in the State of New Jersey to correct a longstanding gross injustice to the residents of Newark and other large cities.

"For a number of years I have been trying to bring this unjust insurance practice to the forefront, but to no avail." At this point she goes on to praise me for taking up the issue. I won't bother reading that to the committee. Let me just say that I obviously agree with this statement. I have proposed a bill, A-2303, which Assemblyman Aduato has co-sponsored, which I would strongly urge you to consider and release as soon as possible.

I should point out one other area which I think is very important, which she does not point out, but which is an area that I think goes to the question of preserving our residential neighborhoods in our urban areas and preserving our middle class in our urban areas which I think all of us has to recognize as a necessity if we are going to keep our cities in anything like decent shape, and that is, automobile insurance has got to be one of the first necessities of any middle class family. At the point at which it becomes impossible to afford that automobile insurance, or at the point when living in a city becomes so detrimental to someone who must buy automobile insurance, the ability of the middle class to survive in this city is going to be greatly diminished. I think this is something that goes really to the heart of preserving our urban areas, preserving our neighborhoods, and making our cities more healthy. Thank you very much.

ASSEMBLYMAN BORNHEIMER: Pete, give us a little background on what your bill intends to do.

ASSEMBLYMAN SHAPIRO: Basically, the bill is very simple. It adds into the insurance statutes language saying that no rate setting shall be based upon the residential address of the insured. That is with regard to auto insurance only. It says any other criterion may be used, of course. It just simply puts a prohibition to using residential address. Basically, it would leave it up to further legislation, or better yet, up to the wisdom and experience of the insurance industry to set rates beyond that. But it would say residential address may not be used.

ASSEMBLYMAN BORNHEIMER: I know myself, in earlier discussions with other people in the industry at committee meetings, the fact was brought out that the industry hasn't done a complete survey of the whole regional zoning since 1932. Mike has been pressing for this like all thunder, and I think it should be brought to the forefront, and I think this is an important matter that we should handle. And I think we will.

ASSEMBLYMAN SHAPIRO: I should also point out North Carolina, at least until very recently, outlawed discrimination based upon residential address if not by statute, at least by practice within the insurance industry.

ASSEMBLYMAN BORNHEIMER: Was there a court case on that or anything?

ASSEMBLYMAN SHAPIRO: I don't think there was, but I know it was set. There was some talk of a change very recently. I haven't been able to track it down.

ASSEMBLYMAN BORNHEIMER: Laurine, would you investigate that for us?

MS. PUROLA: There was a court case.

ASSEMBLYMAN BORNHEIMER: Does anyone else on the panel wish to ask any questions? Mike.

ASSEMBLYMAN ADUBATO: Assemblyman, I want to first of all congratulate you for introducing the bill. I have been talking about it for three years, but I didn't have the confidence that anything would be done in spite of introducing legislation. I don't want to sound like too much of a pessimist, but I was very happy that you introduced the bill and asked me to co-sponsor it.

I don't really know if the insurance companies are against stopping this practice of discrimination based on geographical location or not. I don't see why they would be, first of all, if they are going to charge a level rate, everything else being equal based on a person's individual experience. They would make the same money they are making today. Unfortunately, Peter, I think that the biggest obstacle - more than the insurance companies - we have to overcome is the lack of understanding and the lack of responsibility of those people who live outside of the urban areas, in that if this fairness were implemented, then their rates automatically would go up, because they have been getting away with murder for so long. When you flatten it out, naturally, the people living in an urban situation would go down, and their rates would go up. The insurance companies would make the same return on their money, regardless of who pays for it. But I think it is more a case of people saying, "It's their problem." It is almost like the narcotics thing, you know. When kids in the urban areas were smoking marijuana, no one gave a damn, but when it reached the suburbs, all hell broke loose. I really think it is the same basic thing, the same kind of a basic lack of responsibility on the part of people outside.

I really don't think we can be fair, and I don't think we can stop this kind of discrimination and be more equitable until we adjust the geographical

locations along with other things dealing with no fault. It is my personal opinion, Peter, that your testimony here today and your input is probably the most valuable thing I am going to hear all day. I want to thank you for coming down today.

ASSEMBLYMAN SHAPIRO: Thank you very much.

ASSEMBLYMAN BORNHEIMER: Thank you. The next witness is T. Lawrence Jones, President of the American Insurance Association.

T. L A W R E N C E J O N E S: Mr. Chairman, I would like Mr. Grover Czech, the Vice President of the Mid-Atlantic Region to join me here, if it would be agreeable, sir.

ASSEMBLYMAN BORNHEIMER: Fine.

MR. JONES: Mr. Chairman, my name is Lawrence Jones, and I am the President of the American Insurance Association, and I believe we have our testimony up there available to each member of the Committee.

Our organization is comprised of 144 insurance companies writing all forms of property-casualty insurance throughout the State of New Jersey and the country. Our members write approximately 29% of the New Jersey private passenger premium and about half the commercial vehicle volume and one-third of the state's total automobile insurance volume. We appreciate the opportunity to appear before you today to comment on the current automobile insurance situation in the state. It is a situation that troubles us deeply, one that spotlights the basic relationship between government and private industry.

We deplore the adversary atmosphere that has brought insurance companies to swords' points with the regulatory structure. It should not be. On the contrary, public officials and private insurance companies share a common objective and responsibility to maintain a healthy insurance climate in which adequate amounts of insurance are available at a price that is fair to the buyer and the seller.

Unfortunately, the automobile insurance climate in New Jersey is as cold and as harsh as the current winter. Insurers find it necessary to charge enormous amounts of money for a product people need more than they desire and can't readily buy. At that, insurers are being forced to sell their product at a loss, thus subsidizing thousands of drivers.

Insurance companies work hard to keep the insurance markets open in New Jersey. That is their business, their reason for being. Insurers want to provide the coverages that are both socially desirable and legally necessary. They want their products to be affordable to the public they serve. Obviously, there can be no profit made if a product is not sold. That is why the current automobile insurance climate in New Jersey creates such dismay among insurance companies. They face government price control of their product, but there is no control over the costs of providing that product.

They face severe restrictions on many of the actions and decisions that are the normal management responsibility of any business. They face the reality of being locked into a losing proposition, very insecure in the knowledge that the more automobile insurance that they write, the more money they will lose. They face a no-fault law that remains half-slave and half-free. It requires payment of unlimited medical benefits but still saddles them with the costs of tort liability suits.

Cumulatively, these realities add up to a regulatory, claims, and legislative environment that insurance companies must evaluate in terms of their long-range and short-range objectives. Each company faces these problems in a different degree.

Their decisions about how much business they can afford to write are individually and separately made. Yet companies that have little in common with each other in their approach to the market increasingly share feelings of frustration and helplessness over what they reluctantly consider to be a hostile business environment in New Jersey. They know that the situation simply cannot go on much longer as it is. They feel and welcome their responsibility to propose solutions. This they have done in the past, and do again today, but insurers can only propose. They cannot dispose. That power and that responsibility lies with the regulators and with the legislature.

The measures we outlined for you today represent a positive, integrated program directed at the problems identified by the Insurance Commissioner. They are designed to produce a more reasonable underwriting and marketing climate in the state and to reduce the tension and uncertainty that afflicts buyers and sellers, legislators, and regulators.

We propose the following: One, to replace prior approval, government price control with a regulatory system based on competitive pricing; two, to improve the automobile insurance plan or to replace it with a joint underwriting association; three, to improve the no-fault law by restoring balance between benefits and costs; four, to ease underwriting and management restrictions which discourage insurers from writing new business; five, to support appropriate measures to control the rising costs of goods and services insurance pays for.

Our staff previously has outlined for this committee the benefits we believe will flow from a competitive pricing law. Today, I cite the recently-released results of an extensive inquiry by the Anti-Trust Division of the U. S. Department of Justice into the effects of state regulation on the pricing and distribution of insurance.

The Justice Department specifically compared results in two states, New Jersey and Pennsylvania, which rely heavily on state involvement in the rate making process, with results in a third state, California, which relies heavily on market forces to determine the level of prices. Of the New Jersey system, the Justice Department concludes as follows: "Rigid state rate regulation in insurance has fostered greater adherence to bureau rates, discouraged rate reductions, contributed to instability in insurance company operations, established various forms of cross-subsidization between good and bad risks, imposed uncertain restrictions on the collective merchandising and the direct writing of insurance and aggravated the availability problem in which marginal or high risks have difficulty obtaining coverage in the open market at the prevailing rates."

In contrast, the Justice Department found from the California system that competitive pricing: "One, produced a rate structure that was responsive to changes in costs; two, encouraged innovation in the form of coverage and rating plans; three, reduced the residual market problems; four, enabled new and small companies to enter and succeed in the business; five, relieved regulators of the time consuming task of reviewing rate filings and permitted them to examine actual pricing practices in the field."

Of great relevance to New Jersey, the Justice Department report says: "A comparison of the experience of the same insurers under certain open competition and prior approval systems suggests that competition fosters greater independent pricing, operating stability and flexibility in the pricing structure. The relatively favorable performance of the insurance companies under the highly competitive system suggests that it provides a more effective mechanism for accomplishing one of the basic insurance goals - generally available coverage at a price reasonably related to cost."

I emphasize that the state neither relinquishes its regulatory responsibility nor hands insurance companies the keys to the candy store when it adopts competitive pricing. The competitive pricing bill that we expect to be introduced soon provides a regulatory system. I understand it has been assigned Assembly Bill Number 3077. At this point I would like to mention that I would like to make a distinction between open rating as discussed by Mr. Stewart to you and by what is proposed here as a competitive type regulatory law. What we would propose is still a regulatory system. Companies wouldn't be turned loose. They would have to file their rates. They would still be reviewed by the Insurance Department. They would review the ones they would have questions about. The bill establishes criteria to be applied by insurance companies in making rates and requires rates to meet clearly defined standards. Rates and rate information must be filed with the Commissioner, who may hold hearings and order the discontinuance of rates which fail to meet the statutory requirements. As competitive pricing is implemented, markets will open up and the residual market will begin to decline.

The price and availability of insurance are linked by the laws of economics and consideration of availability and the residual market raises the underlying question of the subsidy of one motorist by another. Today the assigned risk plan is artificially bloated because rates for the open market have been artificially suppressed. At current rates, the plan is a big loser - \$51 million of net operating loss in 1975 alone, and \$162 million of operating loss over the last seven years. This means that in 1975 one out of every eight dollars collected from other New Jersey policyholders had to be used to pay the losses caused by the assigned risks. This is a concealed subsidy of the residual market by the open market. Out of sight, but not out of mind when the premiums have to be paid. To the extent that rates in the open market are insufficient to cover residual market losses - as they are - the difference must come from insurance company surplus. This in turn limits the amount of new business a company is able to write.

We believe that this subsidy should be identified and brought out in the open. In a bill now being drafted, we advocate the replacement of the assigned risk plan by a Joint Underwriting Association. The intent is for the automobile insurance business to operate a service facility for the residual market at no profit but also at no loss. In the event of a deficit, the Insurance Department would be required to authorize a specific surcharge on voluntary policyholders. The surcharge would be collected by the companies and sent to the JUA. All premiums charged by the Joint Underwriting Association would be retained by it, and any investment income earned by the Joint Underwriting Association would be used to reduce any deficit. While we believe that a Joint Underwriting Association to be a desirable and effective mechanism, we strongly oppose a reinsurance facility as being undesirable and counter-productive. Such a facility will only stifle competition among insurers and increase subsidy of the high risk driver by the rest of the market. It is unsound economically and politically.

The third element of our program is to improve New Jersey's no fault auto insurance law, which suffers from an imbalance between benefits and costs. From its beginning four years ago, the no-fault law had been widely credited with accomplishing its two prime objectives of bringing recovery for economic loss to more accident victims and doing it faster than the old liability system did.

The law as passed provides New Jerseyans with one of the best packages of benefits in the country. Unfortunately, however, the law involved too much compromise

and too little common sense. It simply does not contain the balancing cost-savings features that keep a good no-fault plan economical. Rare as it may be, representatives of the insurance companies, large and small, stock and mutual, have agreed on a package of amendments that will help restore balance to the no fault law. It consists of the following major parts: One, a strengthening of the lawsuit threshold by eliminating the dollar medical expense qualification and substituting a continuous 90-day period of disability to make one eligible to sue another for pain and suffering. Suits would be preserved for other specific permanent injuries; two, a limitation in the amount of medical expense benefits payable under the no-fault insurance law to \$50,000 and a requirement that insurance companies make an additional \$450,000 worth of medical expense coverage available on a voluntary basis to policyholders. We would actually visualize that that would probably be offered in \$150,000 increments, so that you could buy one, two, or three increments up to the \$450,000.

ASSEMBLYMAN BORNHEIMER: In other words, it would be an additional charge.

MR. JONES: Additional charge, yes. Three, a clarifying amendment specifying that no-fault benefits are not intended to apply to people injured while riding a motorcycle or injured by any other non-private passenger vehicle; four, a limitation of medical expense coverage for hospital charges to the customary charge for a semi-private room, unless intensive care is required.

Industry representatives are still working on other clarifying amendments to the combined fault, no-fault law. But if one thing has been clear for sometime, it is that the lawsuit threshold must be strengthened significantly to rid the system of a great deal of the abuse that is forcing costs up and making it economically unsound. The amendments would make it economically sound.

As the fourth and fifth element of our package, we suggest that the legislature and the Insurance Department address themselves to easing the restrictions that now hamper insurance management in the sound, normal conduct of their business, to developing better measures to safeguard the insurance system from abuse by those who repair human bodies and car bodies and to strengthening licensing and driving requirements. We pledge our assistance in working toward those ends.

We hope that these proposals illustrate both our concern over the current insurance environment in New Jersey and our desire to do what we can to improve it. The insurance industry in New Jersey is being regulated as if it were a utility. But a utility it is not. Insurance companies have no service area monopoly. They compete. They have no guaranteed rate of return sufficient to support future investment. Instead, they drain surplus. They cannot simply pass through increased costs in the form of an adjustment charge. They petition the government for approval - and wait, and wait - and finally take the best that they can get.

Our companies do not want to be considered a utility. They want to fulfill their responsibilities as competitive, private enterprise mechanisms. It appears to a growing number of them, however, that they are not being permitted to function as a competitive, private enterprise system. Many companies now believe that the state is virtually dictating how the insurance business can be run almost to the point of control.

If government prevents insurance companies from fulfilling their responsibilities within the private enterprise system, it is inevitable, many companies believe, that government itself will have to share the responsibility for meeting the insurance needs of the markets that must be served.

I would be remiss if I did not report to you that there is growing sentiment

among our member companies possibly even to support some form of legislation establishing a competitive state fund for auto insurance. Our companies strongly oppose Assembly Bill 1670, the one that you are considering here today, and the state fund it would construct as being unworkable under the terms of various New Jersey insurance laws. The type of state fund that some of our companies would visualize would be fully competitive with the private market.

To the extent of any underwriting deficits incurred by the state fund, it would have to certify the amounts of money needed by it to make up the deficit. Any such deficit could be met in part over time by an identified surcharge up to a maximum limit spreading over the entire auto insurance policyholder population.

Companies would arrive at any such policy position only with the greatest reluctance. They would do so only to prevent the private auto insurance system from collapsing altogether. It is a radical thought for insurance companies to consider. Insurers basically are committed to private enterprise. Only in a case where the system, as controlled, becomes untenable, where it is not allowed to function as it should, can any company consider a role for government.

New Jersey is in danger of becoming such a case. It must be treated as an exception, an aberration of the normal insurance environment. We will continue to stand for private enterprise and against government involvement in all normal insurance markets. But the critical nature of the insurance environment in New Jersey demands unusual efforts and possibly unusual measures.

I come back to where I started. Government and the private insurance mechanism have common objectives. They share the responsibility of achieving those objectives. The question before us now is, "how"? I would be delighted to try and answer any questions, Assemblyman Bornheimer.

ASSEMBLYMAN BORNHEIMER: In reference to the open competition, what did the report say about California? I think they are having problems with the insurance out there, too. The private market is closing up because of lack of new policies and so forth, and they are writing a lot---

MR. JONES: We are having difficulty meeting all of the insurance demands because of limitations on our surplus. Our companies historically like to write one and a half dollar a premium to one dollar of surplus, and in recent years things have changed and some of our companies have found themselves very uncomfortable at four dollars a premium to one dollar of surplus and they have had to restrict the obligations they take on. But they assure me that in the markets where they have the right to price their product in a competitive environment still regulated that they are taking on more commitments than they are where the ones they have difficulty.

ASSEMBLYMAN BORNHEIMER: In California they have an open market and they are not taking on any more commitments, so they will not be able to build up any more surplus out there.

MR. JONES: Our companies don't report that. They may not take on all the business available to them, but they are certainly taking on new risks there. There is a price problem everywhere in the country.

ASSEMBLYMAN BORNHEIMER: I realize that. Another thing, in reference to your no-fault comments, they have merits, but also what you are doing is cutting the public's coverage and then charging them an additional rate to give them back the coverage that they originally had. In other words, isn't there another way of getting around it without an additional charge for the \$450,000? We just had a bill before

our committee which just set the maximum at \$75 and spread the risk among all the companies.

MR. JONES: Well, there you are asking one company to reinsure another company without any fee, and we think that is basically an unfair system, the one that was released by your committee. Companies can buy this reinsurance of those risks in the open market. It is just that they object to some of the prices, and they want to pass it on to other companies without any price, and our companies object to that and think you have basically an unfair system that way. If you want to limit the amount in the first place, our basic position is that we think that unlimited medical is all right and ultimately can be handled by the smaller companies through reinsurance, but if you are going to limit it, the most fair way would be to offer increments available to people and let them buy the minimum coverage, if that is what they want, or if they want to add greater coverage, to pay for it.

ASSEMBLYMAN BORNHEIMER: Anyone else on the panel wish to ask questions? Mike.

ASSEMBLYMAN ADUBATO: Very briefly, Mr. Chairman. Mr. Jones, speaking of fairness, I would like to ask you a question, if I may. In your opinion, do you think it is fair for insurance companies to discriminate based on a person's age, sex, marital status, and geography, where they live?

MR. JONES: In conducting a business like the insurance business, you have to have classifications; you can't determine a rate for every individual. That gets away from the insurance concept. And to work with the masses of numbers that you have, you have to have classifications, and unfortunately you have to draw lines as to classifications.

But one of our very fundamental responsibilities of a private insurance industry is to relate the charge to the man's exposure to risk, and if we don't do that, we are failing in one of our fundamental responsibilities, and we are creating a situation where one company can have an advantage over the other, and you would have a chaotic insurance system. We recently, on a very broad basis, supported within the industry an independent study by the Stanford Research Institute of risk classification. And it does not approve of everything the industry does, but it did recognize the absolute necessity of classification system and relating the charge to the exposure to risk, and if we didn't do that, there would be other ways that the system would be abused.

We can certainly make that available. They have it in a big report, a middle size report, and a small report, and we would be happy to make available all three to each member of the Committee.

Let me add - because I heard your earlier reference to the residential area or territorial classifications as being in your judgement unfair - a statement here. I used to be Deputy Federal Highway Administrator, and we had about forty professionals working in highway safety programs. That was at the time that we enacted those two highway safety bills to the Congress, and those professionals working with me convinced me and said that in their judgement that the number one factor in determining the extent to which there were going to be accidents - and they weren't talking about insurance, they were talking about accidents, which cause insurance costs - was the density of automobiles for the area in which they had to operate, and that was the most important controlling factor in determining

how many accidents they were going to have. They called it friction of the system, but that is their term.

Now, the second most important factor was how much you used your car, and the third most important factor was whether you drove day or night, because there was a higher number of accidents at night than during the day. And then they said you got down to the personal factors. Now, I found out when I got into the insurance industry that basically they think about 80% of the premium is determined by factors of location, where the car is used, and how much it is used, and the other 20% is all these other factors about what kind of individual is involved.

Now, if we fulfill our responsibility, we have to do that. If you are going to shift it in some other way, you have to do it other than through the insurance system, or it won't work.

ASSEMBLYMAN ADUBATO: Well, sir, in my humble opinion, you did not answer my question, and I am going to say to you what I think is fair. As long as you as an industry continue to have your attitude, and your lack of concern of being fair with people, then I, sir, will be very patient and listen to you on and on and on, however, I must tell you, while I will listen to you, no matter what you say to me, I will not hear you until you hear what we are saying, and until you can respond in a legitimate, direct fashion I will never hear you.

MR. JONES: Let me try again.

ASSEMBLYMAN ADUBATO: That won't be necessary for me. I would appreciate it if maybe we can do it alone, instead of taking the Committee's time with this. We do have other speakers.

MR. JONES: I can answer you directly by saying, I think it is fair, and I think it would be unfair if we charged the man out in the very western part of the State - where there are very few cars - a comparable rate with the person living in your community of Newark. I would say that was unfair.

ASSEMBLYMAN ADUBATO: I will close with this statement. I believe it is true that your geographical lines for most companies have not been looked at for forty years. Now, forty years ago was a little different than it is today as far as patterns of people traveling. Just on that basis alone, I can't hear you, because you haven't done your job. You know, towns have to re-evaluate every five years by law, and when you don't do that, you get in trouble, like some towns are. You people have a license to do anything you want and come up with your flowery statements, but yet you don't produce and you don't do anything voluntarily.

I am opposed to government interference. I am opposed to them taking over the private sector. It has happened in Maryland, where they have lost considerable millions of dollars, you know. However, you have to have a balancing scale, and it is your company - not you as an individual - and your industry's philosophy that will push people like me, who are really on your side, to say, well, you leave us no choice. Now, I would ask you respectfully to take a look at the industry and help us and talk about really being fair, and if you heard what I said to Assemblyman Shapiro---

Well, let me ask you directly. Would you make less money if you stopped your geographical discrimination?

MR. JONES: There would be dislocations in the market, and I am not sure that the system would work at all.

ASSEMBLYMAN ADUBATO: I think it would work an awful lot better. Thank you, sir.

ASSEMBLYMAN BORNHEIMER: Thank you. The next gentleman will be Norman De Neef.

N O R M A N D E N E E F: Mr. Chairman and members of the Committee, when your Chairman asked if my company had an interest in testifying this morning, it was to deal with the matter of possible no-fault reform; and I will attempt to restrict my comments to that.

We were pleased to see in the Star Ledger this morning, an indication that in a meeting with the Governor yesterday there apparently was an understanding between him and some of the industry executives that no-fault reform could be speedily accomplished in New Jersey, and we certainly would encourage that.

My name is Norman DeNeef and I am Manager of the Automobile Underwriting Department for Selected Risks Insurance Company of Branchville, New Jersey, and have been for 35 years. We are a medium-sized domestic stock insurance company, and perhaps I take some liberty in saying "medium-sized" - we are quite small really. We like to think we are medium-sized. We write multiple lines insurance with a volume last year of slightly in excess of \$78 million, 65 percent of which is written in this State or about \$52 million. And of that \$52 million, \$32 million is motor vehicle coverage, both private passenger and commercial here in New Jersey. We actually write about 4 percent of the private passenger car volume or roughly one car out of twenty-five in this State. We do have a parochial, if not desperate, interest in the current insurance crisis in New Jersey.

I would like to thank the Committee for allowing us to give this very short testimony, which I am sure, as you will hear and have already heard, may be much more effectively presented by those other parties who are testifying here today. However, we do ask that you recognize that we, along with the other domestic companies, have an unparalleled interest in today's problems in New Jersey since solution to us is survival and not merely a shift to some other arena.

For those of you on the Committee who are old enough - and I think most of you are - to remember Joe Louis's second fight with Max Schmeling, you will recall when they asked Louis how he expected to make out, he said, "Schmeling can run, but he can't hide." We find ourselves in somewhat that position in this State.

I have only four points to discuss very briefly with you for improvement in our No-Fault Law, and I have attached those four points to my statement. I only want to comment very briefly on them.

It must be recognized, however, that these suggested revisions and others which may be presented here today will not in and of themselves be more than one in a series of steps which you must consider - and I don't envy you the job you have in that consideration - toward a resolution of our current availability and affordability problems here. But we believe that the changes that have been referred to are a significant and accomplishable first step.

For just a moment, I would like to call your attention to a couple of points regarding the four items which I have raised.

You perhaps have heard enough about "threshold," but unquestionably the number one step in improvement of our No-Fault Law is the threshold problem. We believe that a verbal threshold must come about. We don't believe that a dollar threshold over the long haul is going to solve the problem. We have supported no-fault since its inception. We support it as the best possible system for compensating accident victims and we think that the limits under the law should continue to be unlimited the same as they are now. If, however, we are to maintain those limits at an

affordable level, something has to give, and the original principle of no-fault was to give on the suit end by a substantial threshold.

I would ask one thing in your consideration. Assemblyman Stewart said very ably that the matter of rate reduction perhaps was ill-advised on the basis of the information the Committee had at the time or that the Legislature had at the time. I would entreat you, if you pass a substantial threshold, this time do not accompany it immediately with another rate reduction. We are going to have to find out how it works before that could be justified, in my opinion.

The second of my factors deals with a slight flaw in the law. I think Mr. Steven Gilbert has done a study on the legislative intent of this, and perhaps Mr. Orechio from his activity on the Committee originally --- and both Mr. Gilbert and I, along with a number of others, were on committees appointed by the Commissioner at that time to translate the law into effective coverage grant, the endorsement forms which we use. It was our very clear understanding, and we believed the clear intent of the Legislature at that time, to restrict payment of no-fault benefits, PIP coverage, if you will, to occupants of private passenger vehicles and to individuals struck as pedestrians by private-passenger-type vehicles.

A recent decision by the Appellate Division of the New Jersey Supreme Court in Hoglin vs. Nation-wide has, we believe, done an injustice to that intent, although the judicial decision was precisely correct in view of the language as it exists in the law, which says that an eligible injured party is one who is hurt in an accident involving an automobile, not occupying. We would like to see the law amended - and I have outlined this under my second provision here - to get back to the original legislative intent and make no-fault or PIP coverage only available to occupants of private passenger cars, not commercial vehicles, not motorcycles, not public vehicles. They recover under the extended medical expense portion of the coverage. We could, of course, extend no-fault to all vehicles. But I have seen no significant desire for that at the moment and I think we ought to settle the private passenger car question first.

My third point is one that I think you may want to consider. Many state No-Fault Laws have made those laws fall upon any vehicle being driven over the highways of that state. In New Jersey, we chose to make our No-Fault Law only apply to vehicles principally garaged or registered in New Jersey. New Jersey is a corridor state and involves millions of out-of-state vehicles per year. We believe that the insurers of those vehicles should be, by a change in the New Jersey statute, obligated to cover their insureds while they are on New Jersey highways, subject to the same provisions as our residents are. The "all states endorsement" which most companies today attach to their policies make them conform to statute in any state in which the vehicle is operated. This change in the law would bring those vehicles using our corridor State under our No-Fault the minute they cross the border into New Jersey, and would reduce litigation that we run into now where a New Jersey car is involved in an accident with an out-of-state vehicle in New Jersey.

Finally, I would like to thank the Committee for the activity you have taken on Senate Bill 1380. This bill, as you know, would cap an individual company's obligations under no-fault to \$75,000 and would share in a pooling arrangement above that figure through the UCGF. We have supported this bill with an obviously parochial interest. The costs of reinsurance to us would be mitigated by the passage of this

legislation. It would not harm the interests of the consumer, since his benefit level would continue the same; and, frankly, I do not see that it would harm the interests of the other parties who would share in this pool. I recognize the divergent interest on this point, but again I ask your consideration, parochial though it may be, for the domestic companies in this regard.

Thank you very much. If you want me to answer any questions, I will tackle them. (See page 1X for written statement submitted by Mr. DeNeef.)

ASSEMBLYMAN BORNHEIMER: In reference to the other states' endorsement, have you any data which tells how many accidents occurred with out-of-state vehicles?

MR. DE NEEF: Mr. Chairman, I would not have that figure. I would assume that there are a large number in New Jersey each year. I could try to develop that information for you.

ASSEMBLYMAN BORNHEIMER: What effect would it have upon insurance rates in New Jersey?

MR. DE NEEF: It should have no effect on them.

ASSEMBLYMAN BORNHEIMER: In other words, would it be of assistance to know? Right now, the companies are paying claims to out-of-state drivers based upon our no-fault.

MR. DE NEEF: Well, let us assume, for example, there are two cars ---

ASSEMBLYMAN BORNHEIMER: Tell me what happens in a case.

MR. DE NEEF: Say you have a two-car accident involving a New Jersey insured and an out-of-state vehicle in New Jersey. The out-of-state vehicle occupants, of course, since many states do not have no-fault, would only be entitled to recover from their insurer the equivalent, we will say, of the old medical expense benefit. And if the New Jersey car were at fault, they would have to bring legal action, in some cases at least. It could get into litigation and result in a delay, etc. to settle the case.

If the law were changed, as we recommend, their company would be obligated to provide them the equivalent of New Jersey no-fault by virtue of the "all states" endorsement. And if we had an adequate threshold under our law, their people would be compensated, the occupants of the New Jersey car would be compensated, and there should be a correlating decrease in litigation necessary in such cases.

ASSEMBLYMAN BORNHEIMER: So you would go back to the old subrogation.

MR. DE NEEF: Not necessarily, no.

ASSEMBLYMAN BORNHEIMER: How do you feel about subrogation? Do you think that should be reinstated?

MR. DE NEEF: I don't think we have a strong feeling one way or the other on it. I appreciate Assemblyman Stewart's comment on that point because I realize that agencies sometimes - quite often today - have contingency or profit-sharing arrangements with their companies, as we do with all of our agents. We hear from our agents who say, "The biggest claim I had this year was one where somebody at fault hit one of my insured head-on. You paid my people with no hope of recovery and my loss ratio suffered for it." And I appreciate Assemblyman Stewart's comment on that. I don't know that a lot is gained by subrogation.

ASSEMBLYMAN BORNHEIMER: Does anyone else on the Committee wish to ask a question? (No response.)

Thank you very much.

MR. DE NEEF: Thank you, sir.

ASSEMBLYMAN BORNHEIMER: The next gentleman we will hear from will be Mr. Charles Marciante, President, New Jersey State AFL-CIO.

C H A R L E S H. M A R C I A N T E: Gentlemen, I would like to thank you for giving me the opportunity of coming here today and talking with you to present our point of view on Assembly Bill 1670.

It is no great secret that the New Jersey State AFL-CIO is supportive of Assembly Bill 1670, as well as the concept of a state-run Auto Insurance Agency. We have watched with great alarm over the past two years as one private firm after another has sought and received successive rate hikes. No sooner does one company request and receive an increase than another steps into the breach, hat in hand. And, no sooner does the cycle complete itself, than the first company is back again. This well-orchestrated ware of attrition has had a devastating impact on consumers, who at the same time have been experiencing the worst economic times in 40 years.

Yet, despite these wholesale increases, which average almost 55 percent industrywide since 1974, New Jersey motorists today are finding it more difficult than ever to even purchase mandatory automobile insurance on the open market - at any price. Tens of thousands of motorists are being arbitrarily, and often unfairly, shuttled onto the assigned risk lists where they must pay premiums anywhere from 10 to 90 percent higher than they would on the standard market.

The inflationary cost of insurance, and the great difficulty in obtaining coverage, has forced as many as 200,000 motorists into a situation where they are driving illegally without liability coverage. Such a circumstance is detrimental to everyone.

What's worse, there is no end in sight to this roller-coaster of higher premium rates and profits for insurance carriers, and less coverage and fewer services for the consumer. Upset by Commissioner Sheeran's recent decision to freeze all rate hike requests until the industry proves need, many companies are now trying to extort the increases by threatening to phase-out operations in New Jersey, by reducing the number of their agents, or by simply refusing to accept new policyholders. This predictable, highly-synchronized reaction would be amusing if it didn't represent such a threat to already-overburdened consumers.

The Insurance Services Office (ISO), a rating bureau which directly services companies insuring 70 percent of New Jersey's car owners, sought a 35.5 percent increase in December, after having received a 21.5 boost last July.

Allstate, the State's largest auto insurer, is seeking a 14.6 percent rate hike, even though it was awarded a 24 percent increase for liability coverage and a 23.3 percent jump in physical damage rates last June 28th.

Travelers Insurance sought a 29.2 percent average increase in auto premiums in late October, only three months after increasing the rates for its 100,000 customers by 21 percent. Not it is phasing out part of its New Jersey operation and refusing new coverage.

Hartford is seeking a 28.4 percent hike in liability rates after being granted a 33.3 percent overall increase last April, affecting 78,000 New Jersey policyholders.

Aetna Insurance is seeking a 19.5 percent increase, even though its 95,000 customers were given a 27 percent hike last February.

State Farm was back seeking a 21.4 percent rate hike for its 290,000

policyholders only six months after it had received an increase.

In December, the Continental Insurance Company instructed its agents not to write any new policies in New Jersey.

GEICO closed down its total operations in the State last summer, requiring 200,000 motorists to find new coverage in a shrinking market once their policies expire.

It should be clear from these examples that we are fast approaching a full-scale auto insurance crisis in this State. If we don't prepare for it now and establish workable alternatives, then government and consumers will be caught short as we were by the natural gas shortage.

By and large, labor readily accepts the free enterprise system as the best way to maintain a thriving economy, foster individual initiative, and advance the cause of mankind. We are convinced that, wherever and whenever possible, private industry should be encouraged to direct and regulate the business of this nation.

However, the absence of sufficient and reasonably-priced auto insurance coverage in New Jersey is so critical, we feel the State has a responsibility to initiate a viable alternative for consumer-motorists. Frankly, the private auto insurance industry in this State has failed miserably in its obligation to provide motorists with adequate and efficient insurance protection.

The problem is compounded because auto insurance is mandatory in this State. The motorist has no choice but to purchase it, no matter what the cost or availability. In essence, he is at the mercy of the carrier. In this case, it means he is being victimized by an endless spiral of rate increases, an unfair and discriminatory rating system, and the constant threat that he may be dropped from coverage for irrelevant reasons.

Mandatory is the key word here. In such a situation, the State has a real obligation to guarantee that the consumer receives a fair break.

The AFL-CIO feels that Assembly Bill 1670 offers the State an excellent opportunity to provide motorists with a workable alternative to existing insurance programs. Not only would it insure moderate-priced coverage to motorists who for one reason or another have been turned away by private firms, this legislation would also introduce the element of competition into the auto insurance industry, serving as a brake against inflationary rate hikes and as an inducement for improved services.

It would also represent an ideal buffer against the threatened phasing-out of operations by several private companies.

A 1670 is designed to provide compulsory, no-fault insurance, as well as liability insurance, at the lowest feasible premium rates. Under the provisions of the act, cancellations, nonrenewals or rejections of insurance would be prohibited, except for nonpayment of premiums, revocation or suspension of a driver's license or registration, or fraud in obtaining the policy. Discrimination in premium rates would also be forbidden, except for proven high-risk driving records.

Anyone who takes a close look at the methods now being used by the insurance industry to determine premium rates, to classify drivers, and to either accept or reject a motorist for coverage, has to be appalled by the inequities in the present system.

The industry currently divides the State into 21 territories, and drivers into 217 classifications. The classifications are so sweeping and stringent that an estimated half million drivers are now relegated to the high-premium, assigned-risk

plan. And, as many as two-thirds of those so-called "risky" drivers have clean driving records.

What kind of classifications are we talking about? They are old and outmoded, as you said, Mr. Assemblyman, penalizing the young, or certain professions, or those living in certain cities or areas of the State. A driver's ability or record doesn't even enter into consideration.

The dreaded list of ostracized uncoverables includes: military personnel who are single and under 25, unskilled laborers, used car salesmen, auto mechanics, food handlers, hospital workers, newspaper distributors, entertainers, musicians, professional athletes, sports promoters, etc., etc.

Is it fair that some who is serving his country should be penalized with higher rates simply because he is serving his country?

Is it fair, as one newspaper reports, that a jazz musician is refused coverage and then told he would have been acceptable had he been a classical musician?

Is it fair that a careful driver in Newark should have to pay almost \$2,000 a year for insurance on his small car, despite a clean driving record, simply because he lives in Newark?

A case in point is a person I know, Carmen Camtanis. He lives on Holland Avenue in Newark. He pays a premium of \$2600 a year. It has been increased three times on him just recently. That is outrageous - \$2600 a year.

ASSEMBLYMAN ORECHIO: May I have his name?

MR. MARCIANTE: Carmen Camtanis - C-A-M-T-A-N-I-S - 126 Holland Avenue, Newark.

They shouldn't be penalized simply because they live in Newark or any other major city. Of course not! But that is exactly the type of blackmail and harassment our motorists are experiencing in New Jersey today.

In effect, those who are least able to afford insurance premiums must pay the highest rates in New Jersey, all in the cause of higher profits and greater security for an affluent insurance industry. There are those who will tell you that the insurance industry is on the ropes in this State, and that the companies need higher premiums to cover their claims losses, or that car repair labor and hospitalization costs are so high they have pushed claim awards out of sight. Don't believe them!

Considering the importance of maintaining a reasonable rate ceiling on mandatory auto insurance, the AFL-CIO feels a company's total profit picture has to be taken into account, not just a single line of coverage. That being the case, there is no question that the industry is making money.

For instance, the ISO reports that the total property and casualty insurance premium volume climbed by 20 percent to \$58 billion in 1976, and that policyholder surplus accounts, used as a barometer of financial strength, grew by 18.7 percent to \$23.5 billion.

Smith Barney, Harris Upham, a Wall Street brokerage firm, has decided to invest in insurance stocks, predicting that, when the final 1976 figures are in, earning gains for property and casualty companies for the last two quarters of 1976 will top 1975 by 60 percent.

Travelers Insurance, one of the companies phasing out New Jersey operations and refusing new auto coverage, reportedly had a net income of \$98.6 million near the end of last year, compared to \$59.1 million a year before. They are really on the ropes. Yet it still demanded another 29.2 percent increase in auto insurance

rates.

Since the proposed State-run auto insurance agency would be non-profit, it should be free of the fiscal manipulations utilized by private firms to insure ballooning profits. There are indications that too many insurance firms are trying to increase premiums in order to restore surpluses which have been reduced because of losses in the stock market.

Also, State insurance officials recently revealed that one company may have overreserved on premiums by as much as 300 percent on the amount it actually paid out in claims, possibly as a means of hiding company profits. If an insurance company does not use all of its reserves to pay claims during a particular year, the money is then used to pay cash and stock dividends.

Policyholders should not be forced to carry the burden of shoddy management decisions and procedures. A non-profit agency would be less prone to use money-making gimmicks at the expense of lower premium rates.

As drafted, the State-run auto insurance agency (AIA) would be established within the Department of Law and Public Safety and would have a nine-member Board of Commissioners authorized to issue bonds and notes as a method of funding. The criteria used to set premium rates have not yet been specifically determined, but there are any number of alternatives the State might wish to consider that are fairer than the 217 classifications now used by the industry.

Although the State AFL-CIO is not in the insurance business - yet - we would suggest that premiums be experience-rated, based on the number of auto accidents an individual driver is responsible for. Another suggestion might be Commissioner Sheeran's plan to base premiums on the number of violation points a driver has accrued, although this might not be the best plan since it stands to reason that the more a person drives, the more points he or she will compile.

We are told that only one other state has initiated such a program - Maryland - and that it hasn't been successful there, that the Maryland Automobile Insurance Fund has accumulated a \$30 million reserve deficit in four year, that the Maryland plan has also experienced rate increases during the past two years. As a result, it is claimed that New Jersey should not undertake its own program.

But the State AFL-CIO adamantly disagrees. Because a program has failed in one place doesn't mean it is going to fail wherever it is instituted, especially when we have that unfortunate experience to draw upon and learn from. By closely observing the Maryland plan, New Jersey should be able to discover where they went wrong and take steps to remedy their shortcomings in our program.

Although even with all the problems in the Maryland program, its deficits are still smaller than those accumulated by private industry over a comparable period of time. And since the Maryland program is still in its infancy, it can be expected to improve administratively in the years ahead.

The point is: the private auto insurance industry has failed the consumer-motorists of New Jersey. Time and again, they have been granted rate hikes and urged to find a better way to service customers and keep a reasonable ceiling on premium rates. Time and again, their only response has been a new cycle of rate increases and reduced coverage.

It is now time to stop subsidizing the industry's administrative inefficiencies and insatiable hunger for profits. A State-run auto insurance agency is a viable alternative, not a replacement. It will create an acceptable form of competition for an industry which for too long has used price-fixing and other monopolistic

practices to set high rates and bludgeon policyholders and the State into submission.

The New Jersey State AFL-CIO urges your favorable consideration of A 1670. Our motoring public deserves no less. Thank you.

ASSEMBLYMAN BORNHEIMER: I think Mr. Marciante has raised a very valid point and documented it very well.

Does anyone here at the table wish to ask Charlie any questions?

ASSEMBLYMAN ADUBATO: Mr. Marciante, I want to thank you and the AFL-CIO publicly for bringing out some of the statistics you brought to us today. I think you speak in plain simple language that people can understand. And maybe if some of our people in the industry spoke that way, we wouldn't be considering governmental interference in the insurance industry.

That being said, Mr. Marciante, I would like to ask you a question about the Maryland program. Are they involved only in the single-line coverage of automobile insurance?

MR. MARCIANTE: To my knowledge, yes.

ASSEMBLYMAN ADUBATO: While I admit that I am very, very hesitant to support any kind of legislation that would lead us to 1670, might it not be beneficial costwise if 1670 included more than just single coverage, but included other lines of coverage that maybe show more profit than loss?

MR. MARCIANTE: As an offset?

ASSEMBLYMAN ADUBATO: Yes.

MR. MARCIANTE: I don't see why it couldn't be incorporated.

ASSEMBLYMAN ADUBATO: The thing I am driving at is that I would assume that the people that would get into the governmental insurance program would be more than likely those people who are being discriminated against the most by the industry, number one. Just from the top of my head - I haven't really studied the program - I would think there would have to be another incentive we could apply to people like Travelers, for instance, if they decide on their own to cease writing this one line. It seems perhaps we should have a hammer so we could say, when you do that, you can't write the other lines. I don't know if that makes sense or not. But if we are going to legislate ---

MR. MARCIANTE: Frankly, Assemblyman, I am not anxious to get into this kind of program. But as we look at it, we are being left fewer and fewer choices. The idea of the State embarking on such a program - we don't propose it for shock value because we are past those stages. We are doing it now as a means of protection. The incidents we cite in Newark - one was from the Star Ledger piece where it was \$2,000 and the case I gave you was \$2600 - rather than being the exception, as things are going to day, I can see that becoming a norm down the line in the next few years. I happen to know what the average industrial wage in the State of New Jersey is, and it is leaving people no alternative. We are a state that moves by car. Ninety-eight percent of our people move by car or on wheels over roads. Your idea of writing other lines to offset, sure it has a hell of a lot of merit.

ASSEMBLYMAN ADUBATO: I think, if we are talking about the bottom line, which is always a profit - and that is good because we all want profit in order to survive and keep things going - that maybe in A 1670, we might consider the fact that we shouldn't have to accept losses, that maybe we can write a bill that will help us to truly compete with private enterprise, if we are going to do this, as well as protect our people, because one way or another the taxpayers are going to pay for that loss, if it is a loss.

MR. MARCIANTE: They sure will.

ASSEMBLYMAN ADUBATO: And I think it is to our advantage - again, not for shock treatment, but because it is an absolute necessity at this point in time - to do this. I would like to help you, the two of us coming up with some ideas together. Now I might support A 1670 if it went beyond just single-line coverage.

MR. MARCIANTE: Assemblyman, what I would like to do is to get together with the Commissioner of Insurance and find out what the high profit margins are in the insurance industry and bring those to you for consideration for amendment to our particular bill.

ASSEMBLYMAN ADUBATO: Let me close by saying, a lot of these companies also write life insurance. I have been in the life insurance business for 16 years and I like it - and I don't like government interference in it. But I would also support it if you included life insurance.

MR. MARCIANTE: I really didn't want to get too far away from the real problem. I kind of feel that it might be a step too far forward for some of our progressive insurance companies. But thank you for giving me the opportunity ---

ASSEMBLYMAN ORECHIO: Mr. Marciante, it is rather unusual to see you in the role that you are in at this moment regarding this bill, in that you are asking that something not be increased for a change. Ordinarily, you are on the other side, demanding increases for your people.

MR. MARCIANTE: I don't negotiate contracts, sir.

ASSEMBLYMAN ORECHIO: I know that, but your people do.

MR. MARCIANTE: Yes, my people do.

ASSEMBLYMAN ORECHIO: And you are the President of the union. But I am happy to see you in that role.

Regarding the Maryland program, do you know how long that has been in existence?

MR. MARCIANTE: I believe three years. I am not positive, but I believe it is three years.

ASSEMBLYMAN BORNHEIMER: The Director of the Maryland program is going to testify later.

ASSEMBLYMAN ORECHIO: Now 1670 is an AFL-CIO piece of legislation, more or less, as I understand it. Have your people done any research to determine just why that program is failing, if in fact it is failing?

MR. MARCIANTE: Our people?

ASSEMBLYMAN ORECHIO: I am talking about those who are involved in the drafting of this bill, doing research and that kind of thing, because you state here that the Maryland program isn't working, and just because it isn't working there, there is no reason to believe that it won't work here in New Jersey. Has anyone made any determination as to why it isn't working?

MR. MARCIANTE: It is a brand new program.

ASSEMBLYMAN ORECHIO: It is three years old. It is not new anymore.

MR. MARCIANTE: Well, it is relatively new. You have to have the phase-out of those who had coverage from one policy over into another policy. It could have been a lousy selling job done by the state in promoting their own plan. There are any number of factors that might have been responsible for it, and I don't have the answers. I wish I did.

ASSEMBLYMAN BORNHEIMER: We have the man here with the answers, the Director.

MR. MARCIANTE: Don't let me take your time then.

ASSEMBLYMAN ORECHIO: That's all right. I don't know whether the other man has the same answers.

Why do you think that we in New Jersey, with your proposed legislation, will be able to do a better job than they are doing in Maryland?

MR. MARCIANTE: I would like to believe that we are better than anyone else.

ASSEMBLYMAN ORECHIO: But you don't have anything based on any statistics or facts?

MR. MARCIANTE: Well, yes, up until a few years ago, we were rated pretty good. We just happen to be in a low period right now, but I am sure we will improve.

ASSEMBLYMAN ORECHIO: But I am talking specifically now in the handling of our insurance problems. Do you think that the people in New Jersey have better expertise? Do you think we have better people in New Jersey than they have in Maryland? You know, we have the problems. I don't think there is any state in the whole country that has the problems that we have.

MR. MARCIANTE: Let me say it this way, Assemblyman: The first prefrontal lobotomy that was performed was a failure. In the second one, the patient didn't live either. But the third one made it, and the fourth one. Because once they gained experience, they were able to do something in a more positive manner.

ASSEMBLYMAN ORECHIO: I am not so sure that that relates to my question, but thanks anyway.

MR. MARCIANTE: I have trouble making analogies.

ASSEMBLYMAN DI FRANCESCO: I don't think I've had the pleasure of actually speaking to you personally, but I have seen your name many, many times crossing my desk. But I am new on the Committee and new in the Legislature. I want to commend you really for your statement because it does contain a lot of facts and figures along with your personal comments. They are the only figures I have had thus far, and hopefully the Commissioner will enlighten me further.

But on page 6 of your statement, you say not to believe the insurance industry when they tell you that they are losing money and that costs are so high that claim awards have been pushed out of sight. You do agree that labor costs and hospitalization costs and car repair costs have greatly increased, do you not?

MR. MARCIANTE: I agree that the hourly rate being listed on a bill is a rather high number. It runs \$15 to \$18 an hour in some instances. But if you were to check with the Department of Labor and Industry, as we have - and maybe I should have put this in the testimony - you will find that the rate is \$6.20 per hour in some parts of South Jersey, as opposed to seven dollars and something per hour in other parts of the State. That is the rate that these people are paid. There is no control over what is slapped on top. This is one of the things that is wrong. That is an area that has to be adjusted.

ASSEMBLYMAN DI FRANCESCO: You mean car repair costs.

MR. MARCIANTE: Yes.

ASSEMBLYMAN DI FRANCESCO: And hospitalization costs.

MR. MARCIANTE: Hospitalization costs certainly have skyrocketed with inflation.

ASSEMBLYMAN DI FRANCESCO: -- and medical costs and doctors' fees.

MR. MARCIANTE: Doctors' fees have, yes. But, by and large, they have not outpaced the percentage increases that have been requested by the insurance companies. The thing is, we have been involved in this auto insurance problem, let's call it, for maybe the last fifteen years. One of the things that was so disturbing to us is that, with the advent of no-fault, we understood there would be a great saving to the motoring public. Out of the benevolence of the auto insurers' hearts, which swelled up to the size of a pea, they gave us a 15 percent decrease; and then turned around a few months later and started to slam it home.

ASSEMBLYMAN DI FRANCESCO: I agree that perhaps the increase in costs has not kept pace with the demands or the increase in insurance premiums. That may be true.

On the other hand, it is a regulated industry. You agree with that?

MR. MARCIANTE: Sure.

ASSEMBLYMAN DI FRANCESCO: And it is also subject to court review. You agree with that?

MR. MARCIANTE: Yes.

ASSEMBLYMAN DI FRANCESCO: As a result, there may be a lot more claims now because of court decisions, interpreting the very statutes that the Assembly and the Senate passed. This may mean, if you have an increase in costs and an increase in claims, by virtue of a court decision, that might bring it up. I am just throwing this out to you. I don't know. That may bring it up to a level where they, in fact, are suffering in a particular way. I am not necessarily saying that they are losing money. We are talking about increases in rates right now.

For example, this is not automobile insurance, but in watching Public TV one of the few times that I have last night - and it is only a statement that was made on TV which I haven't checked out - it was reported a workmen's compensation case was decided in court in favor of a fellow who was going to a union meeting and tripped in a hole, and by virtue of that particular accident, benefits were extended to this gentleman. The impression I got was that it was a first in that area. I am not trying to be funny or anything like that. But it is this kind of thing that has perhaps contributed more to the problem where a very liberal interpretation of the statutes has been made in favor of the consumer. With no-fault insurance - I am not an insurance man; I am an attorney and I am not heavy into trial work - I do know that on many occasions I have told an individual he cannot sue for pain and suffering unless he has a permanent injury or is over the \$200 threshold. And, sure enough, a couple of months later that person comes back with a doctor's bill that is over \$200. We have heard it is a problem, and it is a problem.

MR. MARCIANTE: That should not be a fixed figure, I don't believe. But I do want to make just one comment because you did make a statement about workmen's compensation and, if I say nothing, that means I agree with you. While I don't negotiate contracts, I know how the language goes.

ASSEMBLYMAN ORECHIO: That's an understatement.

MR. MARCIANTE: The point on workmen's compensation that you raised concerning the gentleman who was mentioned in the newspaper who broke his foot or ankle, I understand he was attending a collective bargaining session where he was going to meet with the employers. There was a decision in that matter, but it wasn't

just a plain union meeting that he was going to.

ASSEMBLYMAN DI FRANCESCO: I am not saying the judge was right or wrong.

What I am saying is that ---

MR. MARCIANTE: It was in the course of his employment though.

ASSEMBLYMAN DI FRANCESCO: Well, "course of employment" has been extended and extended, year after year, after year, since the Legislature enacted that law. That is my point. That is what happens to these statutes. Of course, the insurance industry, being a regulated industry, must abide by all of that and must pay the claims.

MR. MARCIANTE: Yes.

ASSEMBLYMAN BORNHEIMER: Thank you, Mr. Marciante.

The next gentleman we will hear from is Jules Borrus. He is representing the Insurance Brokers Association of New Jersey.

J U L E S A . B O R R U S: Good morning. I am Jules Borrus, President of the Insurance Brokers Association of New Jersey, a professional association representing the 16 thousand licensed insurance brokers in this State and the only true representative of the consuming public, the ones that have to live with and pay for the rules and policies set forth by the companies and the Department of Insurance of this State. I am speaking to you only in that capacity.

The purpose of this hearing is for a discussion of the private passenger automobile markets and situation, but we cannot let this opportunity go by and not highlight the other problems. We enumerate the following emergency situations which could break immediately. This is by no means an all-inclusive list:

(1) No cap yet on no-fault medical payments, although we understand it is out of committee at this point, which is a good move.

(2) Auto rates have been frozen and now there is no voluntary market to speak of for private passenger automobile insurance. The companies have sought court remedies in this instance.

(3) Medical malpractice is in a dangerous state as highlighted by the recent settlement of about 2 1/2 million dollars to a nine-year-old girl. This will no doubt result in increased per patient fees by both doctors and hospitals.

(4) There is virtually no market for products liability protection in the open markets.

(5) Health and medical coverages for both groups and individuals are becoming prohibitively expensive as costs rise and coverages become broader.

(6) Almost all other types of coverages that the consumer wants to buy are becoming virtually non-purchasable as the companies react to the present situation in the State and accept no new business from producers and examine existing accounts with a microscopic view to non-renewal whenever and wherever possible or reductions in coverages, restrictions in limits, etc.

The current situation with insurance, especially with automobile insurance, is catastrophic and requires your immediate investigation and possible solutions.

An analogy can be drawn to the recent and present energy crisis. It perked on the "back burner" until an emergency developed and then some measures were provided in a one- or two-day frame. We, the Insurance Brokers, called for an in-depth review of the situation in June of 1976 and all that occurred was the Klein appointment by the Governor to convene a study group which lacked any broad base at all.

There have been various measures advanced to remedy the situation - from a joint underwriting association to a reinsurance facility to a State company. We view these as incomplete answers to very complicated questions which may even influence tort laws and methods of compensating attorneys. There has been some support voiced by union groups for a State-run insurance company and the Insurance Brokers Association of New Jersey has sought expert testimony from John J. Corbley, Executive Director of the Maryland Automobile Insurance Fund. He is present today at our invitation and he can demonstrate that a State fund may not work in New Jersey because the rates in Maryland are no lower as a result of the fund and we cannot see where a State-run company will be able to offer lower rates in New Jersey. In fact, I have the rates for the Committee and include an example: A twenty-year-old driver, living in Baltimore with one chargeable accident and one moving violation, rated for basic \$20/\$40 thousand bodily injury and \$5 thousand property damage, would pay a premium of \$1,233 per year, compared with the same situation with the driver living in

Newark, who would pay \$1,085, a difference of \$148 in favor of New Jersey rates.

Mr. Corbley is here to give you first-hand the experiences of his fund. Again experience within the Provinces of Canada has proven to be highly unsuccessful in their various experiments in handling their residual market problems. Can you imagine a strike of the workers in the State-run company for higher pay or other benefits as happened in Canada? It could end all claims services, underwriting, accounting, etc. Can you foresee such a possibility? It is our belief that a State-run company can become a bureaucratic boondogle.

On June 15th, 1976, before this very same Committee, and again on the 22nd of December, 1976, I called for a complete legislative review of the entire insurance situation and for a written report by the 1st of February, 1977, with recommendations. Clearly, this has not been accomplished or we would not be here today. I again urge you on behalf of the Insurance Brokers Association and the insuring public of this State to call for immediate implementation of an Insurance Review Committee, chaired by Justice Robert Clifford, a former Commissioner of Insurance, or someone of equal calibre. The probable make-up of this Committee should include the regulators, producers, carriers and consumers.

Some of the areas that they should review are the same ones I asked for in June 1976 and they are: review, complete review, of the present no-fault law, with possible implementation of subrogation in medical expenses; activation of the arbitration clause in the present law (Middlesex County is the only county that participates in and uses arbitration now); a cap on medical benefits; verbal threshold (for example, no grounds for suit unless maimed, death, disfigurement or permanent disability or where disabled for 60 days or longer; a Medical Review Board as to charges by doctors and hospitals or the possibility of fee scheduling, as in hospitalization and medical policies. Perhaps a concept of contingent fees for attorneys is no longer viable and should be on an hourly charge, with plaintiff paying legal fees and services for defendant, if not successful in court.

Again, we ask for review of the present auto insurance plan, with revision or restructure, or replacement with either the Joint Underwriting Association or auto insurance facility.

I might add that the consumer knows the difference between voluntary and auto insurance plans. The broker cannot tell the insured what company he is assigned to until assigned by the plan. The Committee should also review the auto classification and territory structure. A possible solution is three territories: urban, suburban, and rural. Let's find out!

Other deductibles on insurance, such as on property damage, as is done in commercial insurance, should be considered.

Gentlemen, let me tell you now, no one item is the answer to the problems facing us today. We must act now. Time is of the essence. The markets aren't any better today than in June when I showed you the headline on page 1 of the News Tribune. It said, "Auto Insurers Shun New Jersey." This Sunday's Star Ledger read, "State's No-Fault Worst in Nation." In fact, a headline appeared one year ago in the Star Ledger, which was practically verbatim as the one this past Sunday. Again, let's correct this situation now!

Thank you for allowing us to express our Association's views here.

ASSEMBLYMAN BORNHEIMER: Does anyone have any questions of Mr. Borrus?

ASSEMBLYMAN ORECHIO: I have possibly one question, Mr. Chairman.

Mr. Borrus, do you think that our insurance problems in New Jersey have had

any effect on industry in New Jersey?

MR. BORRUS: As to relocating in New Jersey?

ASSEMBLYMAN ORECHIO: Well, whatever.

MR. BORRUS: I would say so. They find it very difficult to obtain coverage.

ASSEMBLYMAN ORECHIO: Has that been your own experience?

MR. BORRUS: Yes.

ASSEMBLYMAN ORECHIO: You are saying that you know of industry that has moved out of the state because they have not been able to ---

MR. BORRUS: I have heard of that. I don't know one in particular, but I know the problems in placing insurance for companies in the State.

ASSEMBLYMAN BORNHEIMER: Product liability?

MR. BORRUS: Product liability is one - the workmen's compensation rates, the general fire and liability.

ASSEMBLYMAN ORECHIO: Thank you.

ASSEMBLYMAN ADUBATO: I have two questions. One I will save for the gentleman from Maryland, based on the figures that you quoted, dealing with just liability coverage for young men.

I would like to ask your opinion though about the three geographical areas that you suggested. I am a little confused. This isn't my business. I don't know anything at all about automobile insurance, outside of the fact that I have been insured since I was 17 by the same company. I have been very fortunate in that I have had one accident when a drunk hit me on the Parkway. Outside of that, I have been pretty lucky.

I would like to ask you this: If a man lives in Old Bridge and commutes to Newark to work and if another man lives in Newark and commutes to Old Bridge to work, under your system, who would pay the higher rate?

MR. BORRUS: I haven't worked out any territorial structures. Possibly the Newark man would pay a little bit higher than the Old Bridge man. Right now, you have a situation where Newark is one territory. But you can go into the suburban Essex area, which was mentioned earlier - South Orange, Irvington, Belleville, Bloomfield - and you have a completely different makeup. Now what comprises the metropolitan area? Mr. Corbley can verify my next comment, that the Maryland system uses the term "metropolitan." They use the freeway system, and what lies within it is metropolitan; and what lies outside is suburban. According to my interpretation of their rate chart, they make no distinction in the rating between suburban and rural.

ASSEMBLYMAN ADUBATO: Then the basic factor that they use would eliminate the 21, I believe it is ---

MR. BORRUS: That's correct.

ASSEMBLYMAN ADUBATO: (Continuing) -- that we have today in New Jersey. There are 21 separate classifications based only on geography, nothing else.

MR. BORRUS: That is correct.

ASSEMBLYMAN ADUBATO: And you are suggesting breaking that down from 21 to 3.

MR. BORRUS: It is very possible.

ASSEMBLYMAN ADUBATO: On the surface, I think your idea might be a lot fairer than the way it is today.

MR. BORRUS: Thank you.

ASSEMBLYMAN ADUBATO: I want to thank you for recommending it if it will work.

ASSEMBLYMAN BORNHEIMER: Anyone else?

ASSEMBLYMAN DI FRANCESCO: It is not necessarily relevant today, but you did say on the first page, "Medical malpractice is in a dangerous state as highlighted by the recent settlement. . ." I want to emphasize that was a settlement and not a jury decision.

MR. BORRUS: That is correct. I understand that.

ASSEMBLYMAN DI FRANCESCO: They agreed to pay \$2 1/2 million dollars.

MR. BORRUS: We understand that. We are only trying to point out that these types of settlements, when publicized, unfortunately bring other actions. The doctors immediately, to cover their insurance costs, because their rates are going to go up when it is settled, no matter what it is, are going to pass that cost for their increased rates for insurance or protection on to the consumer. We are just trying to bring out a situation.

ASSEMBLYMAN DI FRANCESCO: What you just said is debatable. I wouldn't want to debate it now; it's not the proper time. I think it is debatable whether a statement like that means that malpractice costs should go up because one case is settled for \$2 million.

MR. BORRUS: There are many instances, I think, where a state had to pass its own malpractice plan to see that doctors got affordable coverage.

ASSEMBLYMAN BORNHEIMER: Thank you, Mr. Borrus.

The next witness is John J. Corbley, Executive Director of the Maryland Automobile Plan. And I would like to thank him for coming up here and testifying before us today. We appreciate it very much.

J O H N J. C O R B L E Y: Mr. Chairman and members of the Committee: My name is John Corbley. I am the Executive Director of the Maryland Automobile Insurance Fund. I appreciate the invitation and the opportunity to appear before the Committee and, at least, tell the objective facts that Maryland can give to you. Hopefully, it will permit you to weigh them objectively in your considerations as to what bill may be before you.

I have listened to some of the previous speakers and I think that their observations and their comments are quite appropriate. But I will respond to them later during this presentation.

What I tried to bring to you was a booklet that we presented to the Maryland General Assembly last week, which is a summary overview of the first four years of MAIF's operation. It statistically breaks down each year and compares one with the other. Rather than get to the bottom line at the beginning, let me suggest certain pages in there that you may wish to look at, to see how the statistics are changing.

I believe in any new insurance operation, the third year is the most critical year. As all of you know, when claims are first reported, it takes probably a year or two years before bodily injury claims mature or are settled or tried or go to court. So we were kind of living on a backlog of cases from 1973, which hit in 1975. If you look at some of the graphs in that particular booklet, you will see that our experience is the same as any private insurance company that may start up a new operation. The third year is the critical year. If you make it through that, your chances of improvement in the fourth year and beyond are a lot better. That seems to be MAIF's experience at the present time.

Let me go back in time and bring you forward by mentioning to you how MAIF

got started. Why was the legislation enacted? Why did the Maryland General Assembly feel that it was necessary to create a state facility, which, by the way, happens to be the first of its kind in the United States? It is not patterned after the Canadian legislation. It is a unique bill which was drawn by the Governor's Office, and it has had the complete support of the Governor's Office since the day it was enacted. I think that is a very important key to any legislative program. If the Governor feels it is a good program and he gives it his full support, its chances of success are much greater.

For those of you who don't know, my experience is not in the Legislature and it is not in the government. For 25 years, I worked for private insurance companies before I was asked by the private industry to be a candidate for the position that I now occupy. The Governor's Office interviewed many people before they made a final selection of an Executive Director. And I think he tried to stay away from the political arena for the purpose of seeing if the program could work with the right people. I am not trying to suggest that I am the right person. But certainly all of the people who have been employed have been very dedicated.

In 1971, Governor Mandel commissioned the Secretary of Licensing and Regulation to conduct a study in Maryland as to what was the problem in insurance. His office found that of all the consumer complaints they received, the greatest percentage of complaints came in the insurance field. The Secretary of Licensing and Regulation for approximately a year conducted hearings and investigations throughout the state and he presented to the Governor a report which showed there were three areas that needed remedies. He felt, in the insurance field, there were arbitrary cancellations of policies, too much of a selective underwriting, and a very high proportion of motorists in the assigned risk plan. If memory serves me correction, I believe in that year Maryland had perhaps the third or fourth largest assigned risk population in the United States.

So the Governor decided to introduce legislation by which a facility would be created which would be different from the assigned risk plan and would perhaps, as he said, bring reform within the insurance business. I think that MAIF, as it is known in the trade world, has gotten more of the publicity than this particular reform package calls for. There are many elements in that bill that I think are worthy of mentioning, and I will only gloss over them very briefly because MAIF is only a byproduct of a bigger bill.

I think the areas of non-cancellation and the areas of brokers' relations with companies deserve some mention at this point. In Maryland, the current law is that, if an insurance company is going to cancel a policy, it has to give 45 days' prior notice and its cancellation language must now be in words which are understandable by a person of ordinary intelligence. It cannot just give catch words, such as "underwriting criteria." It must explain why the policy is being cancelled or non-renewed.

In addition, the policyholder has the right to file a protest with the Insurance Commissioner and demand a hearing at which the insurance company must prove whether its cancellation was proper or improper. I think this has given the consumer a leg that he didn't necessarily have prior to the enactment of the bill.

Secondly, agents cannot be just arbitrarily cancelled. They must be given 90 days' notice. If the agency is terminated, the risks can't be. The insurance company is supposed to maintain the risk for another year while the agent either seeks another insurance company or places the risks elsewhere.

I think the third reform measure, which has been extremely helpful, in that it keeps a lot of people in the private market who may have been unable to stay there, is known as the excluded operator's coverage. This means that if you have a family in which one of the drivers has ten points or five points, and he is not acceptable to the private market, the insurance company can still maintain a policy on the balance of the family and exclude the so-called high-risk driver. The high-risk driver, of course, since Maryland is a compulsory insurance state, must then obtain insurance either through the private market, which is most likely impossible, or through the plan, which is the only other alternative left to him. But, at least, the bulk of the family and the bulk of the policies are being retained in the private market.

Let me now turn to the Maryland Fund and try to summarize it as briefly as possible. I realize you have been here listening to testimony for a long time. It is very difficult to summarize four years of events in perhaps ten minutes of testimony, but I will do the best I can. I will try to hit the highlights of the statute that created this organization and give you some operating figures, and then perhaps answer whatever questions you may have.

The first thing that you have to understand is that there are no general funds of the State of Maryland in this organization. The enabling statute prohibits the state from funding the company. It also prohibits the state from pledging its credit, nor will the debts of the company become the debts of the state. It is a non-appropriated agency. It does not follow the budget and appropriation process. So it has fiscal independence from what, I guess, all of you are used to seeing in this State or any other state. This fiscal independence gives it a certain speed of efficiency which I don't think would ordinarily exist in a state agency. This doesn't mean it is unregulated. It is regulated by the Insurance Commissioner the same as any private company in Maryland. It is subject to all his rules and regulations. It has to file an annual report with the Commissioner similar to the same form of report that is filed by all the private companies.

Uniquely, it also pays a premium tax to its own state government. Most people find it hard to believe that a state agency would also contribute to a state government. But we pay the same 2 percent premium tax to the state treasury that the private insurance companies pay. Over the last four years, this has ranged between \$700 thousand to \$1 million a year.

Who is eligible to be placed with the State Company? Is the State Company in competition with the private market? The answer to the latter question is no. This was conceived as a noncompetitive organization. A bill was introduced to make it competitive and the bill failed. The purpose of the company is to write business that is rejected by the private market. An applicant has to show that he has been either rejected by two private insurance companies or cancelled or terminated by one before he is eligible to make an application to the State Company. The only other two criteria are that he must be a resident of Maryland, obviously this law was designed for Maryland citizens; and, secondly, that he has a valid driver's license.

This leads to all sorts of questions. We have no underwriting discretion, provided your license is in force and it has not been suspended or revoked at the time you make the application. If your driving record has 15 points and you have been arrested for "intox" driving twice and been convicted, and your license hasn't been removed by the Motor Vehicle Administration, the State Insurance Company must write you. I don't know of any private insurance company that would do this. You

would absolutely be on a black list with that kind of a driving record.

I think that the problems that that leads to in underwriting and in rate-making are manifold. I don't mean to imply that these are insurmountable. But I think when you listen to people say that MAIF has been a failure, you have to take it in the context in which MAIF operates. It operates in an area in which no private company would operate. It must accept risks that no company would accept. It has to deal at a point where all other private companies probably would retreat from the marketplace.

We conducted a seminar last month in Maryland of 2,000 licensed agents, in which the agents told us that we were practically the only store left in town. What I am saying to you is - and you know this and I am sure that other states are experiencing the same problem - that the capacity of the private market is just so much. Obviously it is a profit-motive thing and it should be. MAIF is a non-profit company. As profits decrease and the capacity of the private market decreases, it is obvious that the capacity of the involuntary or state market has to be available and will increase. I can illustrate that to you in a few minutes with some figures.

So where does the money come from to run such an organization? The money comes strictly from the premiums from the policies that are sold by this organization. Let me digress for one second because you may hear of the UCJ fund or you may hear of a certain assessment that was in existence in Maryland. I don't want to confuse you, but I do, at least, want to lay it out for you factually so that you can understand the problem.

Maryland has a UCJ fund similar to New Jersey. As a matter of fact, the Maryland fund was patterned after New Jersey's. The UCJ fund is a sub-organ to this larger organization I am talking about. We are running two programs simultaneously and it almost sounds as if the money is put into one pot. Actually, it isn't. The money has to be accounted for separately. Two separate annual reports are filed with the Insurance Commissioner. Rather than bore you with a lot of detail, let me just caution you that there are two separate organizations within this governmental unit.

Who produces the business for this organization? There have been some theories and some thoughts that MAIF is a direct writer, that there are no agents, and that all of its business comes directly from the public. This is not so. The statute which created MAIF permits any licensed agent or broker in the state - and there are over 2,000 of them - to place business directly with the State Company and be paid a statutory commission of up to 12 percent. The current commission level is 10 percent, and has been for about three years.

MAIF does write some business directly. It writes less than 1 percent of its business in that method. This comes about if someone has a problem with the Motor Vehicle administration, is there trying to settle a registration or a driving question, and at the same time he has to have proof of insurance; he is able to purchase the insurance directly from the Motor Vehicle administration outlet. But, as I said, that is less than 1 percent of the business. But the rate is identical. There is no discount simply because he writes directly with the state.

The State Company can neither cancel nor refuse to write the business because of the driving record, as I said. Once the policy is undertaken, the only reason that MAIF can get off the risk is if the driver's license is revoked during the term of the policy. More accumulated points during the term of the policy cannot increase the premium, except on renewal, and it cannot trigger a rejection

or a cancellation. We do not have an automatic renewal program. Forty-five days before a public motorist's policy is to expire, he receives a letter telling him that his policy will expire; he is encouraged to go back to the private market, if he can. If he cannot place himself privately, then he does have the right to return. So we don't have a hold or a lock on all of this business. We try to follow the philosophy that we tell you in advance you can go back to the private market if it is still available to you. This has proven to be an administrative problem for us because it obviously increases our costs. But this is the way we think the game should be played and we have played it that way for four years.

What kind of policy do we write? What lines of coverage are we in? Are we in the excess field? Do we have ICC filings? I am sure all of these questions have been raised to you. We write the standard automobile policy, which is a cut lower than the family automobile policy. The coverage in the standard policy is not as broad, as I am sure all of you know. But we do write optional coverages. We write comprehensive, collision, excess insurance up to \$100 and \$300 thousand, and we have a commercial book of business. We have noticed lately that our small town of Annapolis has been getting telephone calls from cities like New York, Boston and Newark, in which large brokerage houses, which are family-household words, have been calling us to place commercial risks in Maryland that no longer can be placed in the private market. So what was 3 percent of our action has now grown to better than 10 percent of our business. We seem to be getting into the long-haul trucking field, which is obviously a money-loser. But since we can't turn the risk down, we have to accept it. So we do make ICC filings and we do make Public Service Commission filings.

We are the only insurance carrier in Baltimore City that insures everyone of the taxicabs in Baltimore City, except one fleet which is self-insured. And if you think private passenger cars are a tough risk to underwrite, you should try public taxicabs. We have been on that risk for practically four years and its underwriting losses are horrendous. But since they qualify under the law, there is no way that we can refuse to write them.

Is MAIF a state agency and to whom does it report, and who runs it? These are questions, I think, that are always being asked of us. It is a state agency. Someone tried to ask, can you put a "yes" or "no" to that, and I can't. You have to say "yes" or "no" to specific questions. But in the broadest of umbrella terms, I would assume that it is a state agency. It reports directly to the Governor's Office. It is not a sub-organ of a large secretariat or a larger body of government. It reports to the General Assembly and it is reviewed by the Legislative Auditor from the Department of Fiscal Services. In addition, it contracts with a private, independent auditor, who is to review its financial statements as to their accuracy and reasonableness.

I heard prior speakers talk about rates and talk about territories. And what did MAIF do when it came into existence? The first thing that it did, which I don't heartily endorse, and I really shouldn't comment because I wasn't there when it was done - but the first thing that it did was lower rates 34 percent across the state. It lowered rates 34 percent below the assigned risk level of 1972. It has been a game of catch-up ever since. NAIF entered the insurance business at probably the worst economical time, in 1973. As all of you know, that is when inflation took off with double digits. That is the time when insurance profits and the insurance

investment portfolio descended, and MAIF had the courage or the nerve or the audacity, I guess, as some people would say, to step into the private market. Lowering the rates 34 percent, changing from 17 - 14 territories to 3, and using only 3 classifications to evaluate the risks is the underwriting game plan. I keep using the word "underwriting." I think I should be using the word "rating," because we don't underwrite any policies. There is no selectivity; it is just a matter of price.

I heard Mr. Borrus give you a quote on a rate in Newark compared to Baltimore City for a young driver, and he gave you an example of someone with points. Let me give you the same example of the same person who would come to MAIF without points. I can't compare this with Newark because I have no idea what the rates are. But the rate in Baltimore City for an under-25, clean driver - that means one with no points or accidents - is \$675 for the statutory coverage.

The rating territories are: metropolitan, semi-urban, and rural. As you move away from Baltimore City, which seems to be the center of the spokes of the wheel, obviously the rates decrease. We do keep statistics for perhaps 10 rating territories if we ever wanted to go that way. I have to say in all candor that the statistics that we keep do somewhat prove the insurance companies' point, that the more congested the area, the worse the loss ratio. We were put in business for the purpose of keeping independent statistics for that reason, and I can't say that ours are any different from theirs. It certainly indicates that the more congested the area, the more accidents, the higher the loss ratio.

We are approaching twenty minutes to one, and I have hardly scratched the surface on what we have done and where we are going. But let me just address the question of deficits. I am sure you have heard other speakers, or perhaps you have read articles which ask, "Does MAIF have a deficit?" I am not sure it is a proper measuring stick to base the success or failure of a program on its deficits.

Among all the residual market plans - and MAIF happens to belong to an organization that shares information with private market plans - the managers have a saying that the plan that loses the least is probably the best. The statistics that we show indicate that perhaps among the larger states - and MAIF does show a \$30 million operating deficit over four years - but the Florida Joint Underwriting Association also shows a statutory deficit of over \$100 million. The Massachusetts Reinsurance Facility shows a deficit of \$200 million. The North Carolina Reinsurance Facility has a deficit of \$62 million. All of these organizations were created after MAIF came into existence. They are doing the same thing we are. The difference is who is in charge. And if you come back to the simplistic question or the knee-jerk reaction as to whether the government should be in the insurance business or not, that is not the way to measure this problem. I am not going to sit here and advocate that the government should be in the business. I don't believe it should be either. But I am also not going to say to you that simply because it is, that it should be measured as a failure.

Our operating deficits were \$400 thousand in 1973. And I am now talking about statutory method of accounting that all insurance companies have to go through. It was \$14 million in 1974. It was \$15 million in 1975. And it will probably be between \$3 and \$4 million in 1976. So what happened? What magic wand did someone wave to cause the operating deficit to go down? I have to assume, number one, that the rate increase that was achieved in 1976 certainly went a long way toward changing the operating figures. But I am convinced, as an administrator, that the third year is the

critical pass. Once you go through it and you survive it and, if you can streamline your operation, which we have done, you are on the way to achieving perhaps the reason you were put into business.

In 1975, our premium income was at its lowest while the claim payments were at their highest. And, in 1976, the reverse was true; our premium income was at the highest and our claim payments were at their lowest. If you examine page 7 of the booklet that is in front of you, you will see those statistics.

In 1976, we were able to show a cash surplus of a quarter of a million dollars. I emphasize the word "cash" simply because we are measuring it on money collected and money spent. And I am not talking about reserves or money set aside for unearned premiums. I am just talking about meeting your obligations on a day-to-day basis. The reason I do is probably because I am about to close this overview by explaining to you what MAIF is all about in 1977.

A major piece of legislation was passed last year by the Maryland General Assembly which changed the entire operating structure of this organization. The Board of Trustees which now has eleven members - and I serve as its chairman by statute - has five representatives from the insurance companies and five representatives appointed by the Governor that set the policy of this organization. One of its primary functions is to determine what will be the cash needs for the next year. If there is an insufficiency in those projections, that insufficiency can be assessed to all of the licensed automobile insurance companies in Maryland. This is a very complicated statute and I am really glossing over it. I am not trying to do injustice to it, but to try and summarize it in about two minutes is almost impossible. But what it is saying is that MAIF will certify to the insurance companies what it thinks it is going to have in a short-fall of cash. It is able to assess the insurance companies that amount and the insurance companies are able to recoup that amount from their policyholders without making a rate filing.

This recoupment is at the election of the company. If it wishes to follow the rate-filing method, it need not show it on a premium bill. It may put it into the next rate filing and recover it in that method, which obviously is a longer way to go. If it wishes to recoup it immediately, the amount that that policyholder is contributing to the MAIF operation is clearly stated on his bill. This has never been shown before in the assigned risk plans or in the Maryland Plan. But we hear quite a bit of publicity that there is a bottom line which says, "MAIF, not previously stated, \$3.75." We must get more phone calls from more people every day asking what that means. I have just explained in very brief terms what it means.

If we underestimate the short-fall, we are stuck. There is nothing we can do about it until the next calendar year. If we overestimate the short-fall, the difference is credited towards whatever assessment is projected for 1978.

I have to candidly say that the people that the insurance companies have selected to sit on this board couldn't be of higher caliber. They are men who have studied this problem in the states that I have mentioned to you before. They are men who have come to us with the greatest of expertise and I think it could only lead to improving the operation both from an administrative point of view and from a cost-saving point of view.

We are a small organization in relation to a large insurance company. A large insurance company has more people in research and development than we have on staff. But these people bring to us information - and they have never withheld it -

for the purpose of solving what they think is a problem unique to the State of Maryland. I think they have done an excellent job since they have been meeting with us for nine months.

Let me end at this point because I am sure you have some questions. I may have omitted some things - and that was inadvertent on my part. I have tried to summarize it as best I could in the short time allotted to me. If there is any further information you may need, I will be glad to try and secure it and supply it to you at a later date. Thank you for your attention.

ASSEMBLYMAN BORNHEIMER: Does your plan write anybody that is worthwhile?

MR. CORBLEY: I heard an insurance man say recently - and I think he is probably right -- he said, "In 1976, the worst of our book of business is probably the best of yours." I think that is a very good observation.

In that booklet, you will see a very interesting statistic. When we first started in business, 50 percent of the people who applied to the Fund were point and accident free at the time they made the application. This means that they didn't have a point on their driving records and they alleged that they hadn't had chargeable accidents in the last three years. We have been able to show and demonstrate by isolating this bad driver, since we are the only organization that writes him - it isn't spread around 200 companies, such as the assigned risk plan is --- we have been able to develop through our computers an accident history file. It proves to us that 10 percent of these people lied because the same people we are writing constantly and the so-called clean driver is now down to 40 percent of our book. The 10 percent that told us they didn't have an accident, in fact did. So through our computer resources we are able at least to crank out additional premium notices and show that they aren't as clean as they alleged in the first place.

I think if there are any so-called good risks, they would have to be among the young drivers. Twenty-five percent of our business comes from someone under 25 years of age. I think it has been reliably reported both by MAIF and the private insurance companies that for the underage driver, particularly at 17, MAIF's rate is probably the most competitive in the state. I am not so sure it should be, but that is the way it has worked out. I don't think our rates should be competitive; they should be of a noncompetitive nature to force people to go to the private market. If our rates were at a level either equal to or below that of private companies, I think we would be flooded with applications that don't necessarily belong there.

ASSEMBLYMAN BORNHEIMER: So you do get some worthwhile drivers in your Plan's book?

MR. CORBLEY: There is a mix.

ASSEMBLYMAN BORNHEIMER: --- a slim majority. Now you are also involved with commercial lines.

MR. CORBLEY: Yes.

ASSEMBLYMAN BORNHEIMER: What percentage of the commercial lines are you handling?

MR. CORBLEY: Well, 3 percent of our business was commercial in 1975 and early '76. But, as I said to you, we are seeing a change and our commercial risks are now up to about 9 percent of our business.

ASSEMBLYMAN BORNHEIMER: Your premiums are set by a board?

MR. CORBLEY: No. We retain the services of an independent actuary that is used by many private insurance companies. He recommends rates to the board. We make a rate-filing with the Insurance Commissioner, public hearings are held, and the rates are either accepted or rejected. We made a rate-filing in 1976 which was rejected because the rates in the Commissioner's view were too high, and also the statistics didn't support the requests we asked for. We made a secondary rate-filing and it was approved at an increase of 38 percent, based on the same methods and the same statistics used by private companies.

ASSEMBLYMAN BORNHEIMER: So, basically, you think that the Plan right now is starting to turn around and becoming realistic?

MR. CORBLEY: Well, we have done a number of things. I think administratively we have been able to improve the Plan from the point of view that we were a manual operation for three years. You never saw so many people with green eye shades and long sleeves doing things with pens. We have reduced our staff from a high of about 750 people to a current 464. In 1976, we reduced the staff by 123 people. And if you don't think it is a difficult thing for a state agency to reduce staff in a political field --- Again I say you simply have to have the powers that be behind you. And I am sure that the Governor's Office supports this kind of administrative cutback.

The second thing, if you ever do go into business, don't do it without a computer. It took us three years before we were able to break loose and have our own computer program. What it did for us was change the turn-around time on the issuance of policies from 31 days to 12. It also reduced the staff, obviously. It will keep your administrative costs down and, as you know, administrative costs are all part of your rate-making procedure.

ASSEMBLYMAN BORNHEIMER: That is interesting because here in New Jersey we don't have a computer in the Insurance Department, which has been suggested by some people as a remedy.

Does anyone else on the Committee have any questions?

ASSEMBLYMAN ORECHIO: Mr. Corbley, I certainly want to commend you for really a great presentation.

MR. CORBLEY: Thank you.

ASSEMBLYMAN ORECHIO: I am sure we are all enlightened by what is happening down in Maryland. You have been in business down there for four years you say.

MR. CORBLEY: Yes, sir.

ASSEMBLYMAN ORECHIO: You also made a point of emphasizing, if I understood you correctly, that in order for the program to be successful, it would have to be an administration program. As you know, after the presentation of the previous speaker, the bill that we are discussing is a bill that is proposed by organized labor. Do you think that would make a difference in the success or failure of the program?

MR. CORBLEY: I am not familiar with the bill. I haven't seen it. I am not quite sure I understand your question. Maybe you could enlighten me as to what you mean. Are you saying, if it doesn't enjoy some freedom of independence, it will become a bureaucratic agency? I would have to say, yes, without even seeing the bill, if it doesn't enjoy some autonomy and some freedom, with the obvious outside parameters of regulation.

ASSEMBLYMAN ORECHIO: Let me ask you this: Do your personnel belong to organized labor down there?

MR. CORBLEY: Yes. I thought you were going to ask me whether they are state employees, because that is always a devilish question for a "yes or no" answer.

ASSEMBLYMAN ORECHIO: I would assume they are state employees.

MR. CORBLEY: In a broad sense, yes. But they aren't all in the merit system. And what I am talking about there is the difference between classified and unclassified people.

ASSEMBLYMAN ORECHIO: But they are represented by organized labor?

MR. CORBLEY: Yes. They belong to the Maryland Classified Employees Association and they also belong to ASCME, which is the counterpart of the same group. And they do have union backing, yes, sir.

ASSEMBLYMAN ORECHIO: Have you had any problems in the four years?

MR. CORBLEY: Do you mean with the employees?

ASSEMBLYMAN ORECHIO: Organized labor problems.

MR. CORBLEY: No. You know everybody treads lightly when it is the first of its kind. It is like putting on a new pair of basketball shoes; you are not so sure whether you are going to slip on the floor or whether you are going to go through the hoop. But I can say that the labor representatives that we meet with have been extremely helpful. See, they represent 60,000 state employees, in addition to the four hundred and something we have employed. So they are trying to work out a relationship which is beneficial to both. As a matter of fact, when we first had a reduction in staff and had to lay off people, the first person who came to our organization was the union president, who stood in front of this group and justified why we had to do it; and I have to commend him for it.

ASSEMBLYMAN ORECHIO: Conceivably there could be some difference if we entertained this kind of facility because in Maryland it was a Governor-administrated program. It would make a little difference, I would think.

Now you have 305 classified and 165 unclassified. Will you explain the difference in those categories?

MR. CORBLEY: Yes. Unclassified people are technical or professional people. The first thing that happens, to get them into state service, you have to be able to employ them without having to go through tests and lists and waiting time. If you want to employ a pretty good Claims Adjuster or you want to employ a Director of Underwriting, there is no way you can go through the testing procedure, get on a list, go through points, and run an operation. So the unclassified are known as the technical or professional. The classified are basically the clerical, non-professional people.

ASSEMBLYMAN ORECHIO: Who appoints the unclassified?

MR. CORBLEY: The hiring is done by the Executive Director or his designee. We have four separate departments: Claims, Underwriting, Administration, and Fiscal or Financial. Each Director is deputized by me to hire the people he thinks are qualified - and fire. The difference in the firing is: to have a classified person released from service, you have to bring him up on charges, you have to document your case, you have to go through a public hearing, and the charges have to be sustained by a hearing officer. Unclassified people can be removed from service, provided their constitutional rights are not violated. There is a Supreme Court case which holds this. We have a Maryland Attorney General's opinion which supports the same theory. So the entrance and exit of unclassified are a lot smoother and simpler than they are of classified people.

ASSEMBLYMAN ORECHIO: Eventually the unclassified become classified?

MR. CORBLEY: They can, yes. There are some jobs which have not been classified at the present time. Most of the people in the Underwriting Department can take tests, can get on lists and can earn points, and ultimately do enter the classified service. The Claims people are a little bit different.

ASSEMBLYMAN ORECHIO: Your salaries and wages budget is up to close to \$6 million.

MR. CORBLEY: It is about \$5.2, if I remember correctly.

ASSEMBLYMAN ORECHIO: \$5.7 for 1977, on your new budget.

MR. CORBLEY: Right.

ASSEMBLYMAN ORECHIO: From \$5.2 to \$5.7 million. It is increasing about \$500 thousand.

MR. CORBLEY: Right.

ASSEMBLYMAN ORECHIO: Does that represent ordinary increments?

MR. CORBLEY: Yes. That represents what is known as the 6 percent increment. Everyone in the classified service, until he gets to the top of his scale, is entitled to a 6 percent increment as he moves through the steps, provided he doesn't have an unsatisfactory report. Also plugged into that is the employee benefits, which I didn't discuss. The state does not match the employee's contribution to the Retirement Fund or Accident and Health or Life Insurance - or whatever. The premium dollars that are our administrative expenses match the employees' funds. It does not come from the state. So part of the figures you are looking at include employee fringe benefits.

ASSEMBLYMAN ORECHIO: You have approximately 1800 agents.

MR. CORBLEY: Yes, sir.

ASSEMBLYMAN ORECHIO: Are they ever terminated; and, if so, on what basis?

MR. CORBLEY: We have no agents; they are what is known as producers. We do not enter into contracts with any of the licensed agents or brokers. By statute, they are given the right to place business with the company. The statute also gives them binding authority, pursuant to the rules and regulations that we have promulgated. If an agent or broker violates any of those rules on a consistent basis and we call him in for a consultation, his privileges to write with the company can be revoked. That doesn't mean we can lift his license. We merely revoke his privilege to write with the State Company. We also then turn that information over to the Insurance Commissioner for whatever action he deems appropriate with respect to his license.

As I recall, in the latter part of 1976, we suspended 34 agents because they violated the binding rules in one fashion or another. The only group that can do this is the Board of Trustees.

ASSEMBLYMAN ORECHIO: On page 29, the following appears: "Highlight Events: Policyholders increased 35 percent in the last six months of 1976." You say it is the first time such a trend developed. Can you explain that?

MR. CORBLEY: Traditionally in the involuntary market I think the highest percentage of applications usually comes at registration time. People have to get their plates and they have to prove they are insured. So your business always increases. It stays that way for about three months and then it starts to trail off because people cancel the policy. And that starts the whole mechanism for the Motor Vehicle Administration to either take them off the road or see that they stay insured. So usually the last six months of every calendar year, your business

in the involuntary market trails off. As a matter of fact, in December, that market is almost non-existent. But, in 1976, for the first time, we noticed- and I am sure it is because the private market has diminished - that our business increased each and every month to the point that, in November, it increased 65 percent above the prior November and, in the last six months of 1976, we wrote more business than we ever did before. But again, it is the ebb and flow of the private tide. If the private market goes down, the involuntary market goes up.

ASSEMBLYMAN ORECHIO: I see you allow insureds to apply directly, instead of through one of your producers. Under what circumstances would they do that? What would be the advantage in doing it that way?

MR. CORBLEY: As I outlined in my presentation, the only time that happens is if a motorist is in the Motor Vehicle Administration with a collateral problem. He might have a problem with his registration or his driver's license. In order to get his license back, he may have to prove financial security. He would go to one of the representatives who has been designated to accept business directly. There is no advantage, other than speed. His premium is the same as he would pay if he went to a general agent because we have had instances where someone would come directly to the Motor Vehicle Administration and say, "Can't I cut out this agent," or, "Can't I get a discount and forget his commission?" We would say, "No. We would prefer you go back and have the private market service it."

ASSEMBLYMAN ORECHIO: One final question: Do you have a reinsurance facility?

MR. CORBLEY: No.

ASSEMBLYMAN ORECHIO: Does MAIF have a reinsurance facility?

MR. CORBLEY: --- unless it is the 200 licensed insurance companies in Maryland through this assessment process. I think you may be asking me: Are we re-insured for anything above our statutory limits? Yes, we are. Everything above statutory coverage that we issue is reinsured in the private market. We go to the reinsurance brokers or reinsurance market the same as any private company. We have a reinsurance treaty today with about six or seven major insurance companies that will accept our business over the statutory coverage.

ASSEMBLYMAN ORECHIO: Thank you very much.

ASSEMBLYMAN ADUBATO: That was a fine presentation. I could listen to you and absorb everything you say --- not that I can absorb it, but I can attempt to absorb it. It was very enlightening.

MR. CORBLEY: You are very kind, for a life insurance agent. (Laughter)

ASSEMBLYMAN ADUBATO: That's the way I sell - very soft. I wish I could do that here in the Legislature.

I would like to get back again to the purpose of MAIF; and, if I understand it correctly, it is to provide coverage for those people who are refused coverage in the private sector. Is that a fair statement?

MR. CORBLEY: Refused by two private insurance companies in the private sector. Yes, that's correct.

ASSEMBLYMAN ADUBATO: So, in effect, what MAIF is really doing is saying that Maryland has a mandatory statute that says you have to have automobile insurance; and, in order to make these people legal and keep them on the road, you have set up this institution. You are not in being for any other reason because, as you stated, it is a temporary situation for these people and, hopefully, you will get them back in the private sector. MAIF does not address itself to the problem of the cost

involved in the insurance market in the private sector. It does not address itself to the rate structures in so far as they affect people who can be insured by the private sector as compared to what I think A 1670 is addressing; and the correlation between A 1670 and MAIF is limited in that in A 1670 we are not only talking about those people who can't get insurance getting it, but, in addition to that, we are talking about a lot of other things.

I don't know whether that is true or not. This is the way I understand it now; I really haven't gone into it. I would like to ask you if the statement I made is a fair one.

MR. CORBLEY: I haven't seen the bill, sir, so I can't say. But from what people have told me, apparently there is some consideration in the bill to having whatever facility you create compete, at least in the rate-making process, with the private market. So I would have to say that that is not what MAIF is all about.

ASSEMBLYMAN ADUBATO: It is the reverse really.

MR. CORBLEY: I would comment that a study of MAIF's rates at the base for the so-called clean driver reaches the high-middle range for a like person in the private market. It is not totally out of sight, but it is in the high-middle range. Once you achieve a point or an accident and you are surcharged, the angle of the climb is extremely steep. Our surcharges go up to 360 percent above the base for someone with 15 points on his driving record. Why someone with 15 points should be on the road is another question.

ASSEMBLYMAN ADUBATO: I agree.

MR. CORBLEY: Because of the fact he is out there, we have to insure him to protect his victim. So I would have to say that certainly when you reach the high plateau of the other end of our scale, the rates are in no way competitive.

ASSEMBLYMAN ADUBATO: Right. I am concerned about everyone, but I am more concerned about the guy who doesn't have any points. And I don't think MAIF is going to help him.

MR. CORBLEY: Yes, it does. I have to jump in as you say that. It does help him in this respect: He has to have insurance in order to keep his registration. There is always going to be a certain percentage of people that the private market is not going to underwrite.

ASSEMBLYMAN ADUBATO: Why?

MR. CORBLEY: The private market could put MAIF out of business tomorrow morning if it wrote every single risk in the State. That just isn't going to happen because there are certain risks which are just unattractive. I heard one insurance man say - and I think he is probably right - that some people are just on their way to their next accident. His driving record may show that he doesn't have a point or an accident. But he certainly somehow in his background has the propensity to have an accident quicker than the next fellow - and I think our statistics show that. Our statistics show that even though someone enters with us so-called clean --and that is a complete misnomer. I hear people use the word "clean," but I don't think it is a proper term. It is just a generic term that has evolved. I do believe that those people do have this propensity because our accident ratio, even for the so-called non-pointed driver, is higher than the private market's. And our loss ratio for the so-called clean driver is higher than for the pointed driver. What I am saying to you is, even though our base rates might be somewhat competitive on the high side, our loss experience is worse than for the driver that is surcharged.

ASSEMBLYMAN ADUBATO: So, in other words, not to play on words, when I say a person is a clean driver as a layman, I am talking about a man who hasn't had an accident in three years - I am talking about a man who hasn't had any points and never had any points and is charged an exorbitant amount of money, in my opinion, for automobile insurance. Is MAIF addressing itself to this individual in any way, shape or form?

MR. CORBLEY: Yes, I think so, because you are now talking perhaps about the older citizen and you may be talking about the young driver. What about the 17-year-old who is just starting out? He doesn't have a point or an accident. He hasn't been out there driving three years to have developed an accident. Our base rate in Baltimore City for such a person, whether he is without a point or an accident, who may be 72 years old or 87 years old, is \$365. That is for all the statutory coverage. I don't think that is an outlandish price. If you measure it against some of the private companies, it is on the high side; but it is not totally out of the ball park, because I am somewhat convinced from our own experience that you can't make the rate unaffordable. If you make it unaffordable, then all you are doing is creating more uninsured motorists on the road. If a person can't get into the private market and he can't afford to get into the residual market, he is not going to get into any market. He is just going to drive around without insurance.

ASSEMBLYMAN ADUBATO: That is what I was leading to. In other words, we are saying that we agree on the term "clean" now, and that he is being refused by two companies.

MR. CORBLEY: That's the way it seems. Eighty-four percent of our business is of people who have less than 5 points on their driving records.

ASSEMBLYMAN ADUBATO: And the insurance company arbitrarily says, "We are not going to insure him. He is clean, but we are not going to take him." And I mean clean the way we are saying clean now, not as in your previous remark. Do you think that is fair?

MR. CORBLEY: I can't comment on the use of the word "arbitrary." That is a conclusion perhaps that some people draw. But we don't look at it from that point of view. We just measure his eligibility criteria. Some people have asked, "How many blacks do you insure?" I couldn't tell them. There is no question on our application as to what your color is, what your race is or what your creed is. All it asks is: Where do you live? And, let's see your driving record. So I can't comment on ---

ASSEMBLYMAN ADUBATO: That's MAIF?

MR. CORBLEY: That's MAIF.

ASSEMBLYMAN ADUBATO: You are not talking about the insurance industry.

MR. CORBLEY: I am talking about MAIF. That's why I say to you I can't react or answer your question when you use the word "arbitrary." We don't evaluate the practices of the insurance company when someone applies to MAIF. That is a matter for the Insurance Department to evaluate.

ASSEMBLYMAN ADUBATO: May I ask you this? We talked about your loss ratios and we talked about your cost of doing business and the way it jumped to \$15 million the second year, etc. On Page 7, you talk about policies written, policies cancelled, etc. I am having a little problem following this. In talking about policies written, in '74, you have 145,000; in '75, 97,000; in '76, 99,400. Are these totals? Are these individual policies written in that year - the total in force?

MR. CORBLEY: That is not in force. Those are policies written.

ASSEMBLYMAN ADUBATO: "Policies in Force" is another column. You wrote 145,000 in '74. But actually in force there were only 123,000.

MR. CORBLEY: That is correct.

ASSEMBLYMAN ADUBATO: Then you cancelled 33,000 policies in that same year. I don't understand the math there. I am not too good at it. I really don't understand how you get a net-cost picture, let's say, money you put in and money you get out. Here you have certain policies written, certain policies cancelled, and policies in force. Do they add up?

MR. CORBLEY: They shouldn't.

ASSEMBLYMAN ADUBATO: Okay. Why?

MR. CORBLEY: You can't add the two and get a common demoninator.

ASSEMBLYMAN ADUBATO: What I mean by add is take one from the other.

MR. CORBLEY: I know. The reason is that Mr. Jones could be written three times during the same year. What happens in the residual market is: MAIF cannot go into the premium finance business, and it probably shouldn't. In Maryland, the statutes permit a premium finance company to cancel someone's automobile policy if he fails to meet the monthly payment. Eighty percent of our business is financed. Sixty-five percent of our business is cancelled by premium finance companies. What that means is, if I owed a payment on February 1st and I didn't make it, the premium finance company cancels me. The whole cycle starts again. The man comes back and he makes a re-entry on February 15th. He is carried as a new piece of business because his previous contract had been terminated. So, in some of those numbers, you are going to see repeaters. We have situations of writing the same man four times during the year. This is a churning effect and this increases your operating cost because all it does is create a paper war between the Motor Vehicle Administration, the Insurance Commissioner and MAIF.

ASSEMBLYMAN ADUBATO: Do you know what rate of interest he is charged?

MR. CORBLEY: No, I don't, but I think it is somewhere around 18 percent, but that is strictly a guess.

ASSEMBLYMAN ADUBATO: When we talk about the policies in force and we combine the three years - '74, '75 and '76 --in 1976, it says you had 76,000 policies in force. Now what does that mean?

MR. CORBLEY: "Policies in Force" means that the contract is still viable.

ASSEMBLYMAN ADUBATO: Does that mean in 1976 MAIF totally had 76,000 policies in force?

MR. CORBLEY: That is the average number of policies in force at any given time.

ASSEMBLYMAN ADUBATO: Totally?

MR. CORBLEY: Totally.

ASSEMBLYMAN ADUBATO: So it is not a combination of 123,000 in '74, 86,000 in ---

MR. CORBLEY: No, it is not a cumulative figure.

ASSEMBLYMAN ADUBATO: So net, you have 76,000 in force. It is interesting to me - and I am sure you can explain it, not that I want you to now - that when we look at the commissions involved, in '76, you paid \$4 million in commissions and you only had 76,000 policies in force, for whatever reason. I am sure the rates are different. In '74, when you had in force 123,000, your commissions were a little less, \$252,000 less, I believe, approximately.

You talked about your losses of \$15 million in your second year and, now that you are past that third-year period, how that has improved. Are your loss ratios lessened, depending upon the number of people you have in force? In '76, you show 76,000 approximately in force, while in '74, which was your first year, you had nearly double that and you only showed a loss ratio of approximately \$400,000. So it is not always based on the amount of people you are covering, is it?

MR. CORBLEY: Never.

ASSEMBLYMAN ADUBATO: So your purpose for being changes as the insurance industry in the private sector accepts these people, at whatever rate, although I think the claim was that somewhere along the line the private sector charges almost what you charge.

MR. CORBLEY: In some instances, yes.

ASSEMBLYMAN ADUBATO: --- in some instances. Now it is a ridiculous situation to have a man with 15 points have coverage. Maybe he shouldn't be driving. Maybe his license should be lifted and, if he drives, he should go to jail. But you can't do that. You have to keep covering him. So it is a fair assumption to make that these 76,000 are basically people who have not only come in for the first time, but I would guess that most of these people represent a good percentage of those who started in '74. And they are at the bottom of the barrel, not as human beings, but as far as their driving records are concerned. Is that a fair statement?

MR. CORBLEY: Not necessarily. You have opened up about nine avenues of discussion.

ASSEMBLYMAN ADUBATO: I don't want to do that. Thank you very much for your time. I, personally, could keep listening to you, but it is not fair to everyone else. I think we are all getting hungry.

By the way, do you know how many Italians you have in your company?

MR. CORBLEY: They all own restaurants.

ASSEMBLYMAN ADUBATO: Do they have good food?

MR. CORBLEY: Excellent.

ASSEMBLYMAN BORNHEIMER: We have a couple of more questions here.

ASSEMBLYMAN DI FRANCESCO: I have two quick questions which I hope can be answered briefly.

MR. CORBLEY: I'll try.

ASSEMBLYMAN DI FRANCESCO: You indicated that you dropped the rates 34 percent initially.

MR. CORBLEY: Yes, sir.

ASSEMBLYMAN DI FRANCESCO: I am not sure that I understand what you meant by that.

MR. CORBLEY: We made a rate filing --- Let me put it this way. Prior to the effective date of MAIF, which was January 1, 1973, the Governor's Office had an implementation task force to get this law ready and on the way. Through its studies and all of the plans it reviewed, it made a rate filing with the Insurance Commissioner based upon statistics that were developed. Its review and actuarial projections indicated that the assigned-risk plan market's rate at that time was 34 percent higher than it should have been. So, when they made an initial filing, because obviously any insurance company that starts business has to have a rate manual and a rate filing with the Commissioner, they made the filing by reducing all of the rates 34 percent on a statewide basis.

ASSEMBLYMAN DI FRANCESCO: Assemblyman Aduato mentioned about the primary purpose of MAIF. My second question is: Does MAIF encourage private companies to reject applicants they would otherwise insure?

MR. CORBLEY: The answer is no, and I was trying to conceive a way that we could do it. But I don't understand how we could encourage private insurance companies to turn someone down.

ASSEMBLYMAN DI FRANCESCO: Well, you said you must accept anyone who has been rejected by two private insurance companies.

MR. CORBLEY: Right. When they make their applications to the State Company, the application form requires them to identify the two companies which they applied to and who turned them down.

ASSEMBLYMAN DI FRANCESCO: So if the company knows that MAIF will pick up anyone whom they reject, isn't the tendency to reject those borderline people they may normally accept - and I know there are some heads going this way (indicating) in the background.

MR. CORBLEY: Any heads going this way (indicating)?

ASSEMBLYMAN DI FRANCESCO: No.

MR. CORBLEY: You are asking me to again evaluate what an insurance company's practice is. I would like to answer the question, but I don't know any way that I can. I am not privy to what an underwriter does within a private company. If you are saying psychologically that runs through his mind, I am sure that it does. But, at the same time, I have no proof to say that ---

ASSEMBLYMAN DI FRANCESCO: --- that this has happened.

MR. CORBLEY: (Continuing) --- that companies automatically dump business because they know there is a State company to pick it up.

ASSEMBLYMAN ORECHIO: I have a couple of short questions.

Can you tell me how many registered vehicles there are in Maryland?

MR. CORBLEY: Two million.

ASSEMBLYMAN ORECHIO: And how many uninsured vehicles there are, approximately?

MR. CORBLEY: I have no idea.

ASSEMBLYMAN ORECHIO: None at all?

MR. CORBLEY: I have no idea because that would be a Motor Vehicle Administrator's question. I have seen quotations attributed to him which I don't think I should repeat because they are his figures.

ASSEMBLYMAN ORECHIO: Can you give me his figures then?

MR. CORBLEY: Well, he was quoted in the paper recently as saying it is 3 percent. But he would be the only one who could develop the statistics because in Maryland what happens is, if a motorist does cancel his policy or does not renew or is rejected, every insurance company, including MAIF, has to send a notification to the Motor Vehicle Commissioner telling him this. Last year he has said that he received over 500,000 such notices. So, from those notices, I assume he has been able to develop some statistics.

ASSEMBLYMAN ORECHIO: Thank you very much.

ASSEMBLYMAN BORNHEIMER: I want to thank you for testifying. We appreciate it very much.

MR. CORBLEY: You're welcome, Mr. Chairman.

ASSEMBLYMAN ORECHIO: We will take a break now for lunch and be back in about an hour.

(Recess for Lunch)

AFTERNOON SESSION

ASSEMBLYMAN BORNHEIMER: We will now resume the hearing. I am going to break away from our scheduled list at this point. The Commissioner has arrived and I am going to allow him to testify. Commissioner James Sheeran.

COMMISSIONER JAMES SHEERAN: Mr. Chairman, members of the Committee, I recognize that the comments are directed towards the bill which would deal with a State owned and operated insurance plan. My statement is somewhat broader and if you don't mind I will put it in the record.

ASSEMBLYMAN BORNHEIMER: Whatever you prefer, Commissioner.

COMMISSIONER SHEERAN: There is no question that the auto insurance marketplace needs reform. The auto today is a necessity for virtually the entire population. Few can do without it. The State of New Jersey requires that every auto carry certain insurance coverages, under penalty of law for failure to do so.

Despite the importance of the auto in the lives of our people and despite the State's mandate that every car be insured, the insurance companies are refusing to properly serve the market in New Jersey. The market is very tight. It is very difficult to obtain insurance voluntarily from many of the companies. They would rather have it forced upon them through the Assigned Risk Plan than to write it voluntarily. For instance, according to a newspaper account I read a couple of days ago, an executive of one company was quoted as saying that during the month of December the company took on more than 1,000 assigned risks against only 13 written voluntarily and these 13 were new arrivals in New Jersey who had been insured by the company in other states.

When you have that kind of intolerable situation, there is something very wrong. The industry's position - which I reject - is that the companies are not making any money on auto insurance in New Jersey. By law, the companies are entitled to a reasonable profit. I think they are getting it, although a study that I have undertaken and hope to complete shortly may prove that these profits are hidden.

When profits don't appear out front where they belong the companies can always demand higher and higher rates and the unwary regulator may be lulled into approving them.

I have been reading the financial pages and I have been impressed by the companies' reports to their stockholders in which they tell of ever increasing profits. Here is the report of one company which wants me to approve a 29% increase in its auto insurance rates, which appeared in Saturday's press:

Net income up for 1976 by 49%.

Earnings for property-casualty insurance - which includes auto insurance - 20 times greater in 1976 than in 1975.

The directors will consider a 5¢ increase in the dividend.

I take such reports seriously.

Despite such spectacular performances - and there are many of them - the companies are not supplying the auto insurance market in New Jersey for their own reasons.

As a regulator, I represent the public interest. When the private sector refuses to supply a market, it is my responsibility to suggest an alternative.

The Assigned Risk Plan is unsatisfactory. Drivers, even with accident-free and violation-free records, are shunted into it because of the companies' uncompromising attitude. The rates are the standard bureau rates unless their driving records are poor. The companies don't want assigned risks and the treatment they receive

reflects this grudging attitude.

My proposal to meet the market problems involves the end of the Assigned Risk Plan for New Jersey. In its place, I would create a Reinsurance Facility which would be an association of all the auto insurance companies doing business in the State. There are about 250.

I believe the Reinsurance Facility is the most efficient and equitable mechanism for accommodating both the public and the industry.

It would work this way: Every automobile owner would be entitled to obtain his insurance from the company of his choice. No company would be permitted to turn down an applicant.

The companies would not be denied their underwriting standards, however. After policies are issued the companies could evaluate the risks and those they don't want could be ceded to the Reinsurance Association. The Association would then be responsible for the payment of claims but the original insuring company would continue servicing the public and that policy.

There is today an arbitrary surcharge system in the Assigned Risk Plan to penalize drivers who accumulate points for motor vehicle violations. But these surcharges can be so steep as to make insurance virtually unaffordable for some drivers. They could be made reasonable if everybody with a bad driving record - not just those in the Assigned Risk - were penalized.

I would eliminate this surcharge system in favor of a new method of assessing drivers who accumulate points. A moving motor vehicle violation is a deliberate flaunting of the rules of the road, the sort of driving that leads to accidents, and additional payments obtained from those drivers would make up any deficit that the Reinsurance Association might develop.

The Reinsurance Facility is, to my mind, the only fair way of making sure that auto insurance that the State mandates becomes readily available to all the people of our State.

The companies, as I have already noted, would be able to apply their underwriting standards but only for purposes of reinsuring, not for issuing policies. The agents would be spared the unenviable task of applying certain underwriting standards if they are regarded as unprofitable by the companies, which their profitable colleagues need not apply in writing insurance.

I know the industry is resisting the Reinsurance concept and if it budges at all, it would probably favor a Joint Underwriting Association which, like the facility, would be an association of all the auto insurance companies. However, under the Facility every insured would be treated the same. Under the JUA the insured would not have a choice of company and there will be a different pricing structure than that of the voluntary market. This kind of two-tier pricing works a tremendous injustice on the person who can't get insurance in the voluntary market despite an exemplary driving record.

The Reinsurance concept is, I believe, a sound one. For proof of its effectiveness, we can look to the medical and hospital malpractice insurance market. The New Jersey Medical Malpractice Reinsurance Association has been functioning for a year now and is doing very well in assuring that this insurance remains available to health care providers. I see no reason why it would not work equally as well for auto insurance.

If reform of the auto insurance market is to be truly effective, it would also entail a dismantling of the driver classification system and the rating territories. What you are, your age, your sex, your occupation, and where you live become more

important in the computation of your insurance premium under these suspect systems than your actual record as a driver. I think we must move toward a system of insurance pricing that will produce rates more nearly reflective of one's driving record than the system we have now.

Let me give you some examples of the inequities in the classification system and in the rating territories.

Let's suppose, Mr. Chairman, that you or any other member of this Committee live in Hunterdon County and drive to work in Newark every day. For basic limits, driving a standard compact car, you would pay \$336 for the mandated coverages plus collision and comprehensive.

Now, suppose you got tired of all that driving and decided to move to Newark. Remember, it is the same driver. It is the same driving record. It is the same car. Everything is exactly the same, except you are no longer going to take that long trip from Hunterdon County into Newark. You are going to move right into the City. You would be doing much less driving. In fact, you may even be taking the bus to work. Yet, your insurance would now cost you \$789. That is how territories affect the rates.

Now, consider how the classification system appears to discriminate. The most abused driver under this system is the unmarried teenaged male. Although he may have been driving -- Incidentally, I might say that when we talk about the unmarried teenage male we are not only talking about that individual, who is probably in the least advantageous time of his life as far as earning a living is concerned, but we are talking about the families of young people - those teenagers who are living home - who are also paying the penalty of this kind of system. So, it is not simply confined to young people but it also includes their families.

Now, although that same teenager may have been driving for two years and never had an accident or moving violation, our teenager - if he lives in Newark - will pay \$1,854 for basic liability coverages and physical damage on his 1976 compact. If he winds up in the assigned risk and has been stung with six points for two minor moving violations - incidentally, it could be one on the Garden State or the Turnpike for driving 10 miles over the limit - the cost of this insurance would skyrocket to \$2,968. That is incredible and in my judgment it is almost immoral.

The inequity of these examples of auto insurance pricing must be obvious.

In that connection, I would urge you not to swallow stories of subsidization of one group by another. Insurance is a spreading of the risk among a group of like persons. The only one who gets something out of the system is the one who has an accident. The accident-free, whether they are old or young, city dwellers or suburbanites, male or female, married or unmarried, just go on paying their insurance premiums without any return at all, beyond the security of knowing that they will not be economically damaged if, in fact, they have a moment of negligence. You have to know that our system talks about negligence, which is an event that no one plans and that is simply what insurance does, it prevents economic chaos.

Much of the industry's dissatisfaction with the regulatory atmosphere in New Jersey originates, I think, in its desire to replace our system of prior approval of rates with a system of open rating, sometimes misnamed "competitive rating." Open rating, under which the companies can raise their rates without the prior approval of the Insurance Commissioner, has a kind of superficial seductiveness, which may appeal to those looking for simplistic solutions to the problem.

Let us not be bewitched by this siren song of Open Rating.

Remember, if New Jersey had an open rating system last September when the Insurance Services Office asked for my approval of a 35.5% rate increase, New

Jerseyans would have begun paying that much more for their insurance immediately. But, under our system of prior approval, the ISO was not able to put the increase into effect unilaterally and the ISO filing is one of those that I refused to act on until my very pointed questions, particularly about the companies' reserving practices, are answered. I think it is appropriate at this time to have all of us turn our heads and look over the Hudson River where - I believe it was February 1st - the Legislature put a self-destruct provision on the change from open rating to prior approval. Remember, New York had an open rating system. When they went to No Fault a couple of years ago the Legislature required the prior approval system to be reinstated. It had a self-destruct provision; I believe it was as of February 1st. I just heard over the radio last night that the companies are rolling in to New York with rate filings and their increases are in the 20% to 30% bracket. That means they start charging those immediately without any prior approval. That is what I think would be the result of any so-called open competition or open rating system that would be introduced in New Jersey.

So, before I conclude my statement I would like to refer to one other element of the rate computation process that I find disturbing and that is that the insurance regulator must depend upon the industry for the statistics which lie at the heart of rate-making.

We are spoon-fed data by the companies and we have no way of developing our own information independently. I am not accusing the companies of any wrong-doing in the submission of statistics but I think we would get what we want when we want it if control were taken from the industry and given to the regulators. The regulators should be the statistical gathering agent, probably on some kind of a regional basis.

Perhaps the Commissioners of other states with similar concern for the helpless consumer would be willing to join us in sponsoring such a venture.

Our lessened reliance on the industry should enable us to produce rates that can place more confidence in it being neither inadequate, to the companies' detriment, nor excessive, to the consumers' detriment, which is the way the law says they should be. Thank you, Mr. Chairman.

ASSEMBLYMAN BORNHEIMER: Commissioner, you made a recommendation for a Facility as compared with JUA.

COMMISSIONER SHEERAN: Yes.

ASSEMBLYMAN BORNHEIMER: Why do you prefer the Facility?

COMMISSIONER SHEERAN: Well, under the Facility, for example, we know that if the five of us went into a department store and we were going to buy a shirt, none of the members of the Legislature nor this Administration would permit that store to say to any one, two, or three, or four of us that they would not sell us the shirt, but, yet, still permit that store to sell it to another person. What happens on the insurance market is not that way. Four or five of us could walk into an insurance agency or a company, anyplace, and they can decide that they will insure one, two, three or more of us - or less of us.

Under the JUA the companies say, "Since we have that privilege we want to name a company that will service you." You would then go into an agent and you would not pick the company of your choice even though the night before you might have been looking at the television tube and saw advertising telling you that this company is servicing the market in New Jersey and it is the best insurance buy for you and you ought to go for it. You might believe that advertisement and want that company. You can't do that under the JUA. That is one thing.

Under the JUA there is a two-tier rating system and that simply means that if you go into the voluntary market they would charge you "x" dollars for your insurance - that is, if they picked two of the five of us and said they were going to

insure us, they would insure us at their rate. They would then send the three of us to a company that they chose to service the market and they would say, you pay the rating of the JUA, which would be higher. They wouldn't pick us, necessarily, on our driving records; it could be because we live in Newark, Jersey City, Trenton, whatever. In addition to that, they would then service it through that company and we would not have the connection with the company of our choice.

There is a big difference. Under the Reinsurance Facility, if a company is doing business, they must write the business and you can go to any agent of your choice and you will be written by that agent in the company of your choice. The companies are absolutely protected since they can then cede the risk to the reinsurance device called the Reinsurance Facility.

ASSEMBLYMAN BORNHEIMER: You also mentioned, during your presentation, the possibility of changing the zones.

COMMISSIONER SHEERAN: Yes.

ASSEMBLYMAN BORNHEIMER: What kind of an idea do you have with reference to that?

COMMISSIONER SHEERAN: Well--

ASSEMBLYMAN BORNHEIMER: In other words, we have 21 different--?

COMMISSIONER SHEERAN: Yes. I hope you don't mind, Mr. Chairman, but a good example of that is, we are here in Trenton and we are doing business here. Most of us have driven into Trenton and I don't know where we live, but obviously - or probably - most of us are living in some suburban area that would be a low-rated territory compared to Trenton. We drive here. We congest the city streets of Trenton. We spend our day here. We do our work here and we leave Trenton and go back to our homes. In the meantime, the people of Trenton who have been congested, who have us crush in to do our business and earn our living are paying more because they have bad results, they say, with traffic. Yet, I could live in Trenton and drive to Princeton to go to work and I would absolutely be in a better position from the standpoint of risk than someone else. It is just absolutely unfair.

Then you reach the point where people who live on one side of the street are charged more and the people on the other side are charged less. That is what I mean by saying the only risk that is subsidized in that market is the person who causes an automobile accident, regardless of where they live or what their so-called territory is. I say this is the only fair way to price people. As long as the pot of dollars that serves the market at the end is the same, it is fair for the insurance industry. I believe people are fair. I absolutely believe that people are fair in their judgment. They are only disheartened when they find out there are differences made for reasons beyond their control.

If people are causing traffic violations by high speed and so on, they recognize that that is something they have caused themselves. That is what I am saying ought to be the controlling factor.

ASSEMBLYMAN BORNHEIMER: You also mentioned a surcharge for violations.

COMMISSIONER SHEERAN: Yes.

ASSEMBLYMAN BORNHEIMER: What would that be? What do you mean?

COMMISSIONER SHEERAN: Can I give you an idea, Mr. Chairman?

ASSEMBLYMAN BORNHEIMER: Sure.

COMMISSIONER SHEERAN: In a three year period, - as you know, we hold points for three years - we develop about five million points in the State of New Jersey. Now, under our present system, if you were in the Assigned Risk you would be surcharged for having those points - meaning you would pay more. I mentioned the

youngster from Newark who would pay over \$1,000 for six points.

If we spread those points among the five million people - and we presently develop, I think, about \$24,000,000 through that system - and we charge each person \$10, say, for each point, you would develop \$50 million which is a substantial amount towards taking care of the secondary market and the added costs that were inured to the Reinsurance Facility.

ASSEMBLYMAN BORNHEIMER: Basically, this would be an assessment program in order to get funds to run the Reinsurance Facility.

COMMISSIONER SHEERAN: Yes. That's correct.

ASSEMBLYMAN BORNHEIMER: In other words, the good drivers are paying for the bad drivers by an assessment?

COMMISSIONER SHEERAN: No. Right now, I am saying that only the people who are in the--

ASSEMBLYMAN BORNHEIMER: Only the people who are bad drivers are being assessed?

COMMISSIONER SHEERAN: They are not bad drivers, necessarily. If you look at the Assigned Risk Program, over 70% of the people who are in there have an absolutely clean driving record.

I might tell you, Mr. Chairman, that I have one company that has underwriting standards that are the basis for determining who goes into the Assigned Risk. They consider people in the military, for example, as bad risks. People over 64 are considered bad risks; people who are unemployed; people with basic limits, and so forth. They exclude, for example, laborers; people in mechanical trades; and so on. That is totally unfair. They would go into the Assigned Risk, even if they had a clean driving record. They would be assessed an enormous sum, such as that young person would be.

I am saying that every person - you, me, or anyone - who goes out and deliberately violates the law and is convicted of violating the law by getting a traffic summons would have the same obligation, whether they are in the Assigned Risk or the standard market. That is all. I am not saying that anyone in the standard market with a clean record should be assessed. I am saying only those with the exact same conditions should be.

ASSEMBLYMAN BORNHEIMER: Thank you. Are there any other questions? Mike?

ASSEMBLYMAN ADUBATO: First of all, I want to thank you for coming today, Commissioner. Part of this presentation was not written by me, although some people may think I wrote it. I want to compliment you as a citizen, not as a legislator, for your presentation, the fairness of your philosophy and the attempt you are making to keep insurance in the private sector. I think that is what we really want. We don't want government to take over any kind of industry unless it is absolutely necessary. I think your proposals would avoid that and help us to stay with the private sector. That is not only being fair to people but would help keep and perpetuate our capitalistic system and our profit system, if you will, which is good - most of the time.

I would like to clarify a point for myself. It may also help other people. We are saying a person who lives in an urban area, or one who is discriminated against because of sex or age - or whatever - is, right now, being charged an extra premium. They are clean drivers, not only clean in the sense that they don't have any points but they have also never had an accident.

COMMISSIONER SHEERAN: Right.

ASSEMBLYMAN ADUBATO: And they are being manipulated and they are being asked

to pay for those people who have had a bad driving experience.

COMMISSIONER SHEERAN: That's right.

ASSEMBLYMAN ADUBATO: What I think you are saying is, it is unfair for these people who have never had an accident to take it on their backs just because of age or geographical location or anything else. That should be spread out through the entire population.

COMMISSIONER SHEERAN: That is what I meant when I said that the only people being subsidized in the insurance market are those who have, in fact, had an automobile accident. But, that is the very purpose of insurance. That is the nature of the product and that is the reason we have it.

ASSEMBLYMAN ADUBATO: Well, Commissioner, again, I hope I don't sound too flowery but I think you are doing an excellent job and if I have any criticism of you I have said it on the floor of this House and I will say it again, I thought you were too lenient with the industry - up until now.

ASSEMBLYMAN BORNHEIMER: Carl?

ASSEMBLYMAN ORECHIO: Commissioner, I too would like to commend you on the very firm position you have taken in your desire to act in what you feel is - I am sure you are firmly convinced of this - in the public interest, although there are some areas in which we do not agree.

I have a question or two regarding this bill that has been proposed by Charlie Marciante and his AFL-CIO, which was introduced by Assemblyman Jackman recently. It provides for a State-run auto insurance agency. I would like to ask you what you think about it. Do you think it will work in New Jersey? I would like to hear whatever comment you wish to make regarding that proposal.

COMMISSIONER SHEERAN: My position is, I believe the private sector should be the vehicle for supplying the insurance market in the State of New Jersey, provided, however, that it deals fairly and equitably with the people who need insurance and those people to which insurance is mandated. If the industry fails to meet that obligation - such as GEICO when it pulled out of the State of New Jersey after receiving rate increases of over 70% - we then must look for a viable alternative. I have not seen that in the rest of the market. Although the market is restricted and the companies continue to write business in this State and generally are supplying the market, the mechanism that is being used more prolifically than it should be is the Assigned Risk Program. But, they are still furnishing it.

I have said, as an alternative to that, I think we ought to look to the Reinsurance Facility before we get to a State operated facility. If, in fact, the industry still does not respond to us by dealing fairly and equitably with people, then I say we must consider this kind of an alternative, although it is the last alternative that I would be willing to propose or support.

ASSEMBLYMAN ORECHIO: In your statement you say that the industry is resisting the Reinsurance concept.

COMMISSIONER SHEERAN: Yes.

ASSEMBLYMAN ORECHIO: Can you tell me why?

COMMISSIONER SHEERAN: I have a lot of difficulty in understanding why. It seems to me that a lot of the resistance that comes from the industry is really based upon the theory that it is better to live with the devil you know than the devil you don't know. I still believe that if the bottom line dollar is correct, that is what they are in business for and if they can meet our responsibilities and fairly service the people of New Jersey, the mechanism really isn't too important.

But, we find that they resist this even though I recognize - and we recognize as a government - that the bottom line is important. I don't know why they

should resist this.

ASSEMBLYMAN ORECHIO: All right. Let me ask one more question. As you know, back about eight months ago, Governor Byrne appointed a Committee, headed by former Assemblyman Herb Klein, to look into the insurance problems, specifically No Fault and other related matters. Now, it is my understanding that the Governor has that report. My question to you is, have you been privy to it?

COMMISSIONER SHEERAN: Well, I think our functions probably differ. I have not seen such a report although the Governor may have. I have not been privy to it.

ASSEMBLYMAN ORECHIO: You are not aware that the report has been submitted to the Governor?

COMMISSIONER SHEERAN: I am not aware of that, no. I have heard that there was some preliminary work but I really think that is advisory in a different sense. My responsibility is regulatory. This may be an advisory opinion that I have not seen.

ASSEMBLYMAN ORECHIO: At this point you would not be aware of any recommendations that this Committee may have made to the Governor?

COMMISSIONER SHEERAN: No, I would not.

ASSEMBLYMAN ORECHIO: Thank you.

ASSEMBLYMAN BORNHEIMER: Do you think we ought to have some change in the No Fault?

COMMISSIONER SHEERAN: Yes.

ASSEMBLYMAN BORNHEIMER: Do you think it needs some kind of review?

COMMISSIONER SHEERAN: Yes. I have carefully looked at the three-series articles written by Herb Jaffey of the Ledger and I must say he is on target. It is a well documented, extremely well investigated report which I basically concur with. We are moving in that direction. I would like to work very closely with you and members of the Legislature in developing a better system.

ASSEMBLYMAN BORNHEIMER: Do you have some recommendations you can make?

COMMISSIONER SHEERAN: Well, we are actually into that study to some degree. I have always felt - and I can only comment in a periphery way because they have so many problems over there - that to fix, for example, a stated number such as the threshold is probably something we ought to think out. We have set, for example \$200 and since then we have watched an economy roll very rapidly and that \$200 may be worth \$100 today. That sort of thing ought to be more flexible.

But, I must say that all of us have to know -- I have watched, very carefully, the reports from the courts. There is no doubt in my mind that we have relieved the court system. There are far fewer cases coming up for litigation. People are being paid sooner. But, there are "ripoffs" that have to be looked at. I am very concerned about those. I think we have to tighten up the system.

ASSEMBLYMAN BORNHEIMER: Okay.

COMMISSIONER SHEERAN: Mr. Chairman, if I could before I leave, I would like to say I appreciate the comments that have been made. I would like to make a comment, myself, to the Legislature. Since I have been Insurance Commissioner - and I have appeared before you on several occasions - I've had occasion to go before the Legislature seeking emergency relief by way of legislation - terribly important legislation. I feel compelled to comment that I have had a rather rewarding experience through the sensitivity of the members of the Legislature and the members of your Committee in handling those problems and working with me. I thought this would be an appropriate time to thank you for that.

ASSEMBLYMAN BORNHEIMER: Thank you, Commissioner. Assemblyman DiFrancesco.

ASSEMBLYMAN DI FRANCESCO: Commissioner, in your statement on page 2 - the end of page 1 and the beginning of page 2 - you indicate that you reject the industry's argument that they are not making money on auto insurance in New Jersey. On page 2 you indicate that a study has been undertaken and you hope to complete it shortly.

COMMISSIONER SHEERAN: Yes.

ASSEMBLYMAN DI FRANCESCO: When will you complete the study and will you make your study available to the Legislature?

COMMISSIONER SHEERAN: That study is really related to rate applications that are presently pending. It will be public information. What I am really looking at - at I stated in December - is looking behind rate applications and at the reserving practices of companies to see whether or not they are truly reflecting the level that those reserves ought to be placed at. It has been a very difficult study.

As soon as I get the information from any company, I will act promptly on their rate applications. There has been some confusion and some talk about moratoriums, and so on. It is very difficult to deal by way of moratorium. My position is more related to the actual receipt of the kind of documentation that I think is required before we can make a reasonable rate finding.

ASSEMBLYMAN DI FRANCESCO: So, the study you are referring to really can't be completed until you get some more documentation from the industry?

COMMISSIONER SHEERAN: We are getting quite a bit of it now. It would be premature, frankly, to deal with it at this moment. But, I think it is rather important information.

ASSEMBLYMAN DI FRANCESCO: Did you have a representative here this morning before the break?

COMMISSIONER SHEERAN: I did.

ASSEMBLYMAN DI FRANCESCO: You have indicated in your statement that you endorse a Reinsurance Plan.

COMMISSIONER SHEERAN: Yes - Facility.

ASSEMBLYMAN DI FRANCESCO: Facility?

COMMISSIONER SHEERAN: Yes.

ASSEMBLYMAN DI FRANCESCO: Did you consider the Maryland system - MAIF - at all?

COMMISSIONER SHEERAN: The Maryland system, that is, being the insurance carrier for the secondary market, I think is an alternative but I would not set it as the prime alternative. The prime alternative, in my judgment, is to have this market fully and properly serviced by the private carriers. Now, I happen to have a lot of confidence in what they have done in Maryland because they were finding a great deal of difficulty with the secondary market. This means, simply, people that the insurance industry does not want to insure in the private sector. They, therefore, went into this as an insurance carrier. Companies have time and time again tried to say, "Look at Maryland and their terrible experience." The fact is, if you will excuse the expression, the State Facility has been used as the garbage pail for the industry. What they don't want, they throw into the Facility and it has to be expected that it would have results that would not be comperable to the standard market.

ASSEMBLYMAN DI FRANCESCO: What other states have a Reinsurance Facility?

COMMISSIONER SHEERAN: North Carolina, South Carolina, Massachusetts -- There are several others also.

ASSEMBLYMAN DI FRANCESCO: What success have they had?

COMMISSIONER SHEERAN: Well, every Commissioner I talk to says "fine"; they

are absolutely pleased with it. It gets to the concept of a full availability of insurance, which is a total concept and it means when we mandate insurance we take on the responsibility of making it fully available to every citizen who is required to have it.

I think you have to take one more factor and put it into that equation: It has to be fully available at affordable rates. For example with automobiles, when we mandate that people have insurance and we say they can go to jail if they don't have it and then we price them right out of the market, aren't we doing the wrong thing? Isn't it wrong for us to not have a better distribution system?

I must say I have great empathy for young people. How much money can they make? For instance, take that young boy from Newark, if he pays \$1,800 for basic insurance and \$2,900 if he has ever had an accident or six points, what percentage of his income are we talking about?

ASSEMBLYMAN DI FRANCESCO: Well, in your plan is his rate going to go down substantially?

COMMISSIONER SHEERAN: Of course. If he has a clean driving record, he would be no different than you with the same driving record you have. He would be no different than me or Jim Bornheimer, or any member of the Committee or any member of the press who is here. If he has the same driving record as you and he drives the same kind of car, he should pay the same amount for his insurance. What is unfair about that?

ASSEMBLYMAN DI FRANCESCO: In other words, what you are saying is that the experience of the companies and their statistics dealing with that experience concerning that young driver should not necessarily affect the rate. You are saying if he has a clean record their experience should not be taken into account when they are determining a rate for that driver.

COMMISSIONER SHEERAN: Let me talk about the statistics. If the insurance industry could write everybody they wanted to, they would not pay a claim.

Now, what are the statistics we are talking about? I am talking about the people who are out there and have accidents or who have a bad driving record. They are the statistics that count.

For example concerning young people, even the industry's study will show you that at least 40% of the young drivers are the best drivers on the road. Why should we not charge them less?

They have another classification which I think is ludicrous. They have what they call the good student discount. This means if you are an A or B student going to college, they will discount your rates by about 15%. Now, what does that mean? Does that mean that C students are bad drivers? Does it mean that a plumbing apprentice or a carpenter apprentice is a bad driver? What about those people? The companies say we can prove that the A-B students are better drivers. But, ask them to show you the study on the C students, or show you the study on the D students, or show you the study on the dropouts and they have none.

I think that many times the industry sits in a room, thinks of a classification and then has a justification for it. We can't live with that system. That is not our obligation.

ASSEMBLYMAN DI FRANCESCO: Thank you, Commissioner.

ASSEMBLYMAN BORNHEIMER: Commissioner, do you think it would be wise for your Department to get their own computer?

COMMISSIONER SHEERAN: Yes. I think we should be the rating organization.

ASSEMBLYMAN BORNHEIMER: I think so too. I think we should have our own statistics.

ASSEMBLYMAN ORECHIO: Commissioner, as you know everyone seems to be concerned with our insurance problems and as a result there has been much potential legislation introduced in both Houses. The latest package of bills will be introduced tomorrow. I don't know whether you have seen these bills or not. They are sponsored by Assemblyman Gallo. They are hot off the press. You probably haven't seen them. You ought to get yourself a packet of them. They are very, very interesting. I would like to make the observation that certainly none of us have the background or experience that you have, having been so closely associated with the industry and its problems. Do you plan in the very near future, as a result of your knowledge and experience, to propose potential legislation that will direct itself towards resolving some of the problems that you are so keenly aware of?

COMMISSIONER SHEERAN: Yes. In conformity with the Governor's message which talked about reform in the insurance area, I hope to have a package of very equitable bills that will deal fairly with everyone, including the industry.

ASSEMBLYMAN ORECHIO: Can you give us an approximate date by which you hope to reveal this package?

COMMISSIONER SHEERAN: Well, I can only say that I am working on it now and I would hope that by the-- I understand that the Legislature will be in recess now for budget problems and so on. I would hope that on its return we would have done substantial work in that direction.

ASSEMBLYMAN ORECHIO: Thank you.

ASSEMBLYMAN BORNHEIMER: Thank you very much, Commissioner.

COMMISSIONER SHEERAN: Thank you. It is always a pleasure to be with you.

ASSEMBLYMAN BORNHEIMER: John Nangle. Mr. Nangle has a very short presentation and we are going to let him speak now. He has to catch a train back to Washington.

J O H N N A N G L E: Thank you.

ASSEMBLYMAN BORNHEIMER: If I may impose upon the speakers from here on in may I suggest that if you have long presentations you summarize them and your printed matter will be made a part of the record.

MR. NANGLE: Thank you, Mr. Chairman. I appreciate your taking me for just a few brief moments. I do not intend to read this statement. All that I have in the statement applies to the State Fund and why we do not think it is the solution for the residual market problem in the State of New Jersey. We suggest a Joint Underwriting Association if, in fact, the Assigned Risk Plan isn't doing the job.

Our Association writes about 50% of the automobile business in the State of New Jersey. We have about 100 of our member companies writing here so we have a very vital interest in the outcome of any piece of legislation that affects our industry.

We feel that every resident of the State of New Jersey has a right to quality insurance of his choice at a fair price. Now, why doesn't that occur in the State of New Jersey today? And it certainly doesn't. We are talking about the residual market problem. That is just a bandaid, whether we have a JUA or any other facility. The real cancers in the insurance situation in New Jersey today are three-fold, at least. One of them is an arbitrary and unilateral attitude of the insurance regulator towards our business, generally - towards our industry. It pervades everything we try to do in the State.

Secondly, we have a prior approval law, a pricing mechanism that is embroiled in politics. We can't price our product adequately and fairly for us too. Now, if we are making so much money, as the Commissioner just said, why aren't we out there writing all that business? We have very profit motivated company managements. They will commit their surpluses to areas where they feel they have a chance to make a

profit. Obviously, they do not think they have that here.

Commissioner Sheeran is privy to a National Association of Insurance Commissioners Profitability Study. He has a copy of it. I am not sure what the results of that study are but I don't know why he hasn't shared that with this Committee. He is making his own study, he says. Well, that is fine but we also have the NAIC Study and I would suggest that perhaps he share that with us.

The third factor in the State that needs improvement is the No Fault Law. We have a very expensive and a very loose No Fault Law, loose in the sense that the threshold is too low and expensive in the sense that the benefit package is much too high. We testified last summer on the pricing mechanism and the No Fault improvements and it is on the record.

I promised I wouldn't take up any more of your time than I had to. Our objections to the State Fund are in our statement. Why we like the JUA is in the statement. Improvements in the No Fault Law are forthcoming from the industry. We hope we can get the support of the Insurance Commissioner's office and the Governor and anyone else in the State who wants to join a consensus on this. I believe the Chairman is well aware of our position on the pricing mechanism of the State.

I thank you for allowing me this time, sir.

ASSEMBLYMAN BORNHEIMER: Just one question: Would it be possible for you to make available to the members of the Committee a copy of that report you referred to which you said the Commissioner has?

MR. NANGLE: Mr. Chairman, I am not privy to that report. This was sent to all of the Commissioners. That is my understanding. The North Carolina Commissioner has made this public. I understand that it showed that the companies were making money in North Carolina.

ASSEMBLYMAN BORNHEIMER: All right. We will make arrangements to get that. Thank you very much.

MR. NANGLE: Thank you, Assemblyman. (see page 4x for full statement)

ASSEMBLYMAN BORNHEIMER: John Heher and William Fox will speak next.

W I L L I A M F O X: Thank you, Chairman Bornheimer. Like some others, perhaps we misunderstood your charge for this hearing.

ASSEMBLYMAN BORNHEIMER: Pardon me?

MR. FOX: Perhaps we misunderstood your charge. We understood that this hearing was on the possible adoption of the Jackman Bill, or a State Fund.

ASSEMBLYMAN BORNHEIMER: It is on everything.

MR. FOX: Well, that's what I find. You have considerable material from us. I think you have about a 20 page statement plus some attachments. I am not going to bore you with that.

ASSEMBLYMAN BORNHEIMER: Very good.

MR. FOX: Jack here is our local Legislative Counsel, as you probably know. I am Regional Vice President of the American Mutual Insurance Alliance. We have about 100 members and about 50 write business in New Jersey. Our participation in the automobile market isn't quite as large as either the AIA or the NAI, which Mr. Nangle represents.

I have a brief statement. It will take me about three or four minutes.

ASSEMBLYMAN BORNHEIMER: Fine, please proceed.

MR. FOX: A State operated insurance company is not the answer to New Jersey's insurance problems since all available evidence indicates that such State-run plans have failed miserably and succeeded only in raising insurance costs, creating unsavory problems for consumers, legislators, and regulators.

In the past 20 years, 20 states have given state-run insurance schemes of one kind or another a try. Of these 20, 8 have abandoned the idea; 3 others have reduced the funds to the status of small loss reserves; and several of the remaining 9 rely on private insurance for at least partial protection.

New Jersey maintained a state operated self insurance plan from 1913 to 1935 when it was abandoned. The State's existing insurance fund, the Unsatisfied Claim and Judgment Fund, has been in almost continuous bankruptcy.

Pricing problems in the private insurance industry in New Jersey has led some critics to suggest that insurance should be run by the government on a not for profit basis. The assumption is that government providing insurance coverage as a public service could hold down the cost of insurance and, at the same time, keep the system working on an efficient and financially sound basis. So far, however, attempts by government to provide insurance coverage to the general public on such a basis have failed on all counts.

We offer the following examples -- And, incidentally, I have the greatest respect for John Corbley and if, in your wisdom, you ever decide to go to a state fund, I hope that you get someone with the integrity and the knowledge of the business that John Corbley possesses because if it was not for John they would be in a lot worse shape than they are now in.

The Maryland Automobile Insurance Fund, established in 1972 to allow high risk drivers to obtain insurance at standard rates, has lost millions of dollars on this line of business by the end of the second year and, despite a rate increase from 1/3 to 1/2 more in 1975, additional rate increases have since become necessary. In early 1976 MAIF requested nearly an 80% increase, later settling for a 36% hike. Deficits ran in excess of \$10 million at the end of 1975. Even with the increase in rates, MAIF has found it necessary to ask for financial help from the private insurance industry. This came in the form of legislation requiring private auto insurers and their policyholders to make up for the MAIF losses through an assessment process. Under this system private insurance companies provided about \$9.1 million in 1976 to assist the State Fund financially.

As John explained, the companies can charge this to their policyholders, not charge it, show it as a separate item, or just throw it into the pot with the rest of their premiums. But, at any rate, the other policyholders in the State have paid \$9.1 million in 1976 to keep their State Fund solvent.

In British Columbia the government set up an Auto Insurance Plan in 1974. Initially, the Plan reduced rates 15% to 20%. But, after losing millions of dollars in the first year of operation, the State found it necessary to enact a 10¢ per gallon gasoline tax to subsidize its insurance plan. However, since none of this tax money actually was placed in the auto plan budget, the insurance monopoly continues to go into the red for many millions of dollars. They have the money but the Plan never saw it.

After suffering through a three-month strike by all auto plan employees, during which time no claims were paid, Auto Plan was forced to raise its rates. In 1976, drivers in British Columbia were hit by record increases ranging from 100% to 250%. You should remember too that if New Jersey assumes a function otherwise handled by the private insurance industry, it could lose a pro rata share of badly needed tax receipts it would otherwise have.

Now, in Maryland, as John said, MAIF does pay premium taxes just like an insurance company does.

The experience of state government with property insurance is equally as

disastrous as it has been with auto insurance. We cite the case of the Wisconsin Fund, which in recent years transferred \$5 million from the State Insurance Fund as a means of achieving a balanced budget. The Fund has been a source of borrowing to build state buildings and consequently is frequently in the red. It does not make regular inspections or provide any safety engineering devices, which private insurers regularly do, to hold down premium costs.

New Jersey's insurance problems could be better solved with changes in the present rating law, the No Fault law, and improvements in the State traffic laws. There are no magic, easy solutions to insurance problems and experience has shown that the insurance mechanism cannot be used to solve social problems without great cost to the vast majority of insurance consumers who must pay higher premiums to subsidize State run insurance schemes.

Mr. Bornheimer, I would assume that you know that there is some difference of opinion in the industry. If you do change the system from the Auto Insurance Plan, there are some who feel that the JUA might be more preferable than the Reinsurance Facility and I know you will give the industry a chance to be heard on that subject.

ASSEMBLYMAN BORNHEIMER: Both of those plans are available, but as you can see, the Commissioner favors the one over the other.

MR. FOX: I understand.

ASSEMBLYMAN BORNHEIMER: There will be a lot of dialogue on it before it happens.

MR. FOX: Incidentally, Mr. Heher appeared before you on June 16th of this past year - 1976 - and I think we had an almost 40-page statement which covered the whole gamut. If you would like me to, I would be happy to send that back to you and have you look at it again.

ASSEMBLYMAN BORNHEIMER: Send it back to us and we will make it a part of the record.

MR. FOX: Good.

ASSEMBLYMAN BORNHEIMER: We have it, Mr. Fox.

MR. FOX: You do?

ASSEMBLYMAN BORNHEIMER: Yes, so you do not have to send it.

ASSEMBLYMAN BORNHEIMER: Are there any further questions?

(no questions)

Thank you very much, Mr. Fox.

MR. FOX: Thank you, sir. (see page 10x for full statement)

ASSEMBLYMAN BORNHEIMER: Our next witness will be Jasper Jackson from the Public Advocate's Office.

J A S P E R J A C K S O N: Mr. Chairman and members of the Committee, I am appearing here today on behalf of the Commissioner and I have a prepared statement. It really shouldn't take longer than 10 minutes and I would like to read it.

ASSEMBLYMAN BORNHEIMER: Fine, proceed.

MR. JACKSON: Ladies and gentlemen, there has been, during recent years, a considerable amount of activity in this State concerning insurance rate-making. The controversy has, to a great extent, centered around our present system of regulating the premiums charged by insurers for various lines of property and liability insurance, particularly automobile insurance within the State.

It has been charged, by insurers and insurance agents alike, that our present system of prior approval of insurance rates does not respond quickly enough to rapidly-changing economic conditions. They say the present system is long and cumbersome, often resulting in unnecessary and substantial delays and great expense. The

charge is that by the time a rate increase has been approved by the State Department of Insurance, the increase is already out of date, any increase being based on economic conditions of several months earlier.

It has been asserted that our present system of insurance rate regulation has created a negative atmosphere in New Jersey, resulting in many insurance companies slowly withdrawing their insurance activity to concentrate on states with more positive climates, or, as in the case of Government Employees Insurance Company, to completely withdraw from insurance activity within the State by turning in its license to do business.

We agree that the situation in this State regarding the availability of insurance to citizens of the State has reached crisis proportions. However, we do beg to differ with some concerning the reasons for this situation and with what we consider to be the proper manner of remedying it.

We have been told by the representatives of the insurance industry that their rates are inadequate because of the inevitable delays and frictions associated with the prior approval process. However, a truly objective review of all the available facts suggests that the situation such as it exists, in regard to property-liability insurance in the State at this time, is not necessarily a consequence of the prior approval process. Federal officials have recently observed that "tightened" insurance markets are consequence of the plunge in values on the stock market which have adversely affected many companies' surpluses in relation to premiums. As a matter of fact, while many companies in New Jersey experienced substantial underwriting losses in 1974 and 1975, the same has been true of companies writing in states that have adopted the so-called open competitive rating laws.

Moreover, the Federal Insurance Administrator, J. Robert Hunter, in testimony delivered before the New York State Senate Insurance Committee on September 13, 1976, declared his belief that insurance premiums nationally are unnecessarily inflated and predicted that the insurance industry is headed for record profits in 1978. Mr. Hunter asserted that the industry has over-reacted to a number of recent events, among them the near collapse of GEICO, general inflation and the industry's own investment losses. He stated that "Things are getting better fast and that we will see underwriting in the black next year, and record profits the following year, but that companies are going on as if they...are...still at the bottom." Mr. Hunter further stated that "To have these vagaries imposed on the public is an outrage."

All the available evidence suggests that an open-competitive rating system will not solve the problem of insurance availability or losses by the companies. The availability of insurance in New Jersey is not based on making rates adequate alone since many companies do not have surpluses large enough to support new business because of underwriting and investment losses suffered in the last two years. Despite what the industry would have us believe, insurance rate-making is not a mathematically exact science. Assuming that there is a problem of rate inadequacy in New Jersey at this time, that problem more likely than not stems from the method employed for insurance rate-making, rather than from this State's method of rate regulation. At best, our present system of rate regulation only slightly exacerbates that problem, rather than causing it. There is at least an 18-month lag between the time a loss is incurred and the time it can be evaluated for rate-making purposes, and that lag will exist regardless of the State's method of rate regulations.

The proponents of open-competitive rating in this State assert that by allowing insurance companies to establish their own rates and place them in effect immediately, the companies would be provided with the incentive to set their rates

competitively and would be able to adjust quickly to changing conditions, moving rates upward or downward as actual loss experience warranted. They contend that insurance becomes fully available to all those desirous of purchasing it in an open competitive rating system because insurance rates are more responsive to the forces of competition and to actual experience.

The States of California and New York have often been cited as prime examples of situations to be desired by proponents of open-competitive rating laws in this State. However, in a recent study conducted by our Department of Insurance, a close examination of the facts revealed that while the assigned risk pool in California is approximately two percent of all insured drivers, as compared to 11 percent in New Jersey in what is considered normal times, in California nearly all the major insurance carriers have what is known as a non-standard running mates who together with other non-standard companies write 8 to 10 percent of the market at rates 50 to 75 percent higher than their standard parent companies. In other words, in California the non-standard companies are used as a substitute for the assigned risk pool for those drivers deemed too risky by the companies. In New York the percentage of insureds placed in the assigned risk pool has always been larger than in this State and continued to be so under open-competitive rating. Also, under open-competitive rating, both California and New York have been plagued by large numbers of uninsured drivers, and in California there is a \$25 to \$50 charge per voluntary insured car on all motorists for uninsured drivers, while in this State its counterpart is approximately \$2. In New York the situation has become so bad regarding the availability of insurance that the present Insurance Superintendent, Thomas A. Harnett, recently threatened to propose a state insurance facility.

Surely, the aforementioned facts do not speak well of the supposedly better availability of insurance under an open-competitive rating system. As we see it, before adopting such a system for New Jersey, we should be virtually assured that that system will effectively address the problem of the phenomenal escalation of insureds presently living in areas of high rates and of those electing to take their chances without any insurance coverage whatsoever. We submit that the adoption of an open-competitive rating law will not solve these problems.

Although there have been assertions that those in the assigned risk plans are inherently more hazardous risks, these assertions rest upon assumptions which the industry cannot prove. In fact, the assigned risk plan, not only in New Jersey but countrywide, is replete with good risks that should have been written voluntarily.

Contrary to a widely prevalent misconception, a 1790 Report of the U.S. Department of Transportation revealed that risks are not "placed" in assigned risk plans because of accidents or violations incurred by drivers or because they are "bad risks" in terms of objective and identifiable criteria. No risk is, in fact, "placed" in the assigned risk plan at all; the sole reason for any risk being in the assigned risk plan is that it has been unable to find a place in the voluntary insurance market. Just as there are many risks in the voluntary market with poor accident and driving violation records, so too are there wholesale number of "clean" risks in the involuntary market which have never been involved in accidents or offenses. The vast majority of these risks differ not one whit, objectively, from other risks fortunate enough to locate in the voluntary market.

In a 1974 report, based on a five-year study conducted by the Federal Insurance Administration, it was stated that 3.6 million - a full 90 percent - of the 4 million insureds nationwide placed in the assigned risk plans have no accidents in a given year. Approximately 3.3 million, or 83 percent of the 4.0 million are forced into assigned risk plans although they have not had an accident within the three years

prior to their entry in the plan, and are, therefore, "clean" risks by the definition applied in the voluntary market. Even if the more onerous assigned risk plan definition of "clean" was utilized, some 2.7 million, or nearly 70 percent of the 4.0 million, are "clean," not having had an accident or committed any chargeable driving violation during the previous three years. Only a random 10 percent of all assigned risk plan insureds are likely to be involved in an accident in any given year in the plan.

Notwithstanding these revealing statistics, the same report showed that a clean risk forced into the assigned risk plan - sometimes for purely extraneous reasons, such as cancellation of the agent's contract with the insuring company or the withdrawal of the company from a particular urban location - will, on a nationwide average, pay 45 percent or almost \$50 more for basic limits liability coverage than a similar driver fortunate enough to obtain insurance in the voluntary market. If comprehensive and collision coverages were included, the price gap would exceed \$100. This dollar penalty is further increased in high risk urban areas where the additional assigned risk plan cost to clean risks can average \$140 a year for basic limits liability coverage and more than \$300 with comprehensive and collision coverages added.

In the states that have both standard and substandard markets, a U. S. Department of Transportation report revealed that the total volume of business in those states substandard markets exceeds that of their assigned risk plans and the volume of uninsured drivers in those states is often several times as large as the volume of insureds in the assigned risk plans.

These problems are largely the result of selection competition and increasing refinement of classes. The insurers prevailing business practices are such that, in an effort to be more competitive, they adopt elaborate classification systems which "rate out" all but the most preferred risks. They seek to reduce underwriting to the art of weeding out all risks that might produce losses. Moreover, the bulk of the criteria presently being utilized by the insurers in their classification plans are wrong inasmuch as they have absolutely nothing to do with driving.

In fact, the industry went from only three basic classifications in 1948, multiplied by only a few territories, to the current Insurance Services Office's 217 class plan. This plan is combined with the 50 secondary sub-groupings - such as Safe Driver Plans - multiplied by 600 to 700 countrywide territorial differentials and produces more than six million rating slots. The Federal Insurance Administration Study cited earlier, stated that one insurer in 1971 devised a plan which results in more than a half million rating slots per territory and can produce a premium of \$7,417 per year in one city just for basic limits automobile liability coverage. When this plan is applied to Illinois, the number of possible rating slots exceeds the total population of the State - including nondrivers - by more than two million.

The current multiplicity of classifications is not based on statistical evidence, nor is the experience produced by such fragmentation credible. The result is a violation of the fundamental principle of spread of risk, inasmuch as the resulting smaller class sizes make it impossible for many individual classes to be self-sufficient, either statistically or fiscally.

Moreover, as I mentioned earlier, not only are the assigned risk plans saturated with clean risks, investigation will reveal that the plans are overwhelmingly populated by urban residents, youthful drivers, and members of minority groups. In a report recently issued by the New York State Insurance Department it was stated that: "During the first quarter of 1971, approximately 11 percent of the private

passenger cars in the State obtained liability insurance through the assigned risk plan, but the proportion of the 70 rating territories of the State varied from 34 percent in the South Bronx slum to only 5 percent in the relatively affluent Saratoga County South and Buffalo Semi-Suburban territory."

With respect to youthful drivers, the same report stated that fully 80 percent of those insured drivers who had been licensed to drive for less than one year were insured through the plan. A study conducted by the New York Commission on Human Rights revealed that in 1968 70.2 percent of all applications to the plan were from blacks and Puerto Ricans. A U. S. Department of Transportation report observes that minority status is likely to result in relegation to the assigned risk plan.

In explanation of the growth of assigned risk populations, some assert that the principal reasons are to be found in rate inadequacy in the voluntary market and the general unprofitability of automobile insurance. As to the former, it is claimed that insurers have not been able to achieve adequate rate levels in the voluntary market under rate regulatory laws which require prior approval of rate increases because of political pressures upon the insurance regulatory authority. However, it must be noted that under "open competition" rating laws, which dispense with the need for "prior approval" and were adopted to free rate movements and allow rates to be determined by competitive forces, assigned risk plan populations have continued to grow. New York had such a law, but its benefits did not result in a decrease in the size of the assigned risk plan.

As to the effect of profitability, it may be noted that although 1971 constituted one of the most profitable years in the history of automobile insurance, a 1972 Automobile Insurance Plan Report shows that the assigned risk plans in ten states, including New Jersey, experienced growth averaging almost 50 percent.

In focusing attention upon the inequities and other deficiencies of the assigned risk plans, it must not be overlooked that the assigned risk population is only part of the problem. The problem the uninsured motorists on the road represents today is just as significant, if not moreso, as the problem of those in the assigned risk plans.

The detrimental consequences of the competition-through-selectivity system to the uninsured motorist population cannot be ignored. Many who have been priced-out or frustrated-out of the voluntary market simply refuse to insure, either through the assigned risk plan or otherwise. A United States Department of Transportation study states that there are indications that, countrywide, as many as 20 percent of all private passenger vehicles may be uninsured. There were, according to Federal Insurance Administration estimates in 1974, approximately 25 million uninsured drivers on the road.

The Department of the Public Advocate urges that prior to the consideration or implementation of an open-competitive rating system, the following measures should be adopted:

First, to insure the public's protection against arbitrary and discriminatory practices in risk selection and from competitive gimmickry in the creation of classifications in rating plans, there must be a total revamping of the insurers' classification and territorial plans and the adoption of an industry-wide statistical plan.

Regulators should be authorized and directed to base their approval of such plans upon their providing readily and objectively determinable criteria for use in establishing the appropriate classification. The criteria should have a demonstrable

and demonstrated relationship to loss experience. Moreover, the regulator should be able to require in advance credible statistical proof of the validity of the predicates for the classification plan. However, the compilation and evaluation of data for all insurers will be possible only if the classification systems are adaptable to an industry-wide statistical plan.

Secondly, a reinsurance facility, as recently proposed by Commissioner of Insurance, James J. Sheeran, should be implemented. Such a mechanism would insure that all assigned risk-plan insureds and those currently uninsured would be written in a voluntary market by an insurer of their choice at an appropriate rate. Such a program would also provide procedures by which residual market losses would be distributed more equitably than is presently done and would endorse the right of insurers to seek a reasonable profit. The essence of such a mechanism is that instead of 90 percent of a small group, such as assigned risk plan members, paying for the losses of a random 10 percent of that group, the entire insuring public, by appropriate class and territory, would bear the cost.

Based on 1974 countrywide industry statistics interpreted by the Federal Insurance Administration, if a reinsurance facility were implemented, and all assigned risk plan insureds were written in the voluntary market, even under the current excessive classification system, the average clean risk now in the voluntary automobile market would pay less than \$2 per year more for liability coverage, and the average clean risk now in the assigned risk plan would pay a full \$46 per year less. If physical damage coverage were included, the extra cost would be only \$3 per year more for clean insureds in the voluntary market, to achieve a 100 reduction for clean assigned risk insureds.

Only after we have taken the aforementioned steps should the adoption of an open-competitive rating law be seriously considered. However, if and when an open-competitive rating law is implemented in this State, the necessary concomitants of such a law is the implementation of a reinsurance facility, the provision for the "prior approval" of all insurers' classification and territorial plans and the promulgation and use of an industry-wide statistical plan. Otherwise, for the reasons stated in this presentation, we will have been remiss in our duties and obligations to the citizens of this State. That is our presentation.

ASSEMBLYMAN BORNHEIMER: Thank you very much for your presentation. We appreciate it very much. We like the position the Public Advocate has taken. It has amplified some of the important points, dealing with the rating system and so forth.

MR. JACKSON: Well, actually, anything that I would say concerning the classification and territorial systems has really been adequately stated by Commissioner Sheeran himself only a few minutes ago.

Actually, our recommendations touch upon and almost exactly coincide with the Commissioner's recommendations.

ASSEMBLYMAN BORNHEIMER: We thank you very much.

Mr. Lieb will be our next witness.

J E R R Y L I E B: My name is Jerry Lieb. I am President of the Independent Insurance Agents of New Jersey.

Last night I went back to my office to rehearse my presentation. I did it three times and each time it took me 21 minutes and 30 seconds to deliver it. So, if you fellows promise to read it on your own, I won't read it today.

ASSEMBLYMAN BORNHEIMER: We promise.

MR. LIEB: I would just like to make a couple of points.

We are opposed to a state fund. Besides many other reasons, we oppose it primarily because we don't feel that government should be in competition with private industry.

We favor a competitive rating system. If the insurance companies feel so deeply that they need the competitive rating system to survive, we would recommend that you approve such a rating system, at the least on a trial basis.

We favor changes in the No Fault law. Primarily, we would like to see a verbal instead of the current \$200 threshold.

Lastly, our Association fully supports the reinsurance facility as the solution to the residual and tight market. This is the same facility plan as recommended by Commissioner Sheeran.

Also, as part of our presentation, we have enclosed for your consideration a copy of the Competitive Rating law and an article on government as auto insurers.

We are about the only Association -- No company really supports this reinsurance facility and not too many associations support it. But, we have gone into it quite deeply and we, at this point, can find no better system.

ASSEMBLYMAN BORNHEIMER: Has your organization done some research?

MR. LIEB: We have sent a delegation - two fellows each - to Massachusetts, North Carolina, South Carolina, and Florida. Florida is the only state that has a JUA. We have been trying to get it right from the horse's mouth as to whether the agents like or dislike the plan, or the facility.

One of my friends here who has been opposed to a reinsurance facility says, "Truthfully, Jerry, the resident managers I have spoken to in both North Carolina and Massachusetts both like the facility. They think it is working fine and they think it is the best thing possible."

ASSEMBLYMAN BORNHEIMER: Very good. Are there any further questions?

(no questions)

Thank you, Mr. Lieb. Mr. Davies.

J A M E S D A V I E S: I am Jim Davies, an insurance agent from Scotch Plains and I am President of the Mutual Agents Association. We are against the State fund also. I would just point out that in the areas of the three provinces of Canada and Maryland where there have been deficits they have had to be made up either through a gasoline tax and/or a subsidy to the voluntary market.

Likewise, we concur with a study of No Fault. We concur with the change in the classification and territorial program.

The one thing I would suggest is, you had a meeting here on June 16th and you have had this meeting and I realize that this is a political year and a tough thing to do but I think it is time to bite the bullet and take the bull by the proverbial horns, so to speak, and go forward and come up with something which is meaningful to the public because the agents and the public are caught right between the government and the companies who are sitting on either side of the fence and neither is about to give. That is all I have to say.

ASSEMBLYMAN BORNHEIMER: Do you favor a reinsurance facility?

MR. DAVIES: No, we favor the JUA.

ASSEMBLYMAN BORNHEIMER: The JUA?

MR. DAVIES: Yes.

ASSEMBLYMAN BORNHEIMER: Why is that?

MR. DAVIES: Well, like Mr. Lieb, we went to the various states. Basically,

we feel that the good driver should not pay for the bad driver. And, in a facility where you have the one rate system, the good driver ends up subsidizing the bad risk in many instances.

Also, we just feel that the two-tiered system is better than the one-tiered system, although those who have a clean record should be paying the same as those who have a clean record on the voluntary market.

ASSEMBLYMAN BORNHEIMER: Thank you very much.

Mr. Lubowicki.

EDWARD LUBOWICKI: Mr. Chairman, I am sure we all agree that the thing that has contributed the most to giving this country the highest living standard in the world is our free enterprise system. I think we also agree that anytime any form of government puts itself in direct competition with free enterprise and wins, we have all lost a certain measure of our freedom.

It is a known fact that politicians in and of themselves have nothing to give other than what they can take from someone else. The concept of a state owned insurance company has been tried and has been found wanting. We only have to look at the State of Maryland and see the sad state of affairs there where the state-owned insurance company is now asking private enterprise for another \$4.7 million to prevent them from slipping into bankruptcy. We know that free enterprise works better without a bureaucratic albatross hanging around its neck, and a state owned company would be freely subsidized by tax dollars.

We are also faced with a Department of Insurance who has reached the point where they think more in terms of being adversaries of insurance companies than doing as much as possible to make the insurance climate in New Jersey conducive to sound business.

The Department of Insurance should be doing everything possible to encourage insurance companies to do business in our State. At the present time we are doing everything to chase them. The various alternatives that the Department of Insurance has come up with to rectify our problems have all been tried, have all been wanting, completely lacking in imagination, and it seems that in the rhetoric that we hear from Commissioner Sheeran the one thing that tends to be overlooked completely is the free enterprise system. As an example, if we did permit open rating in the State of New Jersey and encouraged a number of companies to come here, I am very sure that competition, ultimately, would work to the advantage of the buying public.

As a check and balance, if the State retains a very tight control of the Automobile Insurance Plan as it is constituted presently, that in itself will act as a brake on rampant rate increases. For instance, right now the Automobile Insurance Plan rates have been used in many, many instances to actually compete with policies on the voluntary market.

If we were going to crystalize our problems here in New Jersey, they would be, first, an inability of insurance companies to make a profit in New Jersey resulting in a constriction of the voluntary market. Companies are just not out there knocking on the doors to write auto policies because they are losing money on them.

Our second problem is a Department of Insurance which is obviously politically motivated and is more interested in this "adversary posture" than it is in making a true search for answers to the problems.

Our third problem is that we have unlimited medical payments for insureds in private autos at a time when medical costs are soaring.

Our fourth problem is a very, very unrealistic soft tissue threshold of \$200.

We have put insurance companies in a position where on one hand they are supposedly writing "no fault" insurance, but are also leaving the door open toward the same number of lawsuits. This puts us in a position where we are neither fish or fowl. We are also faced with the spiraling medical costs along with the tremendous increases in automobile repairs.

It would seem to me that if the Department of Insurance would attack this problem from a somewhat different angle, we can come up with a solution to make it easier for insurance companies to function.

1. I think we all know that the \$200 threshold is absolutely ridiculous.

2. In addition to that, we also know that the casualty companies that are paying these hospital bills, in most instances, are paying more on a per diem basis than the Blue Cross and I, for one, would be interested in knowing why this situation exists. Why do we have to help subsidize people who happen to be insured by Blue Cross?

3. Another area to look at is the possibility of licensing automobile claims adjusters. In many instances we have cases where a claims adjuster working in collusion with a body shop will make estimates considerably higher than perhaps they should have been. We also have the instances of the attorneys who will inflate medical bills far beyond what they normally should have been. Claims departments will see the same attorneys referring clients to the same cooperating doctors. These whings are all figured in our loss experience. Therefore, I believe one of the big areas that is open would be the adjustment of claims, a ceiling on the PIP, and finding a way to keep our costs within reason.

In retrospect, we all know the basic purpose of no fault was to keep insurance costs down and eliminate nuisance lawsuits. This has not happened. The lawyers and doctors have found a way, under our low ceiling, to absorb the first \$200 almost immediately by sending an injured party to a doctor for five to ten visits with a minimum fee of \$20 and are, therefore, already over the \$200 ceiling. We suggest, very strongly, a ceiling of \$2,000, minimum. If we have a ceiling of \$2,000 it will make it at least a little more difficult to inflate the medical bills. This will help bring down the average claim cost. The other avenue we looked at was a ceiling on no fault. We are recommending a mandatory minimum limit of \$50,000 on medical bills. If the public wants higher limits, we are recommending that they have the ability to buy additional increments of \$50,000, up to a maximum of \$250,000 at additional cost. I am certain that the majority would probably be content with the minimum.

I would like to speak about the misconceptions regarding the New Jersey Automobile Insurance Plan. I have heard from the newspapers and Commissioner Sheeran that the Automobile Insurance Plan is socially unacceptable. I have found this to be totally false. When a prospective insured comes into my office, or any broker's office, and we explain the difference between Supplement One and Supplement Two, he does not walk out with the feeling that he is a "bad" driver if we place him in Supplement Two. This is his way of purchasing insurance at competitive rates.

Auto insurance rates are higher than the voluntary market. As I stated earlier, there are many, many instances where the automobile insurance rates through the Assigned Risk are at least equal and sometimes lower than on the open market. If this is explained to the prospective insured and we can show him comparisons, often the insured would rather go into the Auto Plan than with a voluntary company to avoid underwriting problems. I have had many instances similar to this where an insured changed from a company and was insured through the Automobile Plan with reduced rates.

The misconception of claims handling through the Automobile Plan-- I find, upon speaking with brokers in the State of New Jersey, that claims are handled just as promptly with the Plan as with the regular companies. All you have to do is call the insurance company, tell them there is a claim, and they will get an adjuster out as soon as possible. I have had no problems regarding the Automobile Insurance Plan's claims compared to the open market claims.

Companies are making a high profit. When the Gateway problem came to a head Commissioner Sheeran said, "We will not use New Jersey premiums to pay Florida claims." Should companies make money in other states and use part of it to subsidize New Jersey? That is what is happening today. In the Insurance Advocate, in the New York Times, and other periodicals, we see where the Maryland plan is a monstrous failure. Right now they are asking for almost 100% increase. We have to be progressive in this State, with new ideas and not look at other states with the same mundane ideas. I am hoping, gentlemen, that you will hear me with an open mind and will try to do something where we will be the innovators rather than the followers.

In closing, despite all that has been said here today, the fact still remains that since April, 1971, when rates were initially frozen, and when liability rates were reduced 15% as of January, 1973, and with all the rate increases in 1975, insurance rates have not kept abreast of double digit inflation for this same period. I see no reason to have a state owned plan when we can keep the Automobile Insurance Plan or the Assigned Risk, as it is commonly known, and improve upon that for the benefit of all.

ASSEMBLYMAN BORNHEIMER: I would assume that your group prefers the facility as opposed to the other?

MR. LUBOWICKI: We prefer the open competition rating.

ASSEMBLYMAN BORNHEIMER: Open rating, yes, but I am talking about the facility as an alternative.

MR. LUBOWICKI: Yes, rather than the JUA.

ASSEMBLYMAN BORNHEIMER: Thank you. Are there any further questions?

(no questions)

Our next speaker will be Mr. Hoonan.

H A R R Y A. H O O N A N: My name is Harry Hoonan. I am President of the Civic Club of Holiday City, Toms River, representing 33 hundred retired people.

I read a lot in the paper about Governor Byrne and Commissioner Sheeran refusing automobile insurance rate increases. I have now heard that Mr. Sheeran has approved a plan whereby changes will occur in the deductible applicable to comprehensive and collision insurance coverage. When a policyholder receives his renewal, he or she will now have a \$50 deductible. If he or she has \$100 deductible collision, it will be \$200. And, the premium of this particular insured went up over \$37.

Should they desire to continue with the \$100 deductible on the collision, coverage for their automobile, they should contact their agent. The additional charge for that will be \$28 per year. This all depends upon the location of their residence. It runs anywhere from \$28 to \$48. This policyholder's premium has increased for this year, if he continues at \$100 deductible, \$28, plus the \$48 which brings it up to approximately \$65 and he is getting less coverage. Now he also has to pay for a number of years and instead of an annual premium, he now has to pay it semi-annually.

The only information we can get on this is that they are anticipating that they are going to get a raise. Heretofore, when they had the annual premium and they were granted a raise, they did not raise the premium until the anniversary

date of the policy. Now they are making them pay every six months. I don't think this is fair.

Also, all persons over the age of 65 who are injured in an automobile accident are paid - their medical expenses - by Medicare, not by the insurance company. I know of two cases. One case was over \$16,000 and Medicare paid this. The other case was over \$7,000. And they have to pay this increase. In Ocean County alone there are between 70 and 75 thousand retirees and they don't get any deduction in their premium. Medicare is increasing their monthly premium - both the man and his spouse - so they get hit both ways.

We hope that this committee will take this under consideration and give it serious thought. We thank you for the opportunity to appear here.

ASSEMBLYMAN BORNHEIMER: Thank you, Mr. Hoonan. Thanking you for bringing to our attention the fact that insurance companies are writing six month policies rather than writing full year policies and also the fact that the deductible was increased to \$200, rather than \$100. I don't think the public in general is aware of that.

MR. HOONAN: Nobody was aware of it until they received their notice.

ASSEMBLYMAN BORNHEIMER: Until they got their renewal, right.

MR. HOONAN: It states right here that the Banking and Insurance Commission allowed this.

ASSEMBLYMAN BORNHEIMER: The Commission had approved it?

MR. HOONAN: So, why didn't they put it in the paper and let us know about it?

ASSEMBLYMAN BORNHEIMER: That is something I have to take up with the Commissioner.

MR. HOONAN: I can't see why it can't be paid annually.

ASSEMBLYMAN BORNHEIMER: Well, I think you put your finger on it. They are looking for an increase and if it happens in six months they will sock it to you.

MR. HOONAN: That is all it is for. Thank you.

ASSEMBLYMAN BORNHEIMER: Thank you, Mr. Hoonan.

James O'Connell.

J A M E S O' C O N N E L L: First of all, Mr. Bornheimer, let me congratulate you. I have been sitting here for one hour and I have - ladies, if you will excuse me - never heard more bullshit than I have heard in the last hour. I am sorry but I am a private citizen from Freehold and what I have heard up until now, with the exception of one gentleman from an insurance company, does not - none of it - make a damn bit of sense.

Now, as I understand it, from Mr. Kozloski, you want to know how the law should be changed.

ASSEMBLYMAN BORNHEIMER: Yes, we are looking for recommendations.

MR. O'CONNELL: Fine. I have a recommendation and the recommendation is on one very simple premise: If you foul up, you fix up. I am Mr. John Citizen himself and I am damn sick and tired of subsidizing negligence. It is quite simple. The insurance companies, in the future, would rely upon the Department of Insurance and the Motor Vehicle Department for its correct information.

Now, this is, of course, assuming that you can get Mr. Waddington off his big, fat butt. I have right here a letter to Mr. Waddington in which I applied - this is just a side comment - on the 1st of January for nothing other than an original and two family duplicates. I got a rejection notice back saying I sent too much

Testimony of Selected Risks Insurance Company before New Jersey Assembly
Committee - Commerce, Banking and Insurance - February 16, 1977

My name is Norman DeNeef and I am Manager of the Automobile Underwriting Department for Selected Risks Insurance Company of Branchville, New Jersey. We are a medium sized domestic stock insurance company writing multiple lines insurance with a volume in 1976 of slightly in excess of \$78,000,000, 65% of which is written in New Jersey or approximately \$52,000,000. Of that New Jersey volume, \$32,000,000 is motor vehicle coverage both commercial and private passenger and we write slightly under 4% of the New Jersey private passenger car business. In other words, we write about one private passenger vehicle of each twenty-five insured in the State, so we have a parochial if not desperate interest in the current insurance crisis in this State.

I wish to thank the Committee for allowing us to give this very short testimony which I am sure will be much more effectively presented by others today. However, we do ask that you recognize that we, along with the other domestic companies, have an unparalleled interest in today's problems with New Jersey No-Fault since solution is to us survival and not merely a shift to another arena.

I have only four points to submit for your consideration for improvement in our No-Fault Law and they are attached. I shall merely comment very briefly on each. It must be recognized, however, that these suggested revisions and others which may be presented will not, in and of themselves, be more than one in a series of steps which you must consider in working toward a resolution of our current availability and affordability problems but, they are, we believe, a significant first step.

1. Revision of "Threshold"

We think that all other changes in the current No-Fault Law must be considered secondary to a substantial revision in the current threshold and that this should be accomplished without a concomitant reduction in rates until its effect has been measured by actual experience. Failure to secure an effective threshold will, in our opinion, eventually require a reduction in benefits if affordability is to be maintained. Our proposed revision in the threshold language follows:

There shall be no exemption from tort liability if the injured party has sustained death, permanent significant disfigurement, permanent loss of any bodily function or loss of a body member, or more than 90 consecutive days of total disability, regardless of the right of any person to receive benefits under Section 4 of this act. "Total disability" as used in this section means medically determinable impairment which prevents the victim from performing substantially all of the material acts and duties which constitute his usual and customary daily activities.

2. Revision of Circumstances under which an Eligible Injured Party is Entitled to Receive First Party Benefits

We do not believe it was ever the intent of the legislature to permit recovery of No-Fault benefits by occupants of other than private passenger vehicles. There have, however, been recent cases in New Jersey, the most significant of which was the case of Hoglin vs. Nation-wide Insurance Company, in which the Appellant Division of the New Jersey Supreme Court permitted a motorcycle occupant to recover PIP benefits. It is imperative that the legislative intent be clarified, if we are not to extend the No-Fault Law to all vehicles. We, therefore, propose the following change in Section 39:6A-4 of the Insurance Law:

Every automobile liability insurance policy insuring an automobile as defined in this act against loss resulting from liability imposed by law for bodily injury, death, and property damage sustained by any person arising out of ownership, operation, maintenance, or use of an automobile shall provide additional coverage, as defined herein below, under provisions approved by the Commissioner of Insurance, for the payment of benefits without regard to negligence, liability, or fault of any kind, to the named insured and members of his family residing in his household who sustained bodily injury as a result of an accident while occupying or using an automobile, or through being struck by an automobile while a pedestrian, to other persons sustaining bodily injury while occupying or using the automobile of the named insured with the permission of the named insured and to pedestrians, sustaining bodily injury caused by the named insured's automobile or struck by an object propelled by or from such automobile, etc.

3. Revisions to Include Out of State Private Passenger Vehicles Operated in New Jersey under Our No-Fault Statute

At the present time, our No-Fault Statute only requires coverage for private passenger vehicles registered or principally garaged in New Jersey. We are, however, a corridor state and our highways are used to a large extent by out of state travellers. Accidents involving such vehicles and New Jersey cars often result in litigation, which could be reduced by the tight threshold listed above, plus a requirement that the insurer of the out of state vehicle be required to provide coverage equal to New Jersey No-Fault whenever their insured is driving on a New Jersey highway. Several other states have this provision in their No-Fault Statutes and we believe it to be desirable here.

4. Enactment of S1380

We have, since its introduction, worked for the passage by the legislature of S1380, which would cap an individual company's obligations for payment of No-Fault benefits at \$75,000, the remainder to be shared by all carriers through the UCGF. This Bill would be particularly helpful to us and offers, we believe, a desirable alternative to limiting the benefits available to the insuring public. It would have the result of reducing our reinsurance costs while, at the same time, preserving the level of benefits which we believe the legislature intends to continue to make available to New Jersey policyholders as long as possible.

We wish to thank the Committee for your favorable consideration of this piece of legislation and solicit your efforts to assure its passage when it is again voted upon in the Assembly. We recognize that there are interests opposed to such passage, but we ask that you consider the special concern of smaller domestic insurers in this matter, as it will be of particular assistance to us while doing no harm to the interests of the larger non-domestic companies.

STATEMENT OF
JOHN J. NANGLE, COUNSEL FOR
NATIONAL ASSOCIATION OF INDEPENDENT INSURERS
BEFORE THE
COMMITTEE ON COMMERCE, BANKING AND INSURANCE
IN THE ASSEMBLY OF NEW JERSEY
ON A. 1670
FEBRUARY 16, 1977

My name is John J. Nangle and I represent the National Association of Independent Insurers, a voluntary trade association of over 400 insurers. Our organization provides a representative cross-section of the property/casualty insurers in the United States. One hundred of our member companies write automobile insurance in the State of New Jersey.

For many years the Automobile Insurance Plan in New Jersey has been servicing drivers unable to otherwise obtain auto insurance. Responding to criticism over the years, the Plan has broadened its program substantially. It has:

- (1) Reduced eligibility requirements to absolute minimums. (Possession of a valid drivers license and payment of the premium are all that are required to obtain coverage).
- (2) Provided for installment payment of premiums.
- (3) Increased limits of liability.
- (4) Provided coverage for physical damage to vehicles.
- (5) Provided medical payments coverage.
- (6) Provided uninsured motorist coverage.

Today, the Plan still faces opposition about such items as rates, service, visibility, size and composition, and stigma.

In response to this, some alternatives have been suggested including the "state fund" concept.

The state fund envisions takeover by the state of the function of insuring automobiles in the residual market or, in the extreme, the entire function.

The idea has already been tried in Canada and the United States. The Provinces of British Columbia, Manitoba and Saskatchewan have taken this course of action. A striking example of the Canadian experiment is in British Columbia where the Insurance Corporation of British Columbia (ICBC) in 1974 took over the writing of all automobile insurance in the Province.

The ICBC hired over 1,800 employees and set up some 20 servicing centers with land and building costs averaging some \$1.2 million per site.

Today after less than three years of operation, the current government has announced that private insurance companies will be allowed back in the automobile insurance market as of March 1, 1977. The ICBC at this same time announced that having been in the red from the beginning with inadequate rates and having suffered a 15 week strike by ICBC employees, rates would have to be increased an average of 121%.

The Minister in charge of the ICBC went on to say, "There will be no subsidies from the government now or in the future. The government has other priorities than to subsidize automobile insurance."

The experiment in Canada has failed as has the only such experiment in the U.S., the Maryland Automobile Insurance Fund (MAIF).

In Maryland in 1971, the situation for the insurance industry was not too unlike circumstances in some states today. The Maryland insurance industry had not had a rate adjustment since 1967 and the 1969-1970 experience was bad. As a consequence of companies' business judgment that they could no longer write large amounts of business at 1967 rates, the Assigned Risk Plan population was increasing rapidly although it was still less than 8% of the state's insureds. There was, however, considerable political pressure to change the insuring process for the residual market because of this steady deterioration. As a result, the legislature in 1972 created a state fund for the residual market.

In 1973 it replaced the Assigned Risk Plan, but unlike the original plan in British Columbia, the private insurance industry was allowed to continue to write in the voluntary market. The proponents of the state fund argued that it could write the business in the residual market more efficiently and at a lower cost than private industry. The initial Fund rates reflected that belief.

In the first year of operations (1973) MAIF, insured 170,000 people and paid out \$9 million in claim settlements, but in the second year (1974) the number of insureds dropped to 145,000 and \$27.5 million was paid in claim settlements giving the Fund a net underwriting loss of \$15.4 million.

The first MAIF rate increase of 34% was in 1975. A second request for a 79% increase in 1976 was reduced to 38% by the Commissioner of Insurance.

It was becoming obvious at that time that MAIF was in real difficulty for, if its then current pattern of expenditures continued, it would run out of cash before the end of the year.

To prevent MAIF's bankruptcy, several legislative alternatives were proposed including converting to a Joint Underwriting Association. The private industry had a big stake in MAIF's future because its insolvency would be covered by the Maryland Insurance Guaranty Fund and all insurance companies writing automobile insurance in Maryland would then be assessed for MAIF's losses.

For political reasons MAIF was mandated to continue in existence. Any other alternative would be an admission of defeat by MAIF's original proponents. However, in order for MAIF to continue, legislative amendments were passed which require the private industry to subsidize it up to 4% of net direct written premiums. There is a recoupment provision enabling insurers to pass assessment (anticipated to be \$9.1 million in 1977) on to policyholders as a separately identified charge on each policy.

The inescapable conclusion of the Maryland experience is that state funds for the residual market do not work any better than Assigned Risk Plans and are much more costly to operate (approximately \$12 million in 1976 and estimated to be \$14 million in 1977).

It is readily apparent from the above facts that a state fund proposal is an extremely costly and complicated alternative to the present residual market device in New Jersey. We urge this Committee to consider another alternative as a possible solution to the problems here. A Joint Underwriting Association will help solve the problems in New Jersey without the creation of a costly state bureaucracy. A Joint Underwriting Association (JUA) is a loss pooling arrangement for the residual market under which all insurers writing automobile insurance in the state are members of the Association and participate on an equitable basis in the operating results.

Policies are issued by servicing carriers in their own name, on a family type policy, which includes a condition that liability is that of the JUA rather than the servicing carrier.

Servicing carriers are volunteer companies which meet the stringent requirements of competence set by the Board of Governors under the plan of operation. They are reimbursed fully for paid losses, for expenses on a formula basis and are provided a modest service fee (1% in Florida) for providing service in the place of the companies not acting as servicing carriers.

JUA provides that every licensed producer be appointed to a servicing carrier of his choice--one which utilizes the same marketing system in which he normally operates.

All servicing carriers charge the same rate and pay the same commissions for servicing carrier business. The rates reflect the experience of the residual market and can provide for partial subsidization by the voluntary market consistent with the policy of the State Insurance Department.

Coverages provided through JUA include Bodily Injury and Property Damage Liability, No-Fault coverage, Medical Payments, Uninsured Motorists and Physical Damage. Installment plans are available and producers can provide instant binding through their servicing carriers.

JUA provides a practical solution to the residual market problem that addresses itself directly to the residual market and does not involve a disruptive departure from the proven present competitive mechanism which serves the vast majority of auto owners so well. Such an association that isolates and spreads it equitably over all automobile insurers who are allowed to pass it through to the voluntary market would seem to be the best solution.

We urge this Committee to seriously consider the Joint Underwriting Association as the only practical alternative to the residual market problem.

SHOULD THE GOVERNMENT SELL INSURANCE ?

Statement of American Mutual Insurance Alliance

Submitted to:

New Jersey Assembly Standing Committee
On Commerce, Banking and Insurance

February 16, 1977
Trenton, New Jersey

The American Mutual Insurance Alliance (AMIA) is a national association of more than 100 mutual companies providing automobile, homeowners, workers' compensation and other forms of personal and business insurance. Many of our member companies provide coverage for the New Jersey insurance-buying public.

The purpose of the testimony being offered to you today is to examine the feasibility of the state of New Jersey entering the business of selling insurance -- whether it be auto insurance, property insurance or workers' compensation coverages.

Let me begin by outlining some of the basic considerations which must be carefully examined prior to any state's decision to enter into the insurance business:

1. To whatever extent a government entity assumes a function otherwise handled by private industry, it must lose a pro rata share of tax receipts it would otherwise have.

2. It is important to recognize that governmental entities going into any business may not avoid sound business practices, merely by reason of their entity.

3. The objective of any state insurance fund or state company funds is that the money collected will be available for its purposes. However, the existence of any large funds makes it subject to being "raided", or used for other purposes.

For instance, in recent years, the Wisconsin legislature transferred \$5 million from the Wisconsin Insurance Fund to the general fund as a means of achieving a balanced budget.

This is not to suggest that the Wisconsin Fund's money was not properly transferred. Such a determination involves an analysis of many factors. However, the lesson to be drawn is that any large fund in existence, no matter how long in tradition, or whatever its purpose or form, is subject to use for purposes considered more pressing. The Wisconsin State Insurance Fund has been a source of "borrowing" to build state buildings including Wisconsin's state office building and an orthopedic hospital.

This fact suggests that either the Fund was misconceived as to the amount of money it needed to pay claims or that its integrity was impaired for the purposes originally intended.

4. It is difficult for one administration to predict that its successors will be as competent as it may have been. If a later administration were near its debt limitation, and major losses or raiding or a combination thereof wiped out the insurance fund, there might not be a way to replace property which was insured or pay outstanding claims.

It is entirely possible that government insurance administrators might be as expert as private competitive insurers. Moreover, experience shows that the investments of state insurance funds are usually handled by an official or group of officials whose other duties prevent full-time application to that essential job.

5. As regards property insurance, the inspection and engineering services of well-run insurance companies aid the policyholder in saving on premium costs by maintaining good accident prevention and safety standards. Experience shows that when government goes into the insurance business, it tends to economize in the area of inspection and safety standards & accident prevention.

All in all, the available evidence indicates that failures of state funds

and state insurance companies have been the rule rather than the exception. They result in a great deal of public clamor from the press and the citizenry, aimed at those who instituted the government insurance schemes.

The originators of such programs are usually still on the political scene when trouble is most apt to occur, usually in the early years. In the past seventy years, twenty states have given state-run insurance schemes of one kind or another a try. Of these 20, eight have abandoned the idea, three others have reduced the funds to the status of small loss reserves and several of the remaining nine rely on private insurance for at least partial protection in the form of reinsurance from the private carriers.

New Jersey maintained a state-operated self insurance plan from 1913 to 1935 when it was abandoned. The state's existing insurance fund, the Unsatisfied Claim and Judgment Fund, has been in almost continuous bankruptcy.

Most recently, three Canadian provinces and the state of Maryland have ventured into the area of state-run insurance companies with sad results for consumers, legislators and regulators. The issue, then, is whether any of the perceived advantages of a state insurance company justify the expense of the operation of a complete insurance organization with all the consumer headaches and potential for miscalculation involved.

Listen to this quote from an angry resident of Manitoba, Canada where basic compulsory automobile insurance can be purchased only from the provincial government which in some cases raised premiums by as much as 75 percent:

"The worst feature of all this is that no one can control it. If private business treated the public this way there would be an outcry for government intervention".

This man was one of nearly 4,000 Manitobans who responded to a newspaper survey testing public reaction to the new rates. About 70 percent of these drivers said they thought the increases were not justified. But because the basic auto insurance is a government monopoly, there is little the motorist can do except pay or lose the right to drive.

Known as Autopac, the Manitoba plan replaced private automobile insurance in 1971. It is not unique. Similar monopoly programs were set up by provincial governments in neighboring Saskatchewan in 1946 and in British Columbia in 1974. In British Columbia, the government monopoly is total. In the other two provinces, the government monopoly covers the basic required auto insurance. As to additional optional coverages, the government and private insurers compete.

So far there are no government monopolies selling auto insurance in the United States. But one state -- Maryland -- presently markets auto insurance through a special fund set up by law in 1973 over the protests of the insurance industry which warned it would not work or pay its way. The law provides that "the Fund shall insure all persons requesting automobile liability insurance who have either been denied coverage by two private insurers or had their policy cancelled or non-renewed, for any reason other than non-payment of premium".

Today, however, the Maryland Fund is failing to function as anticipated by its well-meaning founders. By the end of its second year of operation it

had lost millions of dollars. And despite a rate increase of from one-third to one-half more in 1975, additional rate increases have since become necessary. In early 1976 the MAIF requested nearly an 80 percent increase, later settling for only a 36 percent hike.

Even with increases, MAIF has found it necessary to ask for financial help from the private insurance industry in the form of legislation requiring private auto insurers and their policyholders to make up from MAIF losses through an assessment process. Under this system private insurance companies through its policyholders provided about \$9.1 million in 1976 to keep the state fund afloat.

Despite such difficulties on both sides of the border, there still are some who believe auto insurance might better be provided by some government entity -- perhaps a monopoly with private enterprise prohibited in much the same way competitive postal services are outlawed.

Would such a system work in the U.S.?

A question such as this may well be answered by public reaction and experience in Canada under the three provincial monopolies. They are current real situations showing what the U.S. motorist might find under similar circumstances.

Here are some of the key issues involved, according to reports from various sources including consumer surveys, statements of government officials, and news items and editorials in the press.

Can a government monopoly provide consumers adequate insurance protection at rates lower than those charged by private industry ?

Experience in Canada indicates that governments have no magic formula when it comes to holding down the cost of insurance. Government can gain some advantages by not paying its share of certain taxes or other assessments on the business it appropriates from the private sector, which private insurers must pay. However, government still must cope with inflation and other problems affecting cost, just as do private insurers. In this respect, government generally appears less capable than industry. But precise measures of comparison are difficult, especially when government audits its own programs.

In Saskatchewan, where the rural province's auto insurance monopoly has operated since the 1940s, insurance premiums have increased about 135 percent in the last reported ten-year period. During this same time in more densely populated provinces without government-operated systems, the increases have averaged only two-thirds as much.

In Manitoba, where the government plan has been in operation since 1971, motorists already have been faced with two substantial rate increases. These came despite earlier promises that no rate increase would be permitted until after 1975. In 1974 -- just after the provincial elections, local observers note -- motorists were billed for an 11 percent increase on basic required coverages and a 19 percent increase on optional extension coverages. Then, in early 1975, the government announced a further general rate increase ranging from 11 to 24 percent.

The Winnipeg Free Press, however, reports that the increases ranged considerably higher for many motorists -- between 20 to 75 percent for one-third of the vehicle owners.

In British Columbia, where the government began selling insurance in 1974, auto insurance rates were reduced initially by 15 to 20 percent. But, after losing millions of dollars in the first year of operation, the state found it necessary to enact a 10-cent-a-gallon gasoline tax to subsidize its insurance plan. However, since none of this tax money actually was placed in the Autoplan budget, the insurance monopoly continues to go into the red many millions of dollars. Finally, after suffering through a crippling three-month strike by all Autoplan employees (during which time no claims were paid) Autoplan was forced to raise its rates. In 1976 drivers in British Columbia were hit by record increases ranging from 100 to 200 percent.

When the Canadian automobile insurance monopolies were organized the people were promised the programs would be "self-supporting", that is, pay their own way. In point of fact, do premiums collected pay for all costs, including property damage repairs, bodily injuries, medical care and related costs, as well as administration ?

Obviously not, Canadian analysts claim. The real cost of administering the Saskatchewan automobile insurance plan is hidden, they contend, because the government office involved handles many other functions as well. Further, they contend, the cost to the public in lost tax revenues is considerable. The provincial insurance fund pays no income tax, and up until 1968, it did

not pay the premium tax of two percent which is paid by private companies in that province and elsewhere in Canada on all general insurance premiums. What this means, they say, is that taxpayers subsidize the plan.

In both Saskatchewan and Manitoba the direct cost of the government systems to the consumer is also difficult to calculate because premiums are collected a portion at a time and in different ways.

In Saskatchewan, for example, the automobile owner pays part of the insurance cost when he buys his annual license plates. If he has a late model car he will pay a premium of as much as \$142. If he wishes additional protection, which more than half the car owners do, he also pays a premium that varies according to the age of the car, the age of the driver and other factors.

Every driver, whether or not he owns a car, must also pay at least \$3 for insurance when he renews his drivers' license, which must be done annually. The standard fee for the drivers' license ranges up to \$22. Drivers who have had a record of driving convictions also may be obliged to pay additional insurance fees of up to \$300 per year.

In Manitoba, even with the large rate increases, approved in 1974 and 1975, it has been necessary to levy an extra two-cents-per-gallon tax on gasoline to help supplement insurance premium income.

In addition to gasoline tax revenue, other dollars coming out of the public's pocket to pay for the "self-supporting" Autopac include a \$15 drivers' license fee (up \$5 over the 1974 fee) and driving record demerit penalties ranging from \$100 to \$350.

After winnowing through the various rate increases, gasoline taxes and special charges socked to Manitoba motorists and even citizens who don't own automobiles, the Vancouver Sun concluded that "the myth that government insurance is cheap is gradually being shown to be just a myth".

The newspaper told its readers that if private companies had continued to exist in Manitoba and had raised their premiums by as much as 50 percent, the total bill would have been \$54 million. "However", the paper goes on to say, "under government insurance Manitobans will pay \$65 million in automobile insurance costs during 1975".

What about coverages ? Does government insurance provide the financial protection available to motorists in the private insurance market ?

In Saskatchewan the government program requires the automobile owner to purchase collision and comprehensive insurance with a mandatory \$200 deductible. But even though he must buy this coverage, it is of little or no value to him if he is the owner of an older vehicle worth only slightly more than the deductible amount. Under a private insurance system, of course, the owner of a low-value vehicle would have freedom of choice to buy or not buy this high deductible coverage.

In Manitoba the basic coverage includes a \$200 collision deductible and a maximum \$50,000 third party liability coverage. In both Saskatchewan and Manitoba, those who need additional financial protection must buy higher limits at higher rates.

Motorists insured under Manitoba Autopac's lowest or "pleasure use" rates

also forfeit the privilege of driving their cars to work.

When the family automobile is used even occasionally for transportation to and from work, the owner must buy the higher priced "all-purpose" insurance.

Manitoba truckers have found the government insurance policy issued to them is "really no insurance at all", as the Vancouver Sun reports. If their claims exceed the premiums they have paid, truckers are billed retroactively for the difference.

The basic coverages under British Columbia's Autoplan policy require a \$250 deductible for collision -- an amount which in the case of the low-value car makes the collision coverage almost worthless to the owner. Nevertheless, as in Saskatchewan, he is forced to purchase this coverage. Third party liability is limited to \$50,000. Again, to obtain broader protection, the motorist must purchase additional insurance at additional cost.

A public opinion survey of more than 10,000 members of the British Columbia Automobile Association indicates considerable public dissatisfaction with the benefits included in the government's Autoplan. Asked whether benefits under Autoplan are better, worse, or the same as under the former private insurance system, nearly 55 percent of those responding to this question thought Autoplan benefits worse. About 28 percent believed benefits to be about the same and only 17.4 percent replied that Autoplan benefits are better.

For years the private automobile insurance industry has been criticized because some high-risk drivers, such as those who have had accidents, are charged higher premiums than drivers in low-risk classifications. Under a government monopoly, who pays more and who pays less ?

Saskatchewan rates are level throughout the province. Thus, the rural driver, whose frequency of accidents is low, is paying the same premium as the motorist in urban areas where frequency of accidents is higher. In effect low-risk rural drivers subsidize their city cousins.

In Manitoba, motorists complain that "since Autoplan came in there isn't any good or bad driver (as far as rates are concerned)". Under its classification system Autoplan bases rates primarily on the kind of automobile the motorist drives. A good driving record does not protect the motorist against substantial premium increases.

Says the owner of a late model Chevelle, a motorist whose rate jumped substantially in one year: "I feel that the change in rates is very unfair to those people who have been driving for years without an accident".

Apparently the great majority of British Columbia drivers do not feel the government provides insurance in a more/^{equitable} or economical fashion when compared to the private insurance industry. A recent survey of more than 10,000 motorists there revealed that 73 percent are paying the same or -- in most cases -- higher rates than they paid for similar automobile insurance coverages under the private system. Married persons found they generally paid more under Autoplan. But single drivers and those under age 25 -- the age group responsible for the highest accident rate -- often paid less.

A majority of the respondents disapproved of Auto plan and more than 78 percent said private industry should be allowed to compete.

Does a government-run monopoly result in efficient, prompt service to the insurance consumer ?

It is difficult to measure efficiency as there are few statistical guidelines to assess the quality of performance. However, the general dissatisfaction of the public (over 70 percent of the thousands surveyed in Manitoba and in B.C. were unhappy with government insurance) is at least indicative.

In British Columbia, motorists are forced to pay their premiums 30 to 60 days in advance of the effective date of the insurance. On the other hand, if a refund is due the policyholder, he may be in for a long wait. Agents quoted in the Victoria Daily Colonist report that "all refunds on anything to do with government insurance aren't able to work their way through the system in less than three to four months".

Perhaps the most dramatic example of government vulnerability when it is the only source is the recent three-month employees' strike that shut down the Insurance Corporation of British Columbia. For weeks on end it was impossible for a motorist to have his car repaired under his insurance policy. Only those affluent enough to make cash payments to the bodyshop were in a position to get their automobiles back into safe working order.

Among the results:

An estimated 80,000 damaged automobiles went unrepaired. Many owners lost the use of their cars.

In other cases owners continued to use damaged vehicles. A good portion of these were unsafe and posed a real hazard on the roads.

Because the automobile repair shops were idle, hundreds of employees were laid off indefinitely.

Final settlement of the strike included a 40 percent wage increase for ICBC employees, putting further pressure on the British Columbia taxpayer.

As the Williams Lake Tribune comments: "While monopoly may be more efficient in theory, competition is the only guarantee of efficiency. In a competitive insurance market it is extremely unlikely that the auto body repair industry could have been paralyzed".

In the final analysis, only one question really matters -- a question which sums up all the others: How does the insurance consumer fare under a government-owned monopoly and how are his rights protected ?

In this respect the three Canadian provinces stand in sharp contrast to the private system effectively serving U.S. motorists.

In the U.S. each state has established an insurance department fully responsible to the public and to the legislature to protect consumer rights and to maintain fair and equitable treatment of the policyholder. Rates, coverages and company operations are strictly regulated to protect the consumer.

Under the Canadian monopolies the government is in effect regulating itself with no outside agency to safeguard the consumer's interest. And, if that consumer is dissatisfied, he is given no alternative source of insurance.

The consumer has lost a basic right: freedom of choice.

We urge you to carefully consider the many variables, problems and pitfalls

associated with state-operated insurance schemes and respectfully point out that there are other, more dependable means to solve the problems currently plaguing New Jersey insurance consumers.

These other approaches were outlined in a comprehensive study paper submitted by the Alliance to this committee last June. These suggestions included changes in the present rating law, the No-Fault law, the state Traffic and Consumer Protection laws. There are no magic, easy solutions to insurance problems and experience has shown that the insurance mechanism cannot be used to solve social problems without great costs to the vast majority of motorists who must pay higher costs to subsidize such programs.

Thank you for your time. I will be glad to answer any questions you may have or obtain for you the answers to questions I am not sufficiently qualified to comment on.

INDEPENDENT INSURANCE

WILLIAM J. DOYLE, Executive Vice President
(201) 572-5300

AGENTS OF NEW JERSEY



73 WOODBRIDGE AVENUE • HIGHLAND PARK, NEW JERSEY 08904

MY NAME IS JEROME LIEB. I AM PRESIDENT OF THE INDEPENDENT INSURANCE AGENTS OF NEW JERSEY, A FEDERATION COMPOSED OF 18 LOCAL ASSOCIATIONS REPRESENTING 5,080 ACTIVE PROPERTY AND CASUALTY PRODUCERS.

I AM HERE TODAY TO DISCUSS ASSEMBLY BILL NO. 1670, INTRODUCED BY ASSEMBLYMAN JACKMAN, THAT PROPOSES TO ESTABLISH "AN AUTO INSURANCE AGENCY BY THE STATE TO PROVIDE NO-FAULT INSURANCE AND LIABILITY INSURANCE TO THE MOTORING PUBLIC OF NEW JERSEY AT THE LOWEST FEASIBLE PREMIUM RATES."

WE ARE VEHEMENTLY OPPOSED TO THE CREATION OF ANY STATE-OPERATED FUND FOR PROVIDING AUTOMOBILE INSURANCE. SUCH PLANS HAVE BEEN ESTABLISHED IN MARYLAND IN 1972 AND PRIOR TO THAT IN SEVERAL CANADIAN PROVINCES, ALWAYS ON THE ASSUMPTION THAT GOVERNMENT CAN SERVE THE INSURING PUBLIC MORE EFFICIENTLY THAN PRIVATE COMPANIES; THAT BETTER SERVICE WILL BE ACCOMPANIED BY LOWER COST TO THE POLICYHOLDER. PAST EXPERIENCE HAS PROVED THAT THIS IS NOT THE CASE. THE MARYLAND EXPERIMENT STARTED OUT WITH LOW RATES AND A PROMISE OF GOOD POLICYHOLDER SERVICE AND IN A VERY SHORT TIME, THE FUND BECAME THE STATE'S LARGEST AUTO INSURER. HOWEVER, WITHIN A SCANT 3 YEAR PERIOD, POOR SERVICE AND SHARP RATE INCREASES CAUSED ALMOST 50% OF THE INSURED TO DESERT THE FUND. IN SPITE OF RATE INCREASES, THE FUND FOUND ITSELF IN AN EVER-INCREASING DEFICIT POSITION.

26x

OFFICERS: JEROME S. LIEB, C.P.C.U., C.L.U., President, Maplewood; RICHARD C. HARDENBERGH, Vice President, Haddonfield; STANLEY W. GREAVES, State National Director, Paramus; CHARLES S. STULTS, JR., Chairman, Hightstown; WILLIAM J. DOYLE, Executive Vice President. **EXECUTIVE COMMITTEE:** ALAN H. BROWN, C.P.C.U., Ridgewood; WILLIAM A. CARTY, JR., C.P.C.U., Barrington; TIMOTHY R. COAKLEY, Piscataway; IRWIN S. DIAMOND, Union; JEROME M. GREENBERG, C.L.U., Northfield; FRANK L. MAC CORMACK, Secaucus; WILLIAM O. MINTER, JR., Morristown; GEORGE K. PLASKET, JR., ...

EARLY IN 1976, THE MARYLAND FUND SOUGHT A 79.4% RATE INCREASE. ITS REQUEST WAS LATER TRIMMED TO 36.8%. WHEN IT BECAME APPARENT THAT THE FUND WAS IN DANGER OF BECOMING INSOLVENT, THE GOVERNMENT BEGAN NEGOTIATING WITH INSURANCE INDUSTRY REPRESENTATIVES ON A PLAN TO EITHER PRESERVE THE FUND OR FIND SOME OTHER WAY TO SERVE ITS POLICYHOLDERS. THE RESULT WAS A COMPROMISE MEASURE NOT ENTIRELY SATISFACTORY TO THE INDUSTRY THAT, IN EFFECT, MAKES THE STATE AND PRIVATE INSURERS PARTNERS IN OPERATING THE FUND. IT GIVES PRIVATE INSURERS MEMBERSHIP ON THE MARYLAND FUND'S BOARD OF DIRECTORS AND CALLS FOR CREATION OF A JOINT UNDERWRITING ASSOCIATION, A HIGH RISK DRIVER INSURANCE PLAN UNDER WHICH LOSSES NOT COVERED BY PREMIUM INCOME ARE SPREAD AMONG PRIVATE INSURERS DOING BUSINESS IN THE STATE. THE PRIVATE COMPANIES MAY MAKE UP FOR SUCH LOSSES THROUGH SURCHARGES ON ALL THEIR INSURANCE POLICIES. SO IT APPEARS LIKELY THAT THE PRIVATE INSURERS' POLICYHOLDERS, IN OTHER WORDS THE PUBLIC, WILL CONTINUE SUBSIDIZATION TO FULFILL THE ESSENTIAL EXISTENCE OF THE FUND.

BRITISH COLUMBIA SET UP ITS FUND IN 1974 WITH THE PROMISE OF "REASONABLE RATES FOR ALL". IT SOON BECAME OBVIOUS THAT RATES WERE INADEQUATE AND AFTER THE FIRST TWO YEARS, THE OPERATIONAL DEFICIT WAS ESTIMATED AT OVER \$200 MILLION. A CHANGE OF POLITICAL PARTY BROUGHT ABOUT RATE INCREASES OF UP TO 250% AND CAUSED THE OTTOWA JOURNAL TO SUM UP THE EPISODE IN THIS FASHION: "THE STUPIDITY OF RUSHING INTO GOVERNMENT CAR INSURANCE WITH RATES SET TOO LOW TO IMPRESS THE PUBLIC ON WHAT A BARGAIN IT WAS WILL NOW BE PAID FOR. OTHER PROVINCES SHOULD NOW BE MORE WARY ABOUT TURNING THE CAR INSURANCE BUSINESS OVER TO GOVERNMENT." EXPERIENCE WITH FUNDS IN OTHER CANADIAN PROVINCES IS ESSENTIALLY THE SAME, WITH INCREASING RATES AND HEAVY SUBSIDIZATION.

THERE ARE SEVERAL APPARENT REASONS WHY STATE FUNDS JUST WON'T WORK:

1) GOVERNMENT BY ITSELF LACKS EXPERTISE IN THE INSURANCE FIELD. NOT ONLY DOES THE GOVERNMENT OFTEN CHOOSE TO IGNORE BASIC UNDERWRITING PRINCIPLES, BUT EMPLOYEES TEND TO BE FAR LESS KNOWLEDGEABLE THAN THEIR COUNTERPARTS IN PRIVATE INDUSTRY.

2) GOVERNMENT HAS NO SPECIAL MAGICAL POWERS FOR REDUCING RATES. FOR POLITICAL PURPOSES, RATES CAN BE HELD DOWN THROUGH THE USE OF GENERAL TAX REVENUE, BUT WHY SHOULD TAX REVENUES BE USED TO CUT THE PREMIUMS OF THOSE WHO DRIVE AUTOMOBILES?

3) OPERATION ON A SOUND BASIS IS OFTEN HINDERED BY POLITICS WHICH CREEP INTO THE PICTURE INFLUENCING SOUND DECISION MAKING.

4) COMPETITION LEADS TO A MORE EFFICIENT AND LESS COSTLY OPERATION. GOVERNMENT, ESPECIALLY IN A MONOPOLY SITUATION AND BACKED UP BY THE PUBLIC TREASURY, HAS NO SUCH INCENTIVE.

5) FROM THE STANDPOINT OF THE CONSUMER, INSURANCE EXPERTISE AND SERVICE CAN BE OFFERED IN NO BETTER WAY THAN THROUGH THE INDEPENDENT AGENT.

THE ROLE OF STATE GOVERNMENT IS NOT SEEN AS ONE OF ENTERING INTO THE AREA OF PRIVATE INDUSTRY. HOWEVER, GOVERNMENT DOES HAVE A MOST POSITIVE PART TO PLAY, IN THE AUTOMOBILE INSURANCE PICTURE BY JOINING FORCES WITH PRIVATE INSURERS TO REDUCE TRAFFIC ACCIDENTS, TO LEGISLATE A MORE ACCEPTABLE NO FAULT LAW. WHEN ANY PERIL IS INSURABLE AND PRIVATE COMPANIES ARE WILLING AND ABLE TO SERVE THE MARKET, THERE IS NO NEED FOR GOVERNMENT TO BE THE INSURANCE PROVIDER. PRIVATE INSURERS ARE EVERY BIT AS CONCERNED AS GOVERNMENT WHEN IT COMES TO SPIRALING RATES AND MARKET LIMITATIONS. HOWEVER, THESE PROBLEMS CAN AND MUST BE SOLVED THROUGH THE CLOSE COOPERATION OF GOVERNMENT AND THE PRIVATE INSURANCE SECTOR - NOT BY A GOVERNMENT TAKEOVER OF THE AUTOMOBILE INSURANCE INDUSTRY THROUGH THE CREATION OF A STATE FUND.

THE CONSUMER MOVEMENT OF RECENT YEARS HAS SUCCESSFULLY CHALLENGED THE BUSINESS COMMUNITY TO BECOME MORE RESPONSIVE TO THE PUBLIC INTEREST. NOWHERE IS THIS CHALLENGE FELT MORE KEENLY THAN IN THE FIELD OF INSURANCE. PERHAPS THE ONE BASIC STATEMENT WE CAN MAKE ABOUT PUBLIC INTEREST IS THAT IT IS LONG TERM, WHEREAS PUBLIC OPINION IS TRANSITORY AND OFTEN NOT WELL INFORMED. WHAT MAY SATISFY THAT PUBLIC IN THE SHORT TERM: TOMORROW MORNING, NEXT MONTH, OR EVEN NEXT YEAR, MAY NOT BE WHAT IS BEST FOR THE FUTURE. THIS MEANS ACHIEVING A REASONABLE AND EQUITABLE BALANCE BETWEEN WHAT APPEARS TO BE CONTRADICTORY DEMANDS. ON THE ONE HAND, THE PUBLIC WANTS BROAD COVERAGES, LOW PRICES AND LIMITS ON THE INSURER'S UNDERWRITING PEROGATIVES. ON THE OTHER HAND, THE INSURER MUST BE PERMITTED ADEQUATE RATE LEVELS, REASONABLE SELECTION OF RISKS, AND REASONABLE PROFIT. THIS IS NECESSARY TO GUARANTEE A SOLID FINANCIAL POSITION, AND HOPEFULLY, TO FOSTER THE GROWTH NEEDED TO EXPAND CAPACITY AND TO ATTRACT NEW INVESTMENT CAPITAL TO THE INDUSTRY.

I WOULD LIKE TO TAKE THIS OPPORTUNITY TO NOT JUST OPPOSE A SITUATION, BUT RATHER TO OFFER SOME SOLUTIONS THAT WE BELIEVE CAN ALLEVIATE OUR PRESENT PROBLEMS FOR THE BENEFIT OF THE CONSUMER.

OUR MAJOR CONCERN HAS BEEN, AND WILL CONTINUE TO BE, OUR ABILITY TO PROVIDE AN INSURANCE MARKET FOR THE PUBLIC WITH A PRICE STRUCTURE COMPETING FOR THE BUYER'S FAVOR. OUR PRESENT RATING LAW, KNOWN AS "PRIOR APPROVAL", MAKES IT MANDATORY FOR ALL RATES TO BE FILED WITH, ANALYZED BY, AND APPROVED BY THE INSURANCE DEPARTMENT BEFORE BEING USED. THE RATING LAWS PRESENTLY IN USE WERE ENACTED MANY YEARS AGO AT A TIME WHEN THERE WAS VERY LITTLE, IF ANY, RATE COMPETITION IN THE PROPERTY AND CASUALTY INSURANCE BUSINESS.

DRAMATIC CHANGES TOOK PLACE IN THE PROPERTY AND CASUALTY INSURANCE BUSINESS IN THE 1950'S AND 1960'S. MULTIPLE LINE COVERAGES CAME INTO EXISTENCE

AND BROUGHT WITH THEM NEW RATING TECHNIQUES AND PROCEDURES. RATE COMPETITION BECAME WIDESPREAD AND THE NEED FOR REVIEW AND APPROVAL OF RATE FILINGS BECAME LESS IMPORTANT. IN FACT, THE LONG DELAYS INVOLVED IN REVIEWING THE DATA FILED IN CONNECTION WITH MAJOR RATE FILINGS MADE IT DIFFICULT TO KEEP RATES IN LINE WITH CURRENT CONDITIONS, AND THIS ALL TOO OFTEN RESULTS IN WHAT IS KNOWN IN THE BUSINESS AS A TIGHT MARKET SITUATION AND NUMEROUS COMPLAINTS FROM THE PUBLIC.

TIGHT MARKETS MAKE IT DIFFICULT FOR MANY PERSONS TO OBTAIN INSURANCE COVERAGE. WE INSURANCE AGENTS ARE TRYING DESPERATELY IN EVERY WAY POSSIBLE TO MAINTAIN INSURANCE COVERAGE FOR CURRENT CLIENTS. MANY OF OUR AGENTS WHO HAVE BEEN TERMINATED BY ONE OR MORE OF THEIR COMPANIES ARE TURNING TO THE "FIRE POOL", THE AUTOMOBILE INSURANCE PLAN, OR THE EXCESS MARKET. OUR ASSOCIATION IS CONVINCED THAT OUR PRESENT "PRIOR APPROVAL" RATING SYSTEM IS OUTDATED AND NEEDS CORRECTIVE MEASURES IN ORDER TO ALLOW THE INSURANCE COMPANIES AN OPPORTUNITY TO MEET THE ECONOMIC CHANGES IMMEDIATELY. ONE SOLUTION TO OUR PROBLEM IS THE COMPETITIVE RATING SYSTEM. THIS SYSTEM PROVIDES THAT COMPANIES MAY DEVELOP AND USE THEIR OWN RATES WITHOUT BEING SUBJECT TO PRIOR APPROVAL BY THE INSURANCE DEPARTMENT. COMPANIES ARE FORBIDDEN TO ENTER INTO RATE AGREEMENTS WITH ONE ANOTHER. THE LAW RELIES HEAVILY UPON COMPETITION IN REGULATING THE RATES IN THE PUBLIC INTEREST. THE INSURANCE DEPARTMENT, UNDER THE OPEN COMPETITIVE RATING LAW, HAS COMPLETE AUTHORITY TO UPSET ANY RATE WHERE IT IS DETERMINED THAT THERE HAS BEEN ABUSE OF COMPETITION OR THAT COMPETITION DOES NOT IN FACT EXIST. ANTI-TRUST PROVISIONS IN THE LAW PROVIDE FOR SERIOUS PENALTY FOR UNLAWFUL RATE AGREEMENTS. THERE ARE MORE THAN 200 INSURANCE COMPANIES WRITING PROPERTY AND CASUALTY INSURANCE BUSINESS IN THE STATE OF NEW JERSEY. NO ONE INSURANCE

COMPANY HAS MORE THAN 10% OF THE TOTAL BUSINESS WRITTEN IN NEW JERSEY, AND THE LARGEST TEN COMPANIES WRITE NO MORE THAN 40% OF THE TOTAL BUSINESS. IN ADDITION, THERE ARE VARIETIES OF INSURANCE COMPANY OPERATIONS. THERE IS THE MARKETING OF INSURANCE THROUGH INDEPENDENT INSURANCE AGENTS AND BROKERS. THERE ARE MARKETING METHODS READILY AVAILABLE TO THE PUBLIC THROUGH THE MEANS OF AGENTS EMPLOYED BY INSURANCE COMPANIES OR INDEED THROUGH THE WRITING ON A DIRECT MAIL BASIS OF INSURANCE POLICIES. IN ADDITION, THE MASS MARKETING OF INSURANCE IS AVAILABLE ON A GROUP BASIS TO EMPLOYEES OF MANY FIRMS AND TO MEMBERS OF UNIONS. THUS, IT CAN BE SEEN THAT THERE IS A WIDE SELECTION AND A GREAT DEGREE OF COMPETITION IN THE PROPERTY AND CASUALTY INSURANCE BUSINESS. THIS STRUGGLE FOR A PORTION OF THE INSURANCE MARKET PROVIDES THE BEST METHOD OF OBTAINING THE LOWEST POSSIBLE RATE COMBINED WITH INSURANCE COMPANY SOLVENCY THAT CAN BE OBTAINED. LET'S ALL KEEP IN MIND THAT PUBLIC UTILITY IS USUALLY A MONOPOLY AND NOT SUBJECT TO COMPETITIVE PRESSURES AND QUITE DIFFERENT FROM THE PROPERTY AND CASUALTY INSURANCE BUSINESS. THE SITUATION REGARDING INSURANCE IS MORE STATISTICALLY COMPLICATED.

SIXTEEN OTHER STATES HAVE SOME FORM OF COMPETITIVE RATING SYSTEM. THESE STATES ARE: CALIFORNIA, COLORADO, CONNECTICUT, FLORIDA, GEORGIA, IDAHO, ILLINOIS, MINNESOTA, MISSOURI, MONTANA, NEVADA, NEW YORK, OREGON, TEXAS, VIRGINIA AND WISCONSIN. WE FEEL THAT CHANGES ARE VERY NECESSARY TO CEASE THE SHRINKAGE OF OUR AVAILABLE MARKET AND THAT THERE REALLY EXISTS A DISTINCT DISADVANTAGE TO THE CONSUMER BY DEPRIVING HIM OF THE BENEFITS OF COMPETITIVE PRICING. I ASK YOU. "WHAT IS WRONG WITH THE PRINCIPLE OF ANY INSURANCE COMPANY PRICING ITS PRODUCT ACCORDING TO ITS OWN EXPERIENCE, PERMITTING THE NATURAL LAW OF COMPETITION TO BE THE CONTROLLING FACTOR" WE HAVE TAKEN THE LIBERTY

OF ATTACHING A PROPOSED ACT TO REPEAL PRIOR APPROVAL AND ENACT COMPETITIVE RATING. WE REQUEST YOU TO STUDY THE PROPOSAL. IT IS FAIR AND GIVES THE COMMISSIONER OF INSURANCE FULL AUTHORITY TO MAKE DETERMINATIONS.

IF THERE IS ANY FEAR ON THE PART OF THE LEGISLATORS, THEN WE SUGGEST THAT THE BILL BE PASSED ON A TRIAL BASIS FOR A YEAR AND A HALF PLUS AN ADDITIONAL YEAR AND A HALF BEFORE IT BECOMES EFFECTIVE. WHAT THE LEGISLATORS GIVE THEY CAN ALWAYS TAKE AWAY!

NO FAULT: OUR ASSOCIATION RECOGNIZED THE FULL IMPACT AND CONCEPT OF THE NO FAULT PLAN. WHENEVER ANYTHING IS NEW, EXPERIMENTATION TO ACCOMMODATE TO THE NEW LAW IS ALWAYS NEEDED AND THIS TAKES TIME. THE CONCEPT TO MAKE PEOPLE WHOLE BY IMMEDIATELY PAYING THEIR MEDICAL BILLS HAS WORKED FINE. MISTAKES WERE MADE AND THAT OLD PHILOSOPHY OF ARTIFICIALLY REDUCING THE RATES IS SOMETHING AT WHICH WE ALWAYS SHUDDER. AN ARTIFICIAL REDUCTION OF INSURANCE RATES THAT DOES NOT RESULT FROM THE FLOW OF THE MARKETPLACE CAN ONLY CREATE HAVOC. WITH THE INTRODUCTION OF NO-FAULT, THE LEGISLATORS INSISTED ON A 15% REDUCTION. WHILE IT IS NO PANACEA, WE BELIEVE IT TO BE FAR SUPERIOR TO THE TRADITIONAL REPARATIONS SYSTEM FROM THE STANDPOINT OF FAIRNESS AND SPEED IN THE WAY IT COMPENSATES THE AUTOMOBILE ACCIDENT VICTIM - ON A FIRST PARTY BASIS RATHER THAN A THIRD PARTY BASIS. LIKE ANY NEW PLAN, ABUSES ARISE AND RATHER THAN ELIMINATE THE PLAN, NEW IDEAS ARE DEVELOPED. WE HAVE ATTEMPTED TO STUDY SOME OF THE PROBLEMS THAT WOULD CREATE A BETTER ATMOSPHERE AND ATTEMPT TO KEEP THE RATES AS LOW AS POSSIBLE. UNDER OUR PRESENT SYSTEM, OUR NO FAULT LAW CONTAINS A \$200 THRESHOLD ON THE RIGHT TO SUE. THE IIANJ RECOMMENDS THAT THE INSURANCE COMMITTEE OF BOTH HOUSES CONSIDER ELIMINATING THE \$200. WE FEEL THAT THE

RIGHT TO SUE SHOULD BE ONLY FOR INJURIES THAT RESULT IN DEATH, PERMANENT, SIGNIFICANT DISFIGUREMENT, PERMANENT LOSS OF ANY BODY FUNCTION, OR LOSS OF A BODY MEMBER. I WOULD LIKE TO TAKE THIS OPPORTUNITY TO MAKE YOU AWARE THAT FLORIDA AND MICHIGAN LEGISLATORS RECENTLY DROPPED THEIR \$1,000 MEDICAL EXPENSE THRESHOLD AND IMPOSED A "VERBAL THRESHOLD" REQUIRING PROOF OF PERMANENT INJURY OR SERIOUS, DISABLING TEMPORARY INJURY. INDEED, IF THE THRESHOLD GOES TO \$1,000 NOTHING WILL CHANGE IN VIEW OF INFLATION OR OVERCHARGES TO REACH THAT THRESHOLD. ELIMINATION OF THE THRESHOLD WILL GIVE THE POOR, MIDDLECLASS, AND RICH, THE SAME OPPORTUNITY TO SUE. IF A POLICYHOLDER GOES TO THE CITY CLINIC AND PAYS \$75.00 AND ANOTHER GOES TO A REALLY GOOD HOSPITAL AND PAYS \$600 FOR THE SAME INJURY, THEY ARE BOTH ENTITLED TO SUE.

UNDER NO FAULT, THE PLAN INCLUDES UNLIMITED MEDICAL EXPENSES. THE MEDICAL PROFESSION MUST SURELY BELIEVE THIS MEANS UNLIMITED RIGHT TO CHARGE. MANY OF THE MEDICAL BILLS PAID BY INSURANCE COMPANIES ARE ABSOLUTELY RIDICULOUS. THESE CHARGES ARE HAVING AN ADVERSE AFFECT ON THE PLAN AND MANY SMALL COMPANIES. IN VIEW OF OUR ECONOMIC SITUATION AND NOT REMOVING COVERAGE FROM THE CONSUMER THE IIANJ RECOMMENDS A CAP BE PLACED ON THE MEDICAL PAYOUT AND THE BALANCE PAID THROUGH A REINSURANCE MECHANISM. THIS WILL STILL ENTITLE THE CONSUMER TO FULL RECOVERY. PRESENTLY THERE IS AN ADMINISTRATIVE BILL S1380 THAT PASSED THE SENATE AND HAS MOVED OUT OF THE ASSEMBLY COMMITTEE. WE URGE ALL LEGISLATORS TO SUPPORT THE BILL AND PASS IT ON TO THE GOVERNOR FOR HIS SIGNATURE.

WE, AND THE INDUSTRY, ARE IN FAVOR OF LOW PREMIUMS FOR AUTO INSURANCE. THE LEGISLATORS AND PUBLIC ARE IN FAVOR OF HIGH COVERAGE AND ADDITIONAL BENEFITS AND THAT'S FINE. UNFORTUNATELY, INSURANCE PREMIUMS ARE CONTROLLED BUT NO ONE CONTROLS THE FEES AND PRICES OF DOCTORS, LAWYERS, HOSPITALS, BODY SHOPS OR ANY OTHER ESSENTIALS THAT ARE INVOLVED IN THE COST OF SETTLING CLAIMS. HOW CAN

YOU HAVE LOW PREMIUMS IF THERE IS NO CONTROL ON THE COST OF SETTLING CLAIMS? WE SUGGEST THAT A BILL BE PREPARED TO ESTABLISH A REASONABLE FEE TO BE CHARGED FOR THE COMMON TYPES OF INJURIES ARISING OUT OF AUTOMOBILE ACCIDENTS. THIS FEE SCHEDULE COULD BE USED AS A REASONABLE GUIDE FOR PAYMENTS ON THE PART OF INSURANCE COMPANIES.

MR. CHARLES PARRY, MANAGER OF RELIANCE, SAID IT VERY PLAINLY IN A RECENT STAR LEDGER STORY, "THE INSURANCE INDUSTRY IS PRICE CONTROLLED BY THE STATE INSURANCE DEPARTMENT BUT OUR SUPPLIERS, THOSE WHO PROVIDE THE SERVICES TO OUR POLICYHOLDERS, HAVE NO PRICE CONTROL."

LAST, AND BY FAR THE MOST IMPORTANT, IS THE ELIMINATION OF THE AUTOMOBILE INSURANCE PLAN. THE A.I.P. (FORMERLY THE ASSIGNED RISK) WAS DESIGNED FOR THE POTENTIALLY BAD DRIVER. UNDER THE PLAN, THE POLICYHOLDER MUST FILE A SEPARATE APPLICATION, PRODUCE A SUBSTANTIAL DOWN PAYMENT, AND IS ARBITRARILY ASSIGNED TO AN INSURANCE COMPANY WHERE THE INSURED IS NOT TREATED AS A VALUED CUSTOMER, BUT RATHER AS AN ADVERSARY. THIS PROGRAM HAS DETERIORATED TO SUCH A POINT THAT THE SERVICE TO POLICYHOLDERS IS DEPLORABLE. DUE TO OUR TIGHT AUTO MARKET, THE PLAN HAS GROWN TREMENDOUSLY. RESIDENTS OF NEW JERSEY WRITTEN IN THE A.I.P. MUST BE CONSIDERED SECOND-CLASS CITIZENS. MANY OF THEM ARE DRIVERS WITH CLEAN RECORDS. BUT DUE TO OUR PRESENT TIGHT MARKET, THERE IS NO OTHER CHOICE. OUR ASSOCIATION HAS ADOPTED A POSITION IN SUPPORT OF A REINSURANCE FACILITY AS THE BEST ALTERNATIVE TO OUR PRESENT ASSIGNED RISK PLAN. THE REINSURANCE FACILITY IS AN ACT THAT WILL REQUIRE THE PROVIDING OF CERTAIN INSURANCE COVERAGES AND ESTABLISH AN INDUSTRY REINSURANCE ASSOCIATION. THE PURPOSE OF THIS ACT IS TO ASSURE TO THE PUBLIC, ACCESS TO AUTOMOBILE INSURANCE THROUGH NORMAL MARKET FACILITIES WHICH WILL PERMIT ALL LICENSED AUTOMOBILE INSURERS TO ACCEPT ANY ELIGIBLE RISK WHILE PRESERVING FOR EACH INSURED THE RIGHT

OF SELECTION. THE INSURED WILL NEVER BE AWARE THAT HE WAS CEDED IF PLACED IN THE REINSURANCE FACILITY.

A PATCHING JOB OF LIBERALIZING THE PRESENT AUTOMOBILE INSURANCE PLAN WILL NEVER ADEQUATELY RESOLVE ANY OF THESE PROBLEMS. PRODUCER REPRESENTATIVES AND PROGRESSIVE COMPANY EXECUTIVES ON CERTAIN PLAN GOVERNING COMMITTEES HAVE SUBSTANTIALLY ALTERED THOSE PLANS. BUT WE HAVE BEEN TREATING THE SYMPTOMS RATHER THAN CURING THE ILLNESS, AND THUS HAVE NOT SOLVED THE BASIC PROBLEMS.

THE REINSURANCE FACILITY WILL NORMALIZE THE MARKET TO THE EXTENT THAT ALL DRIVERS WILL BE AFFORDED THE SAME EQUAL TREATMENT ON RATES, COVERAGES, ACCOUNTING, BINDING, SERVICE, CLAIMS HANDLING, AND ALL OTHER IMPORTANT ELEMENTS OF AN INSURANCE TRANSACTION. KEEP IN MIND THAT ANY SUCCESSFUL PLAN MUST HAVE ADEQUATE RATES. OUR CONSUMER-ORIENTED SOCIETY CALLS TO OUR INDUSTRY, DIRECTLY AND THROUGH OUR REGULATORS, TO FURNISH THEM A BETTER PRODUCT.

BESIDES THE COPY OF THE COMPETITIVE RATING LAW, WE HAVE ATTACHED MATERIAL ON "GOVERNMENT AS AN AUTO INSURER" FOR FURTHER INFORMATION ON THE SUBJECT. OUR ASSOCIATION STANDS READY TO ASSIST AND GIVE ITS TIME AND KNOWLEDGE AT YOUR REQUEST.

I THANK YOU.

AN ACT to repeal and re-enact sections 17:29A-1 through 17:29A-20; and to repeal sections 17:29A-21 through 17:29A-32; to regulate insurance rates; to provide for standards applicable to rates; to promote and encourage competition among insurers on a sound financial basis; to authorize and regulate rate service organizations; to provide for examination and regulation of rate service organizations, and of joint underwriting and joint reinsurance organizations; to provide for the furnishing to the commissioner of rates and supplementary rate information; to provide for the appellate review of actions by the commissioner; and to provide penalties.

Be it Enacted by the Senate and General Assembly of the State of New Jersey:

Section 1. Sections 17:29A-1 through 17:29A-20 of the Statutes are repealed and re-enacted to read as follows:

17:29A-1. PURPOSES. - The purposes of this act are:

- (a) To promote the public welfare by regulating insurance rates to the end that they shall not be excessive, inadequate or unfairly discriminatory;
- (b) To encourage, as the most effective way to produce rates that conform to the standards of paragraph (a), independent action by and reasonable price competition among insurers;
- (c) To authorize cooperative action among insurers in the ratemaking process, and to regulate such cooperation in order to prevent practices that tend to bring about monopoly or to lessen or destroy competition; and
- (d) To encourage the most efficient and economic marketing practices.

17:29A-2. DEFINITIONS. - In this act, unless contrary to context:

(1) "Supplementary rate information" includes any manual or plan of rates, statistical plan, classification, rating schedule, minimum premium, policy fee, rating rule, rate-related underwriting rule and any other information used by an insurer in making rates.

(2) "Rate service organization" means any person other than a single insurer who assists insurers in ratemaking and rate filing by:

- (a) Collecting, compiling and furnishing loss or expense statistics;
- (b) Recommending, making or filing rates or supplementary rate information; or
- (c) Advising about rate questions.

The term "rate service organization" shall not include a joint underwriting association, any actuarial or legal consultant, any employee of an insurer, or in the case of insurers under common control or management, an employee of any such insurer or their manager.

(3) "Inland marine insurance" shall be deemed to include insurance now or hereafter defined by statute, or by interpretation thereof, or if not so defined or interpreted, by ruling of the Insurance Commissioner, hereinafter referred to as commissioner, or as established by general custom of the business as inland marine insurance.

17:29A-3. SCOPE OF APPLICATION. - The provisions of this act shall apply to all insurance on risks or on operations in this State, except:

(1) Reinsurance, other than joint reinsurance to the extent stated in Section 17:29A-13.

(2) Any policy of insurance against loss or damage to or legal liability in connection with property located outside this State, or any motor vehicle or aircraft principally garaged and used outside of this State, or any activity wholly carried on outside this State;

(3) Insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance policies;

(4) Accident, health, or life insurance;

(5) Annuities;

(6) Title insurance;

(7) Mortgage guaranty insurance; and

(8) Workers' compensation and employer's liability insurance written in connection therewith.

The provisions of this act shall not apply to hospital service or medical service corporations, investment companies, mutual benefit associations, or fraternal beneficiary associations.

17:29A-4. RATE STANDARDS -

(1) General. Rates shall not be excessive, inadequate or unfairly discriminatory, nor shall an insurer charge any rate which if continued will have or

tend to have the effect of destroying competition or creating a monopoly.

(2) Excessiveness.

(a) Competitive market. Rates are not excessive if a reasonable degree of price competition exists at the consumer level with respect to the class of business to which they apply. In determining whether a reasonable degree of price competition exists, the commissioner shall consider the number of insurers actively engaged in the class of business and the existence of rate differentials in that class of business.

(b) Noncompetitive market. If such competition does not exist, rates are excessive if they are likely to produce a long-run underwriting profit that is unreasonably high for the class of business, or if expenses are unreasonably high in relation to the services rendered.

(3) Inadequacy. Rates are inadequate if they are clearly insufficient to sustain projected losses and expenses in the class of business to which they apply.

(4) Unfair Discrimination. A rate is not unfairly discriminatory in relation to another in the same class if it reflects equitably the differences in expected losses and expenses. Rates are not unfairly discriminatory because different premiums result for policyholders with like loss exposures but different expense factors, or like expense factors but different loss exposures, so long as the rates reflect the differences with reasonable accuracy. Rates are not unfairly discriminatory if they are averaged broadly among persons insured under a group, franchise or blanket policy.

17:29A-5. RATING METHODS. - In determining whether rates comply with the standards under section 17:29A-4, the following criteria shall be applied:

(1) Basic Factors in Rates. Due consideration shall be given to past and prospective loss and expense experience within and outside this State, to catastrophe hazards, to a reasonable margin for underwriting profit and contingencies, to investment income from policyholder-supplied funds, to trends within and outside this State, to loadings for leveling premium rates over time or for dividends or savings to be allowed or returned by insurers to their policyholders, members or subscribers, and to all other relevant factors, including the judgment of technical personnel.

(2) Classification. Risks may be classified in any reasonable way for the establishment of rates and minimum premiums, except that classifications may not be based on race, color, creed or national origin. Rates thus produced may be modified for individual risks in accordance with rating plans or schedules which establish reasonable standards for measuring probable variations in hazards, expenses, or both.

(3) Expenses. The expense provisions included in the rates to be used by an insurer may reflect the operating methods of the insurer and, so far as it is credible, its own expense experience.

17:29A-6. FILING OF RATES -

(1) Except as to inland marine risks which by general custom of the business are not written according to manual rates and rating plans, every authorized insurer and every licensed rate service organization which has been designated by any insurer for the filing of rates under section 17:29A-8(2) shall file with the commissioner all rates and supplementary rate information and all changes and amendments thereof made by it for use in this State within 30 days after they become effective.

(2) The commissioner may require the filing of supporting data including:

(a) The experience and judgment of the filer, and, to the extent it wishes or the commissioner requires, of other insurers or rate service organizations;

(b) Its interpretation of any statistical data relied upon; and

(c) Descriptions of the actuarial and statistical methods employed in setting the rates.

(3) Upon written consent of the insured, stating his reasons therefor, a rate in excess of that provided by an otherwise applicable filing may be used on a specific risk, provided that it is filed with the commissioner in accordance with subdivision (1) of this section.

17:29A-7. FILINGS OPEN TO INSPECTION. - Each filing and supporting information filed under this act shall, as soon as filed, be open to public inspection at any reasonable time. Copies may be obtained by any person on request and upon payment of a reasonable charge therefor.

17:29A-8. DELEGATION OF RATEMAKING AND RATE FILING OBLIGATION -

(1) Ratemaking. An insurer may itself establish rates and supplementary rate information based on the factors in section 17:29A-5; or it may use rates and supplementary rate information prepared by a rate service organization, with average expense factors determined by the rate service organization or with such modification for its own expense and loss experience as the credibility of that experience allows

(2) Rate Filing. An insurer may discharge its obligation under section 17:29A-6, by giving notice to the commissioner that it uses rates and supplementary rate information prepared by a designated rate service organization, with such information about modifications thereof as are necessary fully to inform the commissioner. The insurer's rates and supplementary rate information shall be those filed from time to time by the rate service organization, including any amendments thereto as filed, subject, however, to the modifications filed by the insurer.

17:29A-9. DISAPPROVAL OF RATES. - If the commissioner finds after a hearing that a rate is not in compliance with section 17:29A-4, he shall issue an order specifying in what respects it so fails, and stating when, within a reasonable period thereafter, such rate shall be deemed no longer effective. Said order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in said order.

17:29A-10. DELAYED EFFECT OF RATES. - If after a hearing the commissioner finds that there are widespread violations of this act in any class of business, he may promulgate a rule requiring that any subsequent changes in the rates or supplementary rate information for such class of business be filed with him at least 15 days before they become effective. A rule promulgated under this section shall expire no more than one year after issue, unless renewed after a hearing and appropriate findings.

17:29A-11. RATE SERVICE ORGANIZATIONS -

(1) No rate service organization shall provide any service relating to the rates of any insurance subject to this act, and no insurer shall utilize the service of such organization for such purposes unless the organization has obtained a license from the commissioner.

(2) No rate service organization shall refuse to supply any services for which it is licensed in this State to any insurer authorized to do business in this State and offering to pay the fair and usual compensation for the services.

(3) A rate service organization applying for a license shall include with its application:

(a) A copy of its constitution, charter, articles of organization, agreement, association or incorporation, and a copy of its by-laws, plan of operation and any other rules or regulations governing the conduct of its business;

(b) A list of its members and subscribers;

(c) The name and address of one or more residents of this State upon whom

notices, process affecting it or orders of the commissioner may be served;

(d) A statement showing its technical qualifications for acting in the capacity for which it seeks a license; and

(e) Any other relevant information and documents that the commissioner may require.

(4) If the commissioner finds that the applicant and the natural persons through whom it acts are competent, trustworthy, and technically qualified to provide the services proposed, and that all requirements of law are met, he shall issue a license specifying the authorized activity of the applicant. He shall not issue a license if the proposed activity would tend to create a monopoly or to lessen or to destroy price competition. Licenses issued pursuant to this section shall remain in effect until the licensee withdraws from the State or until the license is suspended or revoked.

(5) Any amendment to a document filed under this section shall be filed promptly. Failure to file any such amendment shall be a ground for revocation of the license.

(6) Every rating organization providing services in this State on the effective date of this act, may continue to provide services thereafter as a rate service organization, subject to the provisions of this act, pending its application to the commissioner, to be made within 30 days after the effective date of this act, for a license to provide services as a rate service organization.

17:29A-12. JOINT UNDERWRITING AND JOINT REINSURANCE ORGANIZATIONS -

(1) Every group, association or other organization of insurers which engages in joint underwriting or joint reinsurance through such group, association or organization or by standing agreement among the members thereof shall file with the commissioner (a) a copy of its constitution, articles of association and by-laws, (b) a list of its members, and (c) the name and address of a resident of this State upon whom notices or orders of the commissioner or process may be served. Every such group, association or other organization shall notify the commissioner promptly of any change in the documents required to be filed with him.

(2) If after a hearing the commissioner finds that any activity or practice of any such group, association or other organization is unfair or unreasonable or otherwise inconsistent with the provisions of this act, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this act, and requiring the discontinuance of such activity or practice.

17:29A-13. BINDING AGREEMENTS BY INSURERS. - No insurer shall assume any

obligation to any person, other than a policyholder or other insurers which with it are under common control or management or are members of a joint underwriting or joint reinsurance organization, to use or adhere to certain rates or rules, and no other person shall impose any penalty or other adverse consequence for failure of an insurer to adhere to certain rates or rules. This section shall not apply to apportionment agreements among insurers approved by the commissioner pursuant to section 17:29A-16.

17:29A-14. RECORDING AND REPORTING OF EXPERIENCE. - The commissioner shall promulgate or approve reasonable rules, including rules providing statistical plans, for use thereafter by all insurers in the recording and reporting of loss and expense experience, in order that the experience of such insurers may be made available to him. No insurer shall be required to record or report its experience on a classification basis inconsistent with its own rating system. The commissioner may designate one or more rate service organizations to assist him in gathering such experience and making compilations thereof.

17:29A-15. EXAMINATION OF RATE SERVICE ORGANIZATIONS AND JOINT UNDERWRITING AND JOINT REINSURANCE ORGANIZATIONS. - The commissioner shall, at least once in 5 years, make or cause to be made an examination of each licensed rate service organization, and he may, as often as he may deem it expedient, make or cause to be made an examination of each group, association, or other organization referred to in section 17:29A-12. The reasonable costs of any such examination shall be paid by the organization examined upon presentation to it of a detailed account of such costs. The officers, managers, agents and employees of any such organization may be examined at any time under oath and shall exhibit all books, records, accounts, documents or agreements governing its method of operation. In lieu of any such examination the commissioner may accept the report of an examination made by the insurance supervisory official of another State, pursuant to the laws of such State.

17:29A-16. APPORTIONMENT AGREEMENTS AMONG INSURERS. - Agreements may be made among insurers with respect to equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to but who are unable to procure such insurance through ordinary methods and such insurers may agree among themselves on the use of reasonable rate modifications for such insurance, such agreements and rate modifications to be subject to the approval of the commissioner.

17:29A-17. HEARING AND JUDICIAL REVIEW -

(1) Any insurer or rate service organization to which the commissioner has directed an order or decision made without a hearing, may, within thirty days after notice to it of the order or decision, make written request to the commissioner

for a hearing thereon. The commissioner shall hear such party or parties within twenty days after receipt of such request and shall give not less than ten days' written notice of the time and place of the hearing. Within fifteen days after such hearing the commissioner shall affirm, reverse or modify his previous action, specifying his reasons therefor. Pending such hearing and decision thereon the commissioner may suspend or postpone the effective date of his previous action.

(2) Any order or decision of the commissioner shall be subject to review by the Superior Court in a proceeding in lieu of prerogative writ.

17:29A-18. PENALTIES. - The commissioner may, if he finds that any person or organization has violated any provision of this act, impose a penalty of not more than fifty dollars (\$50) for each such violation, but if he finds such violation to be wilful he may impose a penalty of not more than five hundred dollars (\$500) for each such violation. Such penalties may be in addition to any other penalty provided by law.

The commissioner may suspend the license of any rate service organization or insurer which fails to comply with an order of the commissioner within the time limited by such order, or any extension thereof which the commissioner may grant. The commissioner shall not suspend the license of any rate service organization or insurer for failure to comply with an order until the time prescribed for an appeal therefrom has expired, or if an appeal has been taken, until such order has been affirmed. The commissioner may determine when a suspension of a license shall become effective and it shall remain in effect for the period fixed by him, unless he modifies or rescinds such suspension, or until the order upon which such suspension is based is modified, rescinded or reversed.

No penalty shall be imposed and no license shall be suspended or revoked except upon a written order of the commissioner, stating his findings, made after a hearing held upon not less than ten days' written notice to such person or organization specifying the alleged violation.

17:29A-19. POLICY FORMS. - Except for fidelity, surety or guaranty bonds and except as to inland marine risks which by general custom of the business are not written according to manual rates or rating plans, no policy form applying to insurance on risks or operations covered by this act shall be delivered or issued for delivery unless it has been filed with the commissioner and either he has approved it, or 30 days have elapsed and he has not disapproved it as ambiguous, misleading, deceptive or unreasonable.

17:29A-20. - EXISTING RATING SYSTEMS, TERRITORIES, CLASSIFICATIONS AND POLICY FORMS. - Rating systems, territories, classifications and policy forms lawfully in use on the effective date of this act may continue to be used thereafter, notwithstanding any provision of this act.

Section 2. CONFLICTING STATUTES. - All other statutes in conflict with this act are hereby repealed.

Section 3. Sections 17:29A-21 through 17:29A-32 of the statutes are repealed.

Section 4. This act shall take effect _____.

JNR:RJS:MW
January 9, 1976

Government As An Auto Insurer

The drivers were furious. They had been in auto accidents—some major, some minor—and now they couldn't get their cars fixed. Why? Because the insurance company's employees were on strike and management wasn't equipped to handle claims. Unless they could afford to pay for repairs out of their own pockets and wait to collect from the insurer later, the motorists had to wait up to three months for the strike to end so they could get the repairs done.

This actually happened in a Canadian province in the summer of 1975. In another province, truck drivers were boiling over their insurance company's way of doing business. If a trucker had a claim that exceeded premiums he had paid to date, he was billed for the difference! As one trucker pointed out: "That's really no insurance at all."

Motorists in a third province had become resigned to their insurance company's curious practices. It wasn't enough that they paid premiums. Each year, they had to pay extra fees for insurance when renewing their driver's licenses and license plates. And if they were convicted of driving violations, they had to pay additional fees of up to \$300 a year—even if they didn't actually have accidents or file claims.

And in the United States, an auto insurance company operating in one state lost almost half its customers in less than two years because of rapidly escalating premiums and poor service.

An indictment of the auto insurance industry? Not really. These four "companies," you see, are no ordinary insurers. They are auto insurance plans operated by provincial or state governments.

Government has long been involved in insurance in both the United States and Canada. Mainly, it regulates such things as rates, the financial stability of insurance companies and the content of insurance policies. For the most part, only within the last two decades has government actually helped provide coverages—flood insurance, for example. And only since 1970 has the idea of government as an insurer on its own, with no help from private companies, really taken root.

Auto insurance which, by its nature, is bound to generate some policyholder complaints about selection of customers, claims handling and premiums has been seen as a fertile field for trying to grow this unorthodox kind of plant. Experience has shown that while the plant grows, many of those forced to eat its fruit would contend it's a weed.

Maryland in 1973 became the first state to establish a government-run auto insurance system. It followed two Canadian provinces Saskatchewan, which had had such a system since 1946, and Manitoba, which set one up in 1971. Another province, British Columbia, followed suit in 1974.

Such insurance plans are founded on the assumption that government can serve the insurance-buying public more efficiently than private companies can. Indeed, these plans are usually launched with promises of better service at lower cost to the policyholder.

As this Backgrounder will make clear and as those strikebound motorists in British Columbia, unlucky truckers in Manitoba, fee-paying drivers in Saskatchewan and disillusioned policyholders in Maryland can testify it is debatable at best whether these plans have provided better service. And the plans' operators have been unable to keep the promise of lower cost; in one form or another, their policyholders pay the same as or more than they would pay for comparable insurance from a private firm.

MARYLAND

The Maryland Automobile Insurance Fund was born amid charges that private auto insurance firms were giving the state's motorists a raw deal. Gov. Marvin Mandel and his backers in the state legislature contended that insurance was becoming increasingly difficult to obtain; that too many policies were being cancelled; and that premiums were too high for many drivers to afford. Despite vigorous insurance industry opposition, they pushed through a bill creating the nation's first government-run auto insurance plan.

The fund was intended to insure drivers in the high-risk category those most likely to be in accidents. Only drivers who had been refused coverage by at least two private companies or who had been cancelled were eligible customers. But unlike privately-run assigned-risk plans in which high-risk drivers are insured at higher-than-normal rates, the fund charged the same rates applied to good and average drivers by private firms. Within a few months of its inception, this "high risk," state-run insurance system became the state's largest auto insurer.

The fund's operators had ignored a time-tested underwriting principle: Policyholders must be charged premiums in proportion to their likelihood of causing losses for the insurance carrier. They had made coverage available to high-risk policyholders at premiums comparable to those charged to low-risk policyholders by private insurers. The results soon became apparent.

Buoyed by a high premium volume, the fund finished its first year (1973) in fairly good shape. It insured 170,000 drivers, received 35,000 claims and paid out \$9 million in claim settlements on a gross written premium of \$53 million. But troubles began in 1974. Many policyholders let their coverage lapse or switched to a private insurer. The number of drivers insured dropped to 145,000, but the claim count soared to 60,000 and claim settlements to \$27.5 million; another \$12.7 million in losses had been incurred but not paid at yearend. The fund reported a net underwriting loss of \$15.4 million.

Admitting rates had been set too low, fund officials early in 1975 sought and received approval of a 34.4 per cent liability rate increase and a 50 per cent increase on comprehensive and collision coverages. A few months later the fund's rates for mandatory personal injury protection coverage were increased almost 200 per cent. While these increases were aimed at boosting the fund's revenues, they put the state-run system at a strong competitive disadvantage. Policies dwindled to less than 100,000 by yearend.

Governor Mandel contended the fund was in trouble because private insurers were "raiding" its policyholders. But a spokesman for one of the private firms replied: "They (policyholders) are coming to us because they are fed up with the state-run program. They are fed up because of ever increasing premium rates and poor service."

The fund reported it finished the year with a \$10 million deficit. But measured in terms used to evaluate the financial condition of private insurers, some reports put the deficit at more than \$35 million.

Early in 1976, the fund sought a 79.4 per cent rate increase; its request was later trimmed to 36.8 per cent. When it became apparent that the fund was in danger of becoming insolvent, the state's political leaders began negotiating with insurance industry representatives on a plan to either preserve the fund or find some other way to serve its policyholders. The result was a compromise measure not entirely satisfactory to the industry that, in effect, makes the state and private insurers partners in operating the fund. It gives private insurers membership on the fund's board of directors and calls for creation of a joint underwriting association—a high-risk driver insurance plan under which losses not covered by premium income are spread among private insurers doing business in the state. The private companies may make up for such losses through surcharges on all their auto insurance policies. So it appears likely that private insurers' policyholders—in other words, the public—will end up subsidizing the fund.

BRITISH COLUMBIA

The Insurance Corp. of British Columbia began operating in March, 1974. Like its predecessors in Manitoba and Saskatchewan, this government-run auto insurance system followed a provincial election victory by the New Democratic Party, which generally supports extension of

socialism into areas previously left to private enterprise. Unlike the other two Canadian plans and the Maryland fund, Autoplan started as a total government monopoly—private insurers weren't permitted to write any kind of auto coverage in the province.

Autoplan officials carried the "reasonable rates for all" initial promise of Maryland fund backers a step further: They pledged to lower rates 15 to 20 per cent. And they delivered—by using rates effective in the private market two years earlier. But it soon became obvious that the rates were inadequate. Despite an \$18 million subsidy from drivers' certificate fees, Autoplan finished its first fiscal year with a net loss of \$34.2 million.

Yet instead of raising rates, British Columbia's government actually lowered them for some drivers. And it enacted a law permitting up to 10 cents of the province's 15-cents-per-gallon gasoline tax to subsidize Autoplan. But the gasoline tax funds and other revenue expected from motor vehicle license fees were never appropriated; Autoplan wound up the 1975-76 fiscal year with a two-year accumulated deficit estimated at more than \$200 million.

While motorists enjoyed low rates in those first two years of the plan's operation, some other aspects of the system didn't please them. The employee strike against Autoplan was the greatest single irritant; during the strike, about 80,000 damaged cars went unrepaired and many drivers lost the use of their cars. While motorists were forced to pay premiums 30 to 60 days ahead of the policy's effective date, they often had to wait three to four months or longer for a refund.

Autoplan also became a breeding ground for insurance fraud. Doug Collins, a columnist for the *Toronto Star*, explained:

"Under the (New Democratic Party), the insurance scheme was an exercise in do-goodery and showed a naive belief that most people are honest. For instance, it was possible to have a dozen accidents and to be to blame for every one of them and still suffer no penalty. Under such a system, accidents actually paid, and many a person 'totalled' his car in order to get a new one."

The New Democratic Party was voted out of office late in 1975. Its successor, the Social Credit Party, promised to end the government car insurance monopoly by allowing private insurers back in the province. It also declared an end to subsidy of Autoplan. To wipe out the deficit and get premiums up to the break-even point, it increased rates 100 to 250 per cent. British Columbia's rates thus went from among the lowest in Canada to the second highest.

This bitter medicine for drivers marked the end of the province's "bargain" insurance rates. The *Ottawa Journal* summed it up this way editorially:

"The stupidity of rushing into government car insurance with rates set too low to impress the public on what a bargain it was will now be paid for. . . Other provinces should now be more wary about turning the car insurance business over to politicians."

MANITOBA

The Manitoba Public Insurance Corp., which began operating in November, 1971, is a government monopoly on basic required auto insurance coverage; private insurers are permitted to sell optional coverages. Before its Autopac plan was launched, the government had promised

premium savings of up to 20 per cent (compared with the old private system) and no rate increases until 1975. In fact, the majority of Manitoba drivers soon found they were paying about the same as or more than they had before. The only ones benefiting from lower rates were the high-risk and accident-prone drivers who previously had paid according to their loss-causing potential. And the first rate increase came a year earlier than predicted.

Early in 1974, increases of 11 per cent on basic required coverage and 19 per cent on optional coverages were put into effect. One year later, there were general rate increases ranging from 11 to 24 per cent; some motorists saw their premiums jump as much as 75 per cent. "If private business treated the public this way, there would be an outcry for government intervention," one driver grumbled.

The government added two cents per gallon to the gasoline tax to provide more operating revenue for Autopac. Driver's license fees and surcharges against motorists who have accidents also are used to shore up the plan. These forms of subsidy exist despite an initial government promise that Autopac would stand on its own feet financially.

Although Autopac reported small operating profits in its first and most recent fiscal years, large losses in the intervening two years have produced a cumulative net deficit of about \$19 million. Rates went up 15 per cent early in 1976.

Besides the financial aspects, several other features of the Manitoba plan have contributed to widespread public dissatisfaction with it. Rates are based primarily on the age, make and size of the car—not the owner's driving record or potential record. "Since Autopac came in, there isn't any good or bad driver as far as rates are concerned," one motorist complained.

If a policyholder drives to work even occasionally, he is not eligible for "pleasure" use rates; he must pay higher "all-purpose" insurance rates. Also, the basic required coverage includes a \$700 deductible on collision and a maximum \$50,000 third-party liability coverage. Drivers who want more protection must buy it at higher rates.

SASKATCHEWAN

Saskatchewan's government-run auto insurance system is the oldest in North America. It started in 1946, providing coverage for medical bills and a disability allowance for injuries suffered in auto accidents. In the next two years, it expanded to include liability, comprehensive and collision coverages. The system is now a monopoly on basic required coverages.

The Saskatchewan system's operating efficiency is difficult to evaluate because some of its administrative costs are hidden and because premiums are collected in different ways. However, statistics from 1973, its last reporting year, give some indication. The Auto Insurance Act—the plan affecting most drivers—had a \$1.4 million surplus—but that was achieved only through a \$7 million transfer of gasoline tax funds. So its effective deficit was about \$5.6 million on a premium volume of about \$40 million. The Saskatchewan Government Insurance Office, which insures high-risk drivers and offers non-auto lines of coverage as well, had an operating loss of \$2.2 million.

In the last 10-year reporting period, Saskatchewan auto premiums have gone up 135 per cent compared with an average increase of 90 per cent in other Canadian provinces that don't have government-run insurance systems. This is noteworthy because Saskatchewan is the most rural of all provinces, its drivers' annual mileage is about 20 per cent less than in other provinces, so rates normally would be expected to increase more slowly.

Saskatchewan's plans may be the most heavily subsidized of all. The plans pay no income tax and, until 1968, didn't pay the two per cent premium tax private insurers in Canada must pay on all general insurance premiums. As noted earlier, fees from driver's license and license plate revenue, surcharges for driving violations and gasoline tax funds help support the system.

Another form of subsidy is built into the system. Rates are level throughout the province. Rural drivers who seldom have accidents pay the same premiums as city drivers who have them more often. This means the low-risk rural motorists subsidize higher risk city ones.

WHY THEY DON'T WORK WELL

What can be learned from the disastrous results of the Maryland and British Columbia plans and the less-than-spectacular records of the Manitoba and Saskatchewan systems? Why has government in these four jurisdictions failed to live up to its promise of doing a better job in running an auto insurance operation than private companies can? There are at least three closely related reasons.

1. Government by itself lacks expertise in the insurance field. As a partner with the private insurance industry, it functions fairly well; on its own that's a different story. People put in charge of government-run systems tend to be much less knowledgeable on insurance than their counterparts in private industry. They sometimes, for example, appear to be ignorant of or choose to ignore basic underwriting principles.

2. Politics inevitably influences governmental decision-making including the state-run insurance system, which must be free of such influence to operate on a sound basis. In some cases, rates initially were set unrealistically low to curry favor with voters, they rose rapidly later when the results became apparent. And where rates have been kept fairly stable, the public has paid the true cost of insurance in other ways through taxes and fees.

The *Financial Post*, a Canadian business weekly, summarized it this way:

"There is indeed no rationale for using general tax revenue to cut the premiums of those who drive automobiles. And there is no special magic about a government run auto insurance plan that will result in dramatically reduced car insurance premiums. The simple truth is that despite some small possible savings that a government plan might achieve by eliminating or reducing commissions for those who sell and service policies, auto crashes do not decline just because drivers are insured with the government instead of a private company."

3. Competition forces private insurers to find better, less costly ways of doing business. Government, especially in a monopoly situation, has no such incentive. It has the public treasury as a backstop and its leaders' main concern is staying in office, not saving money.

Even if it could be shown that government by itself can do a capable job as an auto insurer, is this a proper role for government? Private insurers say no, and there is much to support their view.

When a peril, floods, for example, is demonstrably uninsurable by traditional means, government and private insurers can work and have worked as a team to provide the needed protection. But when a peril, such as auto accident losses--is insurable and private companies are able and willing to serve the market, there is no need for government to become the insurance provider.

Government does have a special, positive role to play in the auto insurance field--a role whose potential is virtually untapped. By taking more effective steps to reduce traffic accidents, government could help control the economic loss resulting from these accidents. This could include such measures as pressure for continued safety improvement of cars; improvement of highway design and maintenance, including elimination of roadside hazards; more uniformity among state traffic laws; stiffer requirements for issuing driver's licenses; and tougher and more consistent enforcement of traffic laws, including efforts to either improve the driving of careless motorists or get them off the road.

Insurers are as concerned as government about such problems as increasing rates and the fact that high-risk drivers find it hard to get insurance in the normal market. But they remain convinced that these problems are more apt to be solved through cooperative efforts of government and the private insurance industry than through a government takeover of auto insurance.

GOVERNMENT CAR INSURANCE A REAL WRECK

By Leonard M. Groupé

If you're so fed up with your auto insurance problems that you think the government should set up an auto insurance system run as a public service, instead of for a profit, I've got news for you. It has been tried and it's a bummer. I want to tell you about the two most dramatic examples of government auto insurance, the recent examples of government auto insurance, the recent disasters in British Columbia and in Maryland.

In 1974, the government of British Columbia established its own insurance company, called Autoplan, and gave it a monopoly to write all the auto insurance in the province. It instantly became popular when it reduced rates 15 to 20 per cent to prove it could do a better job than private enterprise. The first year it lost millions (after taking into account a big subsidy from driver's license fees).

But Autoplan still didn't raise its rates. Instead, a law was passed to give it a 10-cent-a-gallon gasoline tax subsidy. However, in the wondrous ways that governments have of doing things, none of the driver's license or gasoline-tax money actually got to Autoplan, which ended its 1975-76 fiscal year with a two-year deficit of many millions.

While the low rates pleased the drivers, it pinched Autoplan so much it couldn't please its employees—so in the summer of 1975, Autoplan employees went on strike—and this was the only auto insurance company in British Columbia. Nobody who was in an accident, big or little, could get Autoplan to pay to fix his car. For three months, there wasn't a claim adjusted or car repaired under Autoplan. Policyholders had to pay for repairs out of their own pockets and then wait for Autoplan to settle with them after the strike. Those who couldn't do this just had to wait. During the strike, thousands of damaged cars went unrepaired.

Then, even the bargain rates came to an end. This year, Autoplan's rates jumped 100 to 250 per cent.

In 1972, the Maryland Automobile Insurance Fund was established as this country's first government-run insurance plan. It, too, turned out to be a lulu. The purpose was to enable high-risk drivers to obtain coverage at standard rates. Those drivers flocked to the plan. In a few months, the plan was the largest auto insurer in Maryland. By the end of the second year, it had a multimillion-dollar underwriting loss.

So in 1975, its rates went up by a third to a half and a few months later, there was another jump. By year end, it had lost almost half of its policyholders. Those who didn't have any accidents during those two years could now go back to regular insurance companies at more competitive rates. Needless to say, this left the fund with a very "select" group of drivers.

Although the fund said it had a \$10 million deficit at the end of the year, the insurance industry says that if the same accounting standards that are applied to private insurance companies were applied to the fund, the deficit could be more than \$35 million.

Early this year, the fund wanted an almost 80-per cent increase but later trimmed it to 23 per cent. Even so, when it looked like the fund was in danger of bankruptcy, the insurance companies were "invited" by the state to become partners in running the fund and to "volunteer" to raise enough money among themselves to pay any losses not met by premiums the fund collected. That would mean passing the hat to all the companies and asking if they either would like to contribute their "quota," or simply not do business in Maryland anymore. The state lets each company increase its premiums to cover this cost. This, of course, spreads the cost among the other policyholders in the state—just as with the excessive losses with the assigned risk plans operated in other states.

But Maryland's plan is different. It now wants the law changed so it can turn down high-risk drivers or cancel them when their policies expire. That's amazing, when you consider that the only reason Maryland went into the auto insurance business in the first place was to insure high-risk drivers.

The moral is that the auto insurance business is tough enough when run by experts, but when run by politicians, it can be a disaster. It's simply another example of McGarr's First Law, pronounced by someone who knows about such things—federal Judge Frank J. McGarr of Chicago, whose law says, "Whatever government does, it does more or less badly."

STATEMENT RE: A STATE FUND FOR AUTOMOBILE INSURANCE
FROM: INDEPENDENT MUTUAL INSURANCE AGENTS ASSOCIATION
OF NEW JERSEY, P.O. BOX 196, GLENMONT, NEW YORK 12077
TO: ASSEMBLY COMMITTEE ON COMMERCE, BANKING AND INSURANCE,
TRENTON, NEW JERSEY, FEBRUARY 16, 1977



My name is James H. Davies. I am an independent insurance agent from Scotch Plains, New Jersey, and I am testifying today on behalf of the Independent Mutual Insurance Agents Association of New Jersey (IMA), a professional trade association representing over 4,600 insurance agents and their employees presently doing business in this state. I am currently serving as President of this association.

There is a very famous novel on the classical bookshelf entitled "A Tale of Two Cities". I would like, respectfully, to take the lead from the author of this well-known work and label this statement "A Tale of One State and Three Provinces -- A Story of Economic Disaster".

The four geographical entities to which I refer are the Canadian Province of Saskatchewan, the Province of Manitoba, our own nearby State of Maryland and the Province of British Columbia. They all have one thing in common. All have attempted to operate state-controlled automobile insurance plans, and all have failed in their efforts.

I'd like to review their sad stories in the order listed above, because that's the order in which they came into being.

1. Saskatchewan

This is the oldest of the government insurance monopolies in North America, having been started in 1946. Initially providing only payments for medical bills, plus a small weekly allowance for disabled accident victims, it added mandatory collision and comprehensive coverages in 1947. The latter are sold only with a \$200. deductible, providing coverage generally considered useless for low-value vehicles and insufficient for many others.

The price track record for this plan: Auto insurance premiums increased by approximately 135 percent over the 10-year period ending in 1975, while premiums in the rest of Canada increased only about two-thirds of that amount. Yet, ironically, Saskatchewan is the most rural province in Canada, and the average annual driving

mileage is about 20 percent less than that in the other provinces.

Score one point for those who oppose state insurance funds.

2. Manitoba Autopac

This one, whose track record is even worse, was inaugurated in November of 1971, with the promise that there would be no rate increases until after 1975.

Despite this glowing promise, early in 1974, Autopac announced its first rate increase of 11 percent on basic compulsory coverages and 19 percent on excess coverage. This was quickly followed early in 1975, amid tremendous public clamor, by additional general rate increases of from 11 to 24 percent, plus an additional two-cent-per-gallon tax on gasoline. The latter constituted a complete reversal of government promises when the bill establishing Autopac was being debated in the provincial legislature.

The price track record for this plan: (1) it lost \$10.1 million in 1973 on total earned premiums of \$40.8 million; (2) according to a 1972 public opinion survey, 37 percent of the province's vehicle owners paid more for their auto insurance than they had previously paid through the private sector, 23 percent were paying about the same and 35 percent paid less under Autopac. Furthermore, 75 percent of those insured under the plan had to purchase optional third-party liability coverage, and 71 percent bought additional optional coverage to reduce the \$200 all-peril deductible.

Score another point for the opponents of state insurance funds.

3. Maryland Automobile Insurance Fund

How any intelligent person could have overlooked this disaster on our back doorstep is incredible. Inaugurated in January of 1973, this abortive plan was highly touted as the answer to higher-than-normal auto insurance rates and the problem of restricted availability of the product to the state's high-risk drivers.

The bubble first burst early in 1975, when the State had to order an emergency 34.4 percent rate increase to keep the fund solvent. In March of 1976, rates increased again by nearly 37 percent -- after the fund had asked for a whopping 79.4 percent average increase. Altogether, as of May, 1976, the fund had run up losses of \$30 million since its inception in 1973.

Furthermore -- and again I have to use the word ironically -- in May of last year, the Maryland State Legislature had to restructure the State Fund to call for a subsidy from the private insurance industry -- a subsidy which could be passed on to the private industry's own policyholders. As if this were not bad enough, in November of 1976 the Fund applied for an increase in this subsidy from the originally-imposed 2 percent of the private sector's net written auto insurance premium to 2.25 percent. The MAIF Board has projected a \$9.7 million cash deficit for 1977 and estimated that the new levy against the private industry would bring in about \$9.1 million of this.

The price track record for this plan: (1) in 1974, the Fund sustained a net underwriting loss of nearly \$15.5 million; (2) as a result of the 1975 and 1976 rate increases, the Fund is now the highest-priced insurer in the State among the 10 largest auto insurers. It is interesting to note that, while speaking to the 1976 annual meeting of our own New Jersey Insurance Brokers Association, MAIF's Executive Director, John J. Corbley, blamed the Fund's problems on inadequate startup rates. I'll have more to say about rate adequacy in a few moments.

Score still another point for the opponents of state insurance funds.

4. British Columbia Autoplan

The fourth and final chapter of my dissertation concerns the British Columbia Autoplan, which was inaugurated in March of 1974. This one has to rate the honor of being Canada's worst single auto insurance disaster.

The first-year results of this abortive experiment showed losses of over \$34 million, and this includes the application of investment income. The word "subterfuge" has been aptly applied to the entire operation by the provincial press.

And with good reason. On top of more than \$187.5 million dollars taken in by the plan in the form of earned premiums during its first year of operation, an additional \$18 million was derived from issuance of driver's licenses. Furthermore, the plan also, by best estimates, would require a \$34.2 million subsidy in 1975 from the province's gasoline tax. In fact, the provincial government had already provided that up to 10 cents of the 15 cent-per-gallon gasoline tax could be used to subsidize the Insurance

for other government-supported activities such as schools and nursing homes.

Even worse in the area of subterfuge, it is suspected that the plans' allowance for unreported losses was understated by \$11.2 million during its first year of operations. Altogether, when losses are compared to premiums, the plan's first-year performance was 13 times worse than the average of Canada's private insurers. Startup costs of the plan were \$18 million, as compared to the original estimate of \$5 million.

Score a fourth and final point for the opponents of state insurance funds.

I could go on and on citing statistics of this kind, but I think it's time to add up the score. And that score, at the moment, is four to nothing in favor of the opponents of state insurance funds over the proponents of such operations. That, gentlemen, takes into account all four of the state-operated auto insurance mechanisms on the North American continent.

There are two lessons indelibly stamped upon all four of these abortive experiments:

1. The state simply cannot, by some magic formula, legislate an end to our auto insurance problems, and the state definitely cannot perform miracles in operating its own insurance funds or plans.

2. There is no substitute for rate adequacy, regardless of who is operating the insurance mechanism.

In short, the state doesn't belong in the auto insurance business. It just can't operate as efficiently as the private sector in this or any other business area. I admit openly that we are currently faced with an insurance crisis in the State of New Jersey. I also submit to you, gentlemen, that the quickest and most effective way to turn that crisis into a total disaster is to pass legislation setting up a state automobile insurance fund. It would very soon become a weight around the necks of all of our already drowning taxpayers, including those who don't even drive automobiles.

I suggest instead, as a long-range solution to our auto insurance problems, something our association has advocated so many times that I fear we will begin to sound like the proverbial broken record -- namely, a system of open competitive rating.

Such a system would enable our insurance companies to adjust rates promptly as inflationary or deflationary pressures drive the costs of things insurance is designed to pay for either up or down. It would also have the highly desirable side-effect of eliminating, or at least minimizing, the present problem of insurance availability which is currently plaguing the people of our state.

We have, unfortunately, been hampered in recent years by the very worst of regulatory climates here in our fair state of New Jersey -- a climate which has tended to tie rates to purely political considerations. An open competition rating system would take politics out of the rate-making process and at least give our companies a glimmer of hope of making a fair and reasonable profit on their operations in the foreseeable future. A state fund would only lead us farther down the road into the hopeless mire of socialism, at the ultimate expense of the New Jersey taxpayer.

Furthermore, we firmly believe that the consumer should have free choice of his company and the ability to shop the marketplace for the most favorable premium rates. In a state fund situation, he would, in effect, be denied these privileges.

We thank you for permitting us to testify today and hope that our analysis and our suggestions will not fall upon deaf ears. If we can be of any further service to you, please do not hesitate to call upon us.

2/9/77
spb

