

Public Hearing

before

SENATE LAW AND PUBLIC SAFETY COMMITTEE

"The recent criticisms of the activities of
the New Jersey State Firemen's Association."

LOCATION: Legislative Office Building
Committee Room 9
Trenton, New Jersey

DATE: July 21, 1994
10:00 a.m.

MEMBERS OF COMMITTEE:

Senator Louis F. Kosco, Chairman
Senator John A. Girgenti

ALSO PRESENT:

Anne M. Stefane
Office of Legislative Services
Aide, Senate Law and Public Safety Committee



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NOTICE OF PUBLIC HEARING

The Senate Law and Public Safety Committee will hold a public hearing on the following topic:

**THE RECENT CRITICISMS OF THE ACTIVITIES OF
THE NEW JERSEY STATE FIREMEN'S ASSOCIATION**

The hearing will be held on **Thursday, July 21, 1994 at 10:00 AM** in **Committee Room 9, Legislative Office Building, Trenton, New Jersey.**

The public may address comments and questions to Anne M. Stefane, Committee Aide and persons wishing to testify should contact Kathleen Espieg, secretary, at (609) 984-0231. Those persons presenting written testimony should provide 10 copies to the committee on the day of the hearing.

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SENATOR LOUIS F. KOSCO (Chairman): We'll open up this hearing-- We'll have to ask for a roll call.

MS. STEFANE: (Committee Aide) Senator Girgenti?

SENATOR GIRGENTI: Here.

MS. STEFANE: Senator Kosco?

SENATOR KOSCO: Here. Here we are.

How you doing over there, John?

SENATOR GIRGENTI: All right.

SENATOR KOSCO: Anyone who wishes to speak that hasn't yet filled out a form-- I only have one person that wishes to speak so far. So if there's anyone else who expects to give testimony, just fill it up and drop it up to me.

At the first public hearing of the State Firemen's Association held by this Committee on June 23, 1994, testimony was received from the President and the Counsel of the Association. There was a great deal of discussion regarding the collection, use, and distribution of the funds derived from the 2 percent surcharge of fire insurance policies written by foreign insurance companies -- foreign meaning out of State.

Some of the questions that had been raised in the media were answered at that hearing, but there remain important questions which need to be addressed. Today, the Committee will hear from the Insurance Department and the Treasury Department, I hope. Hopefully, testimony will be given that will shed more light on how the 2 percent surcharge is collected, and how the funds are distributed to the New Jersey Fire Association and its 532 local relief associations.

This is the last scheduled public hearing that the Committee will hold on this issue. The testimony given at both hearings will be carefully analyzed and evaluated along with all the information provided to the Committee. Research by the Committee staff on this issue will continue during the summer, and I would ask interested parties to submit any additional information that they would like the Committee to consider, through the staff.

A determination will be made by the Committee after the end of the summer recess regarding what changes, if any, need to be made in the present system. The primary consideration will, of course, be to assure that the funds are being used to the greatest benefit of the firefighters and their families.

Among the questions I would hope to have addressed today are the following questions, which this Committee will be considering in its deliberations.

In what ways can the present system be improved to benefit more firefighters and their families, and why aren't there more relief claims filed? To what extent should funds be used for other purposes than assisting needy firefighters or the surviving spouses or children of firefighters? For example, should funds be used for training firefighters, or would this be contrary to the original intent and purpose of which the Association was created and a funding mechanism established?

Are 532 local relief associations needed? Would it be more efficient and economical to have regional or county firemen's relief associations?

How is the 2 percent surcharge collected? What was the total collected last year? Is there any indication that some foreign insurance companies may not be paying the surcharge or the full amount required? Why is there a disproportionate split in money collected pursuant to the 2 percent surcharge between the municipalities covered by the local relief association and those that are not covered? To what State account are the funds credited? What is the purpose of the so-called 999 account and how is it administered? How exactly is the allocation and distribution of the funds to local relief associations determined? Can the municipal code system developed by the Insurance Services Office be improved and, if so, how? Can the present system for the distribution

of relief funds be improved? What suggestions, if any, do the Departments have for improving the distribution of funds. Does the Insurance Department or the Treasury Department perform any audit or require any kind of accountability regarding the use of the funds from the 2 percent surcharge by the State Association and the local relief associations, and should the Department exercise more control over the funds? What is the actual current financial reserve of the State Association? Is there a logical explanation for the disparity in the amount of the reserves reported in the media and the amount reported by the Association? Is there a need for another home for firefighters?

If these questions are not specifically addressed in prepared testimony, then they will, I am sure, be asked in some form during the course of the hearing. After we have heard from the representatives from the Insurance Department and the Treasury Department, an opportunity will be provided for the President and the Counsel of the Association, and any other interested party that wishes to testify.

Senator-- John, would you like to add any comments?

SENATOR GIRGENTI: No, I'll wait for the statements made on behalf of the Insurance and Treasury Departments. I have no questions. But a lot of the questions that you did ask, I know that we're very interested in hearing something in response to that.

SENATOR KOSCO: Okay. Thank you.

We have Deputy Commissioner Ed Gross.

DEPUTY COMMISSIONER EDWARD GROSS: Good morning.

SENATOR KOSCO: Good morning.

Okay, and who do you have with you.

MR. GROSS: Senator, on my right is Executive Assistant from the Department of Insurance, George Dytyniak. And I also have with us today, Assistant Commissioner Gale

Simon; Director of Legislative Affairs, Marc Buro; and I think as well, Cheryl Thompson is with us. That is the extent of our representatives here from the Department of Insurance this morning.

SENATOR KOSCO: Okay, thank you.

MR. GROSS: Senator, with your permission, I have prepared an opening statement, and I would like to read it into the record if possible.

SENATOR KOSCO: Certainly.

MR. GROSS: Thank you very much. I believe we have copies of that statement that we can distribute to your membership.

It's already done? Thank you. (addressing colleagues)

SENATOR KOSCO: Yes. It's been distributed.

MR. GROSS: Chairman Kosco, members of the Committee: I am Deputy Commissioner of Insurance. I've already identified the members of the Department of Insurance that are here today to aid and assist this Committee in connection with the State and local firemen's relief associations.

First, I'd like to thank you for giving the Department of Insurance the opportunity to discuss this issue with you and present to you our thoughts on how to improve the system. We hope to be able to address your areas of concern as respects the issues of the Firemen's Relief Association. As you know, this program was initiated well over 100 years ago as a means to provide the families of volunteer firemen and paid firemen with financial assistance where a fireman died in the line of duty.

A lot has changed over these past 100-plus years, and perhaps today it is appropriate to examine these very important issues with an eye towards how to make the system work better and more efficiently. And we're here today to assist you in that endeavor.

I would like to take a moment first to briefly go over some of the history in connection with the Association. Prior to 1988, the Department of Insurance audited and reviewed the premium tax that was dedicated to this program. The Department played no other meaningful role in connection with the various 530 local firemen relief funds or the State organization.

However, in 1988, a Superior Court decision and the judgment rendered in that case requested -- or directed the Department, I should say -- to provide further regulatory relief in connection with the responsibility for ensuring that auditing of the financial reports of the local and State fire relief associations be conducted to ensure that funds by the Association were being used for public rather than private purposes.

At that time, the Department provided it's expertise to the State Association by cooperatively developing rules and guidelines for monitoring and supervising the local associations. Included in the guidelines were financial reporting requirements, which established a 15 percent cap on administration expenses. I might add, that 15 percent cap is exclusive of expenses associated with the annual State convention.

Under these rules and guidelines, the auditor of the State Association is required to examine the financial reports and expenditures of the local associations and provide quarterly and yearly summaries to the Department of Insurance.

In addition, the independent certified auditor of the State Association must perform quarterly and annual reports of the State Association, which must also be submitted to the Department. Oversight of the associations is further afforded the Department through its receipt of copies of the State Association Executive Committee minutes and the convention handbook, both of which contain outlines of the financial reports and analysis of all of the associations.

The rules and guidelines currently in place have enabled the Department to determine that the funds held by the associations are being used for public rather than private purposes. The Department is currently drafting regulations which focus upon its function to oversee the fire relief associations and which further ensure that the funds they hold are being used for public purposes.

These changes reflect the Department's desire to make the system operate more efficiently, consistent with the goals of this Committee. We always can do better, and the promulgation of a new regulatory framework will mean a step in a constructive and positive direction.

We look forward to working in a cooperative manner with this Committee, and the entire body of the Senate and Assembly, to review additional changes to the current system. We stand ready to further our review and analysis to make additional improvements to the system and to increase the efficiency of State oversight of this important area of public policy.

Again, I thank you for inviting us to participate in this hearing, and I would be pleased to answer, if I can, your questions.

Thank you very much, Senator.

SENATOR KOSCO: Thank you. In your comments, you said that you were supposed to provide quarterly and yearly summary reports to the Department, or they were supposed to provide them to the Department. Correct?

MR. GROSS: That's correct, sir.

SENATOR KOSCO: Have you received those reports?

MR. GROSS: Yes, sir.

SENATOR KOSCO: So if this Committee asked you for copies of those reports from 1988 until now, we would be able to receive copies of those reports, to review.

MR. GROSS: Yes, sir.

SENATOR KOSCO: Okay.

John?

SENATOR GIRGENTI: Yes. Let me ask you, do you have a list of the out-of-state companies that write the fire insurance policies for property in New Jersey?

MR. GROSS: Yes, we do.

SENATOR GIRGENTI: Is that available?

MR. GROSS: Yes, sir.

SENATOR GIRGENTI: Mr. Chairman, I think we should get a listing of the companies.

What is the total premium revenues to these companies for policies issued on property in the State?

MR. GROSS: Senator, we could retrieve that information for you. What I do have available is the total aggregate annual 2 percent premium tax that is funnelled through the relief association, and that's approximately \$12 million. We could provide you promptly with the total net premiums of those carriers that are responsible to pay the premium, if you would like.

SENATOR GIRGENTI: All right. Because one of the questions that came out of our last hearing, and I don't know if you were here at the time -- but we had questions, why do only 30 or 40 nonmember municipalities; that is, those that do not have local relief associations and do not belong to the State Association generate more than half the revenue that the 532 local associations generate. I think the figure was something like \$4 million as opposed to \$7 million. Do we have any idea how that figure comes about, or why? It seems like a discrepancy there in terms of the amount.

MR. GROSS: If I understand your question, Senator, it's based upon nondomestics' writing of insurance products in a local municipal area. If a municipality is, for the purposes of this program unfortunate to have domestics writing that coverage in large volume, then the amount of funds that they

would receive through this system would be less than another municipality. So it's a product of who writes the coverage that directs how much a local will receive.

SENATOR GIRGENTI: But the disparity-- We have, I believe 30 to 40 municipalities do not have local relief associations; 530 do. The amount collected -- it seems for 530 it's about \$7 million and for 40 we're talking about \$4 million to \$5 million. Why? That just seems like a great discrepancy. And I just can't seem to find the answer. Why would there be that much of a difference?

MR. GROSS: Other than how I've responded to you, Senator, I really wouldn't know why there is such a disproportionate percentage of nondomestics writing in the areas where there are no local relief associations.

SENATOR GIRGENTI: Well, do you know where those properties are, or does your Department know where those properties are, are the source of those premiums, for instance?

MR. GROSS: I doubt if we have data that would be able to generate that type of information without some comprehensive research, Senator.

SENATOR GIRGENTI: Well, how would you know that you're disbursing it correctly then?

MR. GROSS: Well, we know, Senator, from our responsibility of audit that the 2 percent tax is paid -- currently paid to the State Association by virtue of the documentation that the carrier is required to provide to the Department of Insurance, as well as the amount of credit that the carrier takes on its filing forms with the Department.

We have adequate data to audit and to represent to you, Senator, and to the entire Committee, that the amount required by the nondomestics has been paid, for the most part, to the State Association. There could be some modest exception, where the premium tax is paid directly to a local, but that's just a very insignificant amount, if that happens.

The premium tax goes to the State Association, and we are responsible as a Department to audit that and certify to Treasury that, in fact, the amount required by the nondomestic has been paid and received by the State Association. And we can represent to you that, in fact, that process has occurred regularly and correctly.

SENATOR GIRGENTI: Well, who sets the policy, in terms of who writes out-- These companies that write out the checks, who do they write the checks out to, for instance? Do they write it out to the Treasury? Do they write it out to the Relief Association? You mentioned that in some cases they write it out to the local relief association. Is there any one particular policy that we should be following?

MR. GROSS: Senator, there is a code that starts with the producer, and it's the responsibility of the producer to correctly code, which is a code for location.

SENATOR GIRGENTI: Each municipality would have their own code and each relief association--

MR. GROSS: Yes, sir. That's correct.

And then when the nondomestic carrier remits, they remit with coded information to the State Association, who then does a review. If they look at it and on its face, they deem that it appears that there may be errors, they'll go back to the particular carrier. Otherwise, they'll distribute out to the locals based on the code.

And I may say, Senator, that I think a very good and probing inquiry. The Department of Insurance had a fair amount of complaints about -- from locals a number of years ago that they were not receiving the funds they were entitled to. And--

SENATOR GIRGENTI: If I can interrupt you for just one minute. Now, the code right, every relief association has a code labeled to it -- just want to follow this through -- and that would be how you would determine, by following that through the whole system, that that's how much money they have coming to them, each local?

MR. GROSS: Senator, we do not audit the ultimate distribution from the State to the local.

SENATOR GIRGENTI: Well, how do we know?

MR. GROSS: We audit -- if I may say so, Senator--

SENATOR GIRGENTI: Sure, go ahead.

MR. GROSS: --the aggregate amount that is the responsibility of the nondomestic to pay to the State Association in accordance with the assessment of the premium tax. We certify that to Treasury. The distribution from the State to the local is not audited by us. We have very few--

SENATOR GIRGENTI: Who is that audited by?

MR. GROSS: What?

SENATOR GIRGENTI: Treasury?

MR. GROSS: Well, the field auditors and the auditor principally for the State Association is responsible in connection with auditing the annual statement of the State Association to be satisfied professionally.

SENATOR KOSCO: The person that audits the money going from the State to the local associations, who is responsible for that audit?

MR. GROSS: An outside auditing company engaged by the State Association, under the direction and recommendation of the Department of Insurance.

SENATOR KOSCO: So an outside auditing company is hired by the Association to audit themselves.

MR. GROSS: That's right, but, Senator, that's regular practice in our society. It's quite acceptable and conventional that you would have a company engage an outside auditing firm. There are standards--

SENATOR KOSCO: I'm just asking the questions, just give me the answer.

MR. GROSS: Right. That's correct.

SENATOR KOSCO: I'm not looking for excuses.

MR. GROSS: But, I think, Senator, if I may say, that

bottom line, our Department of Insurance has a relatively minor amount of complaints that have come to it over the last two years by locals in connection with the disbursement of the funds from the State parent association to the locals, which suggest that it's not a problem.

SENATOR GIRGENTI: My question, again, and I just-- How do we know that all the money we're supposed to be getting is coming in?

MR. GROSS: We certify it. The Department of Insurance certifies that to the Treasury. And we audit that every year.

SENATOR GIRGENTI: Okay, but how do we determine-- Who gives oversight to these domestic companies -- these foreign companies that are paying? Is it that they're doing it on good faith and they're writing out checks, or is somebody -- is there some way that we know exactly what they owe us, ahead of time?

MR. GROSS: I don't think we know necessarily in advance, Senator. But we get a return from the nondomestic that takes a credit against their tax obligation for the amount that they pay. They have an obligation when they send in a check to the State Association to provide backup documentation, which is a listing of all the policies they write with code. If you're saying, Senator, is there a possibility--

SENATOR GIRGENTI: That they are not getting the money that--

MR. GROSS: --a nondomestic is not faithfully disclosing every policy--

SENATOR GIRGENTI: How do we know if they are or they aren't? That's the question.

MR. GROSS: That's a possibility that that could happen. It presupposes a very, very serious infraction of the law by a nondomestic, but it obviously could happen, and we, as a Department of Insurance, if we assume it could happen, would not be aware of it up front.

SENATOR GIRGENTI: See, but you're only in on the tail end of the process, right? In other words, how do you know? That's the question. How do you know they're not? They're giving all the money they should be giving, and you're coming in at -- and following in what's coming in and auditing that. How do we know what's coming in? Do we have a handle on it? Does anybody know?

SENATOR KOSCO: Do we go into their-- What the Senator is asking is, do we go into their company, audit their books to find out if the information that they're giving us is correct? We do that?

MR. GROSS: Senator, would you very much mind if I would allow George to respond more technically to that process.

SENATOR KOSCO: No, go ahead.

MR. GROSS: Thank you very much.

SENATOR KOSCO: What we're asking -- we don't need a whole, big, long, 20-minute speech. We're asking a very simple question that -- and we like to get simple answers that are directly to the point without talking around the whole question. Got it?

G E O R G E D Y T Y N I A K: I'll try.

SENATOR KOSCO: Okay, the question is, how -- what John, is asking -- what Senator Girgenti is asking is, how do we know that the moneys that we're receiveing is the proper amount of money, and how do we audit the companies -- the outside companies -- to find out if it is the correct amount?

MR. DYTNYIAK: We know, as a grand total that it's the proper or total amount, because the insurance companies submit an annual statement which lists the premiums that they write. They also submit a premium tax form. The annual statement is a formal document with the Department of Insurance that goes into other areas other than just premium volume. We can determine what the fire relief association amount as a grand total should be. We segregate that via the tax form, via the tax

certification to Taxation. I cannot tell you that Lower Alloways Township should get "X", but I can tell you that the fire relief association as a whole, from the insurance, should get "X".

SENATOR KOSCO: Okay.

MR. DYTNYIAK: So indeed, we audit annually to the annual statement etc. So we'll know what they should give as a whole. You know, if you're asking specifically what any individual municipality should get, that gets back to the regulation that states that the agent should properly code that, and then it goes through the coding and--

SENATOR GIRGENTI: Who are the checks written out to?

MR. DYTNYIAK: My understanding is that they're to the State Association; they were, prior years, to ISO. The State Association then distributes it to the locals.

The insurance company, however, takes a credit against their tax, and we verify that against the printout there, and if it doesn't match, the company's obviously going to complain.

SENATOR GIRGENTI: How come we have the-- I guess this problem has been going on for a long time, that it actually goes to three different places, right? Some money goes to these locals, some goes to the State Association, and some goes right to Treasury?

MR. DYTNYIAK: It's not a problem.

MR. GROSS: That's okay.

Let me see if I could resume, Senator. I wouldn't describe it as a problem. Where policies are written for which the premium is to be paid, and there's no local association, then you have a coding of 999, and that money goes to Treasury. And I believe, Senator, you are aware that those funds are principally used to underwrite the operating cost of the home. And then any funds remaining in that account, after the budget is reviewed by the executive branch, and payment is made by Treasury pursuant to the reviewed budget, whatever

remains in that account is then remitted to the State organization, which funds a portion of their operating expenses.

SENATOR GIRGENTI: All right. My question, again, is how do we know that they're sending the 2 percent to the correct place?

MR. GROSS: George, why don't you try it again, because I -- maybe you didn't--

MR. DYTNYIAK: The way-- The 2 percent does not go to general revenue; it's captured. If the insurance company does not, for whatever reason, wish to avail itself of the service that the fire relief association has, it just simply states it in the premium tax form. When we do the audit certification, we segregate that money out. Taxation sees it and just assumes that the entire total is a 999 account. So it will go to the correct place, in a sense, it will go to the fire relief association pot as a whole. The State will not get the money.

SENATOR GIRGENTI: How do we know? In other words, if they don't put a code on it and it's addressed--

MR. DYTNYIAK: Right.

SENATOR GIRGENTI: --it's going to go to the fire relief association anyway, or could it go into the general fund?

MR. DYTNYIAK: Yes, it'll go to the fire relief association as a whole. The only way the company -- if the company does not put a code, that particular local association that may have had the right to that money doesn't get it, but the State Association or the home, and then the remainder of the Association as a whole gets it.

SENATOR GIRGENTI: See, my concern is, are we getting all the money?

MR. DYTNYIAK: Yes.

SENATOR GIRGENTI: And the other thing is, is the money by accident, or whatever means being shifted into possibly the Treasury, or somewhere else into the State fund.

MR. DYTNYIAK: My understanding of the way the system is, and my working knowledge of the system is that it's almost a complete circle; that the State general revenue does not get this money. If, in theory, everyone did not use the local association, it would go onto a monster 999 account, but the State would not get the money. The State Association -- the fire relief association, as a whole, would. I feel it's a very tight and complete system.

SENATOR GIRGENTI: Then why wouldn't it all go to one place?

MR. DYTNYIAK: Why wouldn't it go to one place?

SENATOR GIRGENTI: Yes.

MR. DYTNYIAK: Because the companies are supposed to code properly, and therefore, it would go to the local--

SENATOR GIRGENTI: Is there an effort made to make sure, you know? How do we go about with these companies, to tell them to code properly?

MR. DYTNYIAK: There's a regulation, and it's been the source of controversy for many years. A market conduct-- We're trying to get the market conduct examination people to review actual policies to see if the agent in the field has properly coded. The problem always occurs when the particular agent is putting the code in, he or she does not necessarily know what proper municipality it's in. You're standing on a border of a town and code it to the wrong one.

SENATOR GIRGENTI: Well, then maybe we should just go to the State and have them distribute it, instead of having the coding at this point. All right, the other--

MR. GROSS: I think, you know, Senator--

SENATOR KOSCO: Excuse me, the Senator was talking.

SENATOR GIRGENTI: What was brought up at the last hearing. We've heard there's a balance of \$90 million mentioned in the -- available or in the accounts. Are we talking about-- Then we heard there's \$23 million at the State

level and \$67 million at the local. Could you explain and go into that a little bit in terms of is this money available?

MR. GROSS: As of December 31, 1992, we can report to you that all the locals, in the aggregate, had \$61,069,362 and that the State Association as of June 30, 1993 had \$26,320,138.

SENATOR GIRGENTI: And that's basically with all disbursements getting out and so forth, right? Is that the balance that is left?

MR. GROSS: Those are their total assets as of a snapshot day, in time. Each organization, obviously, would have accrued liabilities as of that day.

SENATOR GIRGENTI: All right. So there is-- That balance is there, in terms of the moneys that are available at that point. Well, we're talking roughly \$90 million.

MR. GROSS: Approximately, so, sir.

SENATOR GIRGENTI: Go into-- I think you mentioned the fact, about the administrative cost and that earlier, when you made your presentation about the 15 percent. Have the associations complied with that?

MR. GROSS: The reports that we have received from the field auditors engaged by the State for the purpose of ensuring compliance by the locals supports compliance with that cap, Senator.

Senator, my staff has given me, and I think it would be useful for me, if you don't mind, four different events that take place in the Department of Insurance that reflect opportunities to ascertain if a nondomestic has failed to properly remit 2 percent. For the record and for your information, may I report that to you?

SENATOR GIRGENTI: Sure.

MR. GROSS: Thank you very much.

The first item is the annual financial statements. They're certified by the Department. At that point, we should

be able to determine if there is a problem in connection with the issue that you raise; namely, an underpayment of the 2 percent or--

And the second is the certification of the premium tax credit to Treasury. At that time, when we engage in that activity, we should be able to determine, once again, if there has been an underpayment.

The third area is the market conduct examinations that the Department of Insurance conducts on a regular basis. At that time, in examining the books and records of the carrier, we should be able to find such discrepancies.

And finally, the Department conducts financial examinations of carriers every three years. Once again, we should be able to determine that, and staff reports that it, on each occasion, we in fact, focus on that issue.

Thank you, Senator.

SENATOR GIRGENTI: One final thing I have, Mr. Chairman, is, over the past 10 years, how much revenue has been annually distributed to the State Association -- do we have that -- and to the local associations and to the State nonmember municipalities?

MR. GROSS: Senator, could we provide that to you promptly by a writing?

SENATOR GIRGENTI: Sure.

MR. GROSS: Thank you.

SENATOR GIRGENTI: That's all I have.

SENATOR KOSCO: Okay.

Your responsibility as far as this funding and this is concerned is strictly the dollar amount, collecting and distributing? Do you have any oversight over the operation and recommendations, as to how to make the Association work?

MR. GROSS: Senator, we do have responsibility that goes beyond strictly, financial auditing, and the distribution of the funds to the proper parties. That responsibility

uniquely was not generated through legislation, which is really your province to instruct a regulatory agency to proceed with oversight of any program. It emanated from a Superior Court decision in 1988, the Szabo case, where the judge, in rendering a decision on a complaint where the individual principally charged that a local association was discriminating and not recognizing that person as a member, also contended that the use of public funds by a private entity was unconstitutional. And the judge, in finding that it was, in fact, not an unconstitutional delegation of these moneys that originated back with the enabling legislation 100-plus years ago, said to the Department of Insurance, "Engage in a regulatory exercise over these funds to ensure that they are being used for the purposes intended by your legislators."

And Senator, we did that in 1988, in conjunction with the State Association. We worked for a considerable period of time in the development of rules and procedures on how each local would operate, how they would account back to the State, the uniformity of benefits payments, the need for a uniform application to be filled out so adequate information is obtained by the Locals in determining eligibility for benefits, the need to ensure that the administrative expenses for each local were not unreasonable, which is what the statutory language provides for only--

SENATOR KOSCO: So as a result of that, the 1988 decision--

MR. GROSS: We did that.

SENATOR KOSCO: --everybody that applies for a membership must be accepted?

MR. GROSS: That is eligible for membership. That is--

SENATOR KOSCO: Right.

MR. GROSS: Right, in the class of firefighters in New Jersey. That is correct.

But my point is, Senator, that we are both more involved and more interested in the process than just receiving a financial audit. We play a role of oversight to ensure that the expenditures of the local organizations comply with a reasonable relationship between their benevolent responsibilities and their overhead, because there is promulgated in their rules and procedures this 15 percent cap, which is the cap that we recommended, and, in fact, urged the State Association to adopt.

But we don't regulate, at this point, in the traditional sense, each of the 530 locals. We don't do an independent audit. We don't independently review their financial statements, other than through the field audit reports. We don't go to sites of the locals and examine their books and records, as we would do with an insurance company.

SENATOR KOSCO: In your opening remarks, you said that the Department is currently drafting regulations which focus upon its function to oversee the fire relief associations, which further ensure that the funds that they hold are being used for public purposes.

When did you start this and why?

MR. GROSS: Well, I think that's a very good and appropriate question. I'm not absolutely certain, in my capacity as Deputy Commissioner, that we don't have a reasonably good system already in place. But there has been a great deal of publicity concerning the use of the funds and the expenses of the annual convention, and the relatively small benefits in relationship to the totality of moneys that the locals have at their disposal annually and collectively over the years. And trying to work in a parallel fashion with your Committee, I gave direction to our staff to prepare proposed regulations that would engage the Department of Insurance in a more active regulatory fashion. It was not because there were findings in the Department of significant deficiencies that

warranted it. It was because you can always improve, and I thought that, at this point in 1994, we should consider taking the next step, which is a tighter regulatory role in this program, which program has a considerable amount of money flowing through it that is public. So it wasn't predicated upon adverse investigatory information in the Department. It was more generated by the publicity of the last few months that I think has stimulated your Committee, so it has stimulated us as a regulatory agency.

SENATOR KOSCO: So from 1988, when the last supposedly hearing -- whatever it was; I wasn't there, so I don't know what it was until now, there wasn't anything done. But, now, suddenly we think that -- even though there were recommendations, from what I understand, although maybe verbally from the Attorney General's office I-- Nothing was done for some reason, until now.

MR. GROSS: Senator, that isn't, if I may respectfully say that, that is not the case. There was a considerable amount done immediately after the Superior Court decision. We're just, at this point, taking another step in the process. But what we did as a regulatory agency after that decision is sit down with the leaders of the State Association and help them design a procedures book. We have, in fact, a copy of that here, today. We would have--

SENATOR KOSCO: I have that book.

MR. GROSS: You have that book?

SENATOR KOSCO: We have that book.

MR. GROSS: Okay.

The State Department of Insurance is responsible, in a meaningful manner, for the development of this procedures manual, which manual is used both by the field auditors and by the State associations to be guided in connection with the proper and correct use of their public funds. We did this.

We also required, in 1988, that the State Association hire an outside field auditor whose responsibility will be solely to review, on a regular and continuous basis, the performance of both programs--

SENATOR KOSCO: From all of these audits and checking that we've been hearing about so far this morning, has anyone ever come back and made a recommendation on that?

I'll give you some examples: If I did an audit and I did any kind of checking on an organization and found out-- For example, in 1992 only 76 of the 530 local associations distributed more aid than they spent on themselves. And about half of the local associations awarded no relief money at all. And it's been reported that more than \$800,000 was paid to local association officials for administration in 1992.

Now, if I did an audit on an organization and found out that only 76 of 530 gave out more money for the purpose for which it was intended than they spent on themselves, a flag would go up. If I found out that half of the associations never gave out any money at all, a flag would go up, and I would say, if this is a continued practice, how often has this happened? How many years in a row have we had an organization in "ABC" Township that has never given out a dime, and why do we continue to spend administration money for an organization that doesn't give out any money? Wouldn't a flag go up?

I mean, there are certain things that should trigger, and that has to come from direction from the top, from the people who are asking for the audit. When you ask for an audit, you ask for an audit with a purpose. What's the purpose of an audit? Is it to go through the motions so that we have a quarterly report, or is it to go through the motions so that we can find out whether or not we're going to do something, or if something is right or if something is wrong? And being the type of individual that I am, I'm always looking for something that is going right, so I'd just as soon have a report come

back telling me everything is perfect, everything is good. I'd rather have that type of report than the other kind of report, but I'd also like to have recommendations. So has anyone ever given you back a recommendation that said, "Only 50 percent of the organizations out there have done anything with any money"?

MR. GROSS: Senator, let me--

SENATOR KOSCO: That's a yes or no.

MR. GROSS: Well, I'm not trained to give yes or no answers. (laughter)

SENATOR KOSCO: Yes, but I'm trained to hear them. It's my Committee hearing, so I'm asking you for a yes or no answer.

MR. GROSS: Well, I'll generally say that all the things you say are correct.

SENATOR KOSCO: No, excuse me.

Has anyone ever come back to you and said, "Fifty percent of these organizations have not given out any money since 1990, and there may not be a need for all these organizations." Has that ever happened?

MR. GROSS: I would probably say, no, Senator, because that's not our role. We're not--

SENATOR KOSCO: Well, if part of your role is to regulate and to write manuals, why wouldn't it be to make recommendations?

MR. GROSS: Because we have to follow the lead of the legislative body, and this legislation does not provide for curtailment of funds to a local, merely because in any given year or two or four years, that they have not remitted benefits.

SENATOR KOSCO: I didn't say that. See, I didn't ask you that question. That has nothing to do with what I'm asking you. I'm asking you if someone ever made a recommendation? I didn't ask you if you should curtail anybody's funds. I asked you if anybody ever came back and said, "That might be a good reason to change some of the procedures and eliminate some of

the associations that aren't doing anything." That's the question. That's a simple question.

Okay, let me, up to that--

MR. GROSS: I'm conferring, but I--

SENATOR KOSCO: I know the answer is no, so let's leave it at that.

MR. GROSS: But, I also want to point out to you, if I may, Senator, that there is an accrued obligation for each local in connection with death benefits and merely, as a result of not paying in any particular year or in consecutive years, does not mean that they need not reserve funds for their responsibilities at a later date.

SENATOR KOSCO: I'm not questioning the funds. Don't you understand? See, you're talking dollars, and I'm talking procedure. What I'm trying to do is to see if we can come up with a procedure that possibly may take all this money and put it in one spot and then have-- Wouldn't it be more efficient if all the money was in one place? And when an Association needed the money they took the applications, approved it, and then applied back to the main office and said, "We need \$1200; we need \$1500; we need "X" number of dollars." That application would then go back to one place. Rather than have 530 different spots to keep our money, wouldn't it be more efficient to keep the money in one account?

MR. GROSS: I would think that that is a worthwhile area to explore.

SENATOR KOSCO: Okay.

MR. GROSS: You may find it's more cost efficient to operate out of a central depository of funds, but I think it needs to be studied, Senator.

SENATOR KOSCO: Okay.

Do you have more questions? Anyone? Senators? (no response)

Okay.

Thank you.

MR. GROSS: Thank you very much.

SENATOR KOSCO: Are you going to stay around? I would appreciate it if you stay around in case some questions come up that we want to ask.

MR. GROSS: We'll be pleased to do so, sir.

SENATOR KOSCO: Okay. Or you may want to respond later on to something that's said, and maybe you agree or disagree with it.

MR. GROSS: We'll certainly stay here, Senator.

SENATOR KOSCO: Thanks.

Okay, Frank Haines from the Budget Analyst -- Budget Department.

Frank, thank you for coming.

You have a particular position with the Office of Management and Budget in the Department of Treasury, as to manage this account?

F R A N K H A I N E S: That's one of my responsibilities, yes. The accounts into which foreign taxes on fire insurance premiums that don't line up to a local relief association is paid is an account that we give a program classification to, with a general heading of "Other Distributed Taxes". And that is my -- that is one of my responsibilities, to manage those accounts.

SENATOR KOSCO: Okay, I think you see where we're trying to go with this, at this point, as far as the collection of it, the distribution of it, and the questions that Senator Girgenti has asked and we started to talk about.

We're concerned about whether or not we're getting the money that we're supposed to be getting, who is doing the accounting for it, and finding out, and checking up, and making sure, or are we using the Boy Scout system, "on my honor." How are we and when it comes in--

For example, when we ask the question, "Where was a certain amount of money," we were told there was \$13,000 in the

account, only to find out that there was much, much, much more than that, but it wasn't in the account yet. My question is, why and where was it? We're looking for a paper flow so that we can try to maybe redirect it, if we have to, and consolidate certain things.

MR. HAINES: Most of those questions are probably better answered by the Division of Taxation. The Division of Taxation is the intake point, of course, for insurance premiums taxes. The Division of Taxation has the job of sorting out insurance premiums taxes into various revenue accounts. Because as the State--

SENATOR KOSCO: Excuse me, who do we have here?

H U G H R. S C H N E I D E R: My name is Hugh Schneider, and I work at the Division of Taxation.

SENATOR KOSCO: I was going to call you next.

MR. SCHNEIDER: Okay.

Do you want me to go back?

SENATOR KOSCO: Yes, I was going to call you next.

MR. HAINES: The Division will, I believe, after a review of tax returns, deposit money, or on the revenue accounting system, attribute money paid in insurance premiums taxes to the respective revenue accounts. And one of those revenue accounts is the account to support the State's contribution of the New Jersey Firemen's Home, and if there's money available after that, the New Jersey Firemen's Association.

Insurance taxes, as I understand, are generally paid in the springtime, and it takes the Division awhile to go through returns and segregate the money properly. My job picks up--

SENATOR KOSCO: How come, when I send my tax check in, it's, like, cashed within three days? And it takes a long time to get this one--

MR. HAINES: Well, cash accounting and revenue accounting, to line it up with a budget structure are two different functions, so the cash accounting is very important, and we don't want checks uncashed. It's not in the State's financial best interest to have that money lying fallow.

In any event, my job picks up when money is deposited in, or at least accounted in a given revenue account that we have denoted to receive this revenue. And that happened very recently. And it's true that, if you looked on our revenue accounting system one day, you would have seen just a few thousands dollars, and if you would have looked a couple weeks after that, you would have seen exactly \$4,116,058. That number I just read to you represents the Fiscal 1994 collections which we believe represent--

SENATOR KOSCO: The 2 percent.

MR. HAINES: Yes, the 2 percent not otherwise allocated to a territory where there is a local firemen's relief association. That's the key.

SENATOR KOSCO: What was that number?

MR. HAINES: That was \$4,116,058.

You had asked earlier, Mr. Chairman, for a 10-year accounting of these revenues, and I don't have a 10-year accounting with me. I go back to Fiscal Year 1988 and will be glad to leave this information with you afterward and then go back and expand it to the 10-year time period you've asked for.

What's also happening during the fiscal year is that the New Jersey Firemen's Home, which has first claim on the revenues deposited in this account-- The Firemen's Home has prepared a budget, has passed a budget resolution, has submitted that information through the Department of Human Services to the Office of Management and Budget, where a review is done and a recommendation is made to the Governor, through the State Treasurer and through Governor's Council, as to whether this budget request ought, in fact, to be approved by

the Governor. And the Governor, based on whatever advice is given, the Governor will make a decision and attest that that budget is approved.

When the budget is approved, when money comes into the account sufficient to cover the budget requirements -- the approved budget requirements of the Home -- a check is disbursed to the Firemen's Home. A check has, in fact, been disbursed to the Firemen's Home, and that check is in the amount of \$3,021,900. That's the amount approved by the Governor and authorized by the Legislature in the annual appropriations law. And based upon collections, adequate to cover that budget need, that check was paid.

SENATOR KOSCO: So in other words, we paid-- Whatever their budget is, we pay that in a lump sum?

MR. HAINES: Yes, that's correct.

SENATOR KOSCO: And that's at the beginning of the year.

MR. HAINES: That's correct. Assuming, of course, that collections have come in adequate to cover that need.

SENATOR KOSCO: So now the firemen's fund -- the Firemen's Home has that money in their bank account, right now--

MR. HAINES: That's correct.

SENATOR KOSCO: --hopefully, drawing some kind of interest--

MR. HAINES: I would hope.

SENATOR KOSCO: --and making some revenue on it?

MR. HAINES: That's correct. And spending it for their daily needs.

SENATOR GIRGENTI: Frank, just a minute, the \$3 million, is that going to be subtracted from the \$4 million, now?

MR. HAINES: That's correct. It is, in fact, subtracted from the \$4 million.

SENATOR GIRGENTI: So, now you have a \$1 million--

MR. HAINES: That's correct, \$1.94 million and change. Yes, that's correct.

So the residual amount of money in the account is, therefore, available for allocation as statute provides and as the appropriations law provides to the New Jersey State Firemen's Association. That is quite simply the system.

SENATOR KOSCO: So the money comes in, it stays in the Treasury until such time as you can distribute it into the 99-- What's this 999 account?

MR. HAINES: My impression of the 999 account is that it represents the coding that insurance taxpayers are asked to use to designate a tax on a premium written on a risk that is not located--

SENATOR KOSCO: Is that actually a separate account or is it just a--

MR. HAINES: Well, the 999 is a coding, but when the revenue that represents a 999 code comes to the State, it does go into it's own revenue account, then it goes into its own appropriations, because we link a revenue source to an appropriations account provided that the Legislature, in the appropriations law, has given the authority to disburse this money. We then disburse the money from the account. Again, first to the Home to meet the Home's approved budget needs, and if any money is left over after that to the State Firemen's Association.

Please do bear in mind that it's only the revenue, only the taxes paid on premiums on a risk not located in a territory -- I'm sorry, located in a territory not covered by a local relief association. It is only those moneys that come to the State of New Jersey. It's only those moneys which the budget process governs.

SENATOR KOSCO: The rest of the money goes directly to the Association.

MR. HAINES: That's correct. It is never -- it does not ever enter the State Treasury.

SENATOR KOSCO: Has anyone-- Okay, now, when this -- when we're calculating how much we should be receiving from the insurance companies -- who ever does that? Is that your department or is that from the insurance people?

MR. HAINES: It is not OMB.

SENATOR KOSCO: Pardon me.

MR. HAINES: It is not the Office of Management and Budget.

SENATOR KOSCO: Okay, so that would be the Department of Treasury or the Department of Insurance?

MR. HAINES: One or the other.

SENATOR KOSCO: Do you know which?

MR. HAINES: I'm not certain myself.

SENATOR KOSCO: Okay, now, they get an accounting from the Association to find out how much money they received. Then you give them an accounting of how much you receive, so they could add the two up and say, "This is how much we were supposed to receive."

MR. HAINES: I don't know that the process works that way. I don't think that OMB needs to give an accounting to the Insurance Department, for example, of how much money we have distributed.

SENATOR KOSCO: How would they know that they received all the money?

MR. HAINES: Well, I think we're at the end of the process. In other words, we would assume at OMB that tax remittances are proper and that the Division of-- Well, Division of Taxation--

SENATOR KOSCO: You're assuming that foreign insurance companies are accurately reporting the amount of money and no one is checking it?

MR. HAINES: That's an a priori. I don't know that no one should be checking it. It's not an OMB function to audit taxpayers, though.

But, again, we're at the end of the process, at which time tax payments have been received and allocated by the Division of Taxation into respective revenue accounts.

This is not the only revenue account that has to receive a slice of insurance premiums tax payments. There are a couple of other, or at least one other dedicated revenue account that the statute provides for and that the budget provides for to receive certain insurance premiums tax payments for a certain use of those moneys.

SENATOR KOSCO: So you have no responsibility to and no one has asked you, at this point, to give them an accountability report as to how much the Department of Treasury or the Office of Budget has received from--

MR. HAINES: Oh, no. Those questions are routinely asked for informational purposes, yes.

SENATOR KOSCO: But there is no reporting procedure that -- every quarterly or yearly, however, you receive this money that you automatically send the report over to the -- another department so that they can calculate how much in total was received.

MR. HAINES: No, I'm not aware of that.

SENATOR KOSCO: Okay.

How would you know that you received everything, or isn't that your responsibility? Your responsibility is just to take what comes in and bank it. And somebody else's responsibility is to see that you got--

MR. HAINES: Actually, OMB's responsibility is to disburse the money according to the budget law -- according to the preparation law, annually, and in accordance with the procedure of the statute.

SENATOR KOSCO: So someone sends you \$20, you just assume that that was what they were supposed to send you? You don't back check and see, were they supposed to send you \$25?

MR. HAINES: OMB would be concerned if the money that was allocated to the dedicated revenue account, for ultimate payment to the Home and to the Association respectively, changed significantly, either significantly downward, or significantly upward, because we would then have a budget issue on our hands. Do we, in fact, have enough revenues to meet the claims on those revenues, the claims of the Firemen's Home and is there any money left over after that for the Firemen's Association? So yes, we would certainly raise red flags if we don't see revenues going into that account.

SENATOR KOSCO: But there's no procedure established, right now, where you or somebody on a routine basis, that you let someone in the Department of Taxation or the Department of Insurance know what you collected?

MR. HAINES: No, actually, they're telling us what's collected. It's the other way around. Because, again, insurance premiums taxes and the reporting of those things are initially received, I believe, by Insurance and by Taxation. Certainly, Taxation receives the tax remittances and has the responsibility of reviewing tax returns and putting tax payments that come in with those returns into the proper pools of money, if you will.

OMB really does not have the right. It wouldn't be appropriate for OMB to review tax returns. That's because of confidentiality considerations. We will converse with Taxation and, you know, ask for assurances that they're seeing that they are allocating the money properly.

And, again, if we see revenues either above or beyond our assumptions or our expectations, we will certainly ask questions about that.

SENATOR GIRGENTI: Frank, maybe you can answer this, I'm not sure. Do you -- does the amount that comes in every year, is it pretty stable in terms of the amount that comes in? Is it different or--

MR. HAINES: There's not a wide fluctuation. I have a history here from Fiscal 1988 through Fiscal 1994. The lowest collections were about \$3.7 million. The highest collections in that period were about \$4.9 million. And the amounts fluctuate within that range and that's -- it's not a small percentage range, but given the small number -- the relatively small amount we're dealing with, it's not a wide fluctuation here.

SENATOR GIRGENTI: All right, the question I have and maybe I think the answer is that, does the value of the property not increase over the years? Why would we not have more coming in?

MR. HAINES: I don't think I can answer that question, Senator. There are a lot of variables. I think there are a lot of variables in the tax calculation that work into that, and I'm not very well versed in the cost of rating risk, you know, the cost of premiums in this area.

SENATOR GIRGENTI: All right, yes, I was just trying -- curious to know, it seem to be a pretty consistent figure, yet, I mean, you couldn't buy the-- Today you couldn't buy the same insurance that you could 10 years ago.

MR. HAINES: That's a good point. And it may simply be who's writing those risks and not necessarily the cost of those premiums.

SENATOR GIRGENTI: You do have that 10-year -- you can supply us with that?

MR. HAINES: I would be glad -- I have less than 10 years, now, but I can quickly provide you with a 10-year analysis. Yes, I'll be glad to do that.

SENATOR GIRGENTI: And basically, the amount that goes towards the Home must be increasing over the years, little by little, I guess.

MR. HAINES: Yes, little by little. The annual increase in the amount we just distributed over the prior year was less than 1 percent. The year before that, it was approximately 4 percent. It's not that rapid a rate of growth.

It is also a tradition, by the way, by their operating expenses, less direct revenue, because they don't rely on this money for 100 percent of their operating revenue. They are able to charge patient fees to some extent.

SENATOR GIRGENTI: Okay, so that you don't feel that, at some point, the money could be eaten up through just paying-- You know, like you got a million left at this point. At some point, will there be a time when you would go into the red?

MR. HAINES: It's entirely possible. And ironically enough, it's possible even in the situation where the State's total insurance premiums tax revenue might be growing, because the key here is, which insurance companies are remitting those taxes. This is foreign only, and if the same risk, the same premium paid today to a foreign company were it next fiscal year to be paid to a domestic company, that revenue would still come to the State of New Jersey, but it would not be earmarked for the Firemen's Home. So, you know, ironically, the way the law and the budget is crafted, you could run into a problem with funding the Home because the dedicated revenue is actually in another pot, perhaps, dedicated to another purpose.

SENATOR GIRGENTI: Well, the concern is, people are living longer today. You have more need, more need for these type of services. I imagine as we move further and further on, it's going to be more and more costly.

MR. HAINES: That's a reasonable assumption, yes.

SENATOR GIRGENTI: Yes, because of the fact people are living longer.

MR. HAINES: Exactly, and we review the trends in the revenues. We review the trends in the Firemen's Home's needs and at some point, yes, where we perceive a problem, it will become a budget issue and through the Treasurer and Governor--

SENATOR GIRGENTI: I mean, there can be efficiencies and so forth, but the problem is, we're worried about care, too, in terms of the quality of care.

MR. HAINES: Precisely, which by the way, of course, is the Department of Health's purview but we are -- we do have a concern if the revenue needs can't match up to the expenses and again, that could just be a mechanical thing and not a total revenue availability issue.

SENATOR GIRGENTI: Thank you.

SENATOR KOSCO: One more question. I think back in 19 -- in the late '80s that the Division of Pensions, which is part of your Department, was supposed to have done a complete study of the Firemen's Association. Had that been done and a final report been issued on that?

MR. HAINES: I've heard that same thing mentioned, and I have no knowledge of it. It's something I'm trying to find out about.

SENATOR KOSCO: Who would have knowledge of that?

MR. HAINES: Well, if, in fact, the Division of Pensions did something, we would ask the Director of the Division of Pensions to try to answer those questions. And it's something that I have only recently heard and have not had a chance to do much investigation into. I will be glad to continue that, to pursue that avenue of inquiry.

SENATOR KOSCO: Yes, I'd like to find out, and we'll have our staff check on it, too. Because that was brought to my attention also. But I don't know what was ever done, and if the Department of Pensions ever did a study or if they did, it wasn't completed, and who was it submitted to.

MR. HAINES: Okay. Well, I'll be glad to look into that.

SENATOR KOSCO: Okay. Thank you.

MR. HAINES: Good day.

SENATOR KOSCO: Okay, Hugh, you're up. (laughter)

Hugh Schneider, from the Department of Taxation.

Thank you, go ahead.

MR. SCHNEIDER: Well--

SENATOR KOSCO: Give us some ideas.

MR. SCHNEIDER: Basically, I'm concerned with the insurance premium tax returns that are filed by all insurance companies. They're due March 1st of the subsequent calendar year, as it relates to fire insurance premiums.

Foreign insurance companies file the insurance premium tax return, and there's a line indicated on that return for premiums that are related to fire insurance. That information is segregated in a computer system, and the tax is calculated on the total premiums, whether or not tax has been paid to the firemen's relief associations or not.

There's another line, further down on that return, that allows a credit for the amount of taxes that that particular insurance company paid to the relief associations. Basically, that we take all of the premiums indicated on the fire line, subtract the credits that the insurance companies have claimed on their return, and the balance is what goes into the account for the Firemen's Home.

There's an audit done on the returns subsequent to this, and we -- it's a joint audit with the Department of Insurance. We receive information from them to indicate what the correct premiums that should be reported on that return, not only for fire but everything else that's on the return, and, of course, the amount of credit that should be allowed for the taxes that we paid to firemen's relief associations.

And if there is an adjustment, at that time, we would audit and either assess the company, or whatever. If there was no change, of course, there would be nothing to be done.

And that's basically how we handle the collection of the revenues.

SENATOR KOSCO: So the interaction that does or does not take place between yourself and the Department of Budget; they receive money directly, and the associations receive money directly. Is that correct?

MR. SCHNEIDER: When you say, the department--

SENATOR KOSCO: Does the money come into two different places?

MR. SCHNEIDER: No, the money comes into the Division of Taxation, I think. When you said, the Department of Budget--

SENATOR KOSCO: We just heard from Frank that some of the money comes into the Treasury, and some of the money goes directly to the associations.

MR. SCHNEIDER: Right. Yes. Okay, now-- Right.

SENATOR KOSCO: Now my question is, from what I'm left here, right now, if I was to end this hearing right now, I would be left with the feeling that you don't know -- the Association doesn't know how much he collected, and he doesn't know how much the Association collected, and it would be common sense to me that it would be up to the Department of Treasury to put those two numbers together and to find out whether the correct amount of money was paid.

And as I sit here, right now, I don't believe that anyone is doing that. So the bottom line is, if he doesn't tell you how much he collected, and if the Association doesn't tell you how much they collected, how the heck do you know if you collected the proper amount of money?

MR. SCHNEIDER: Well, the subsequent audits that we do, we do with the Department of Insurance and they verify the numbers that are reported as fire premiums on the--

SENATOR KOSCO: They report the numbers that the insurance company reported.

MR. SCHNEIDER: Well, in other words, we get a premium tax return, and it has a line for fire, and the premiums are indicated there. Now, the Department of Insurance, through their annual statements and whatever other information they have available, they certify it to the Division of Taxation, the number that should be reported there. If it's equal, then it's a proper number. If it's not, then we have to make assessments and make adjustments from there.

So there is an audit function that's, you know, in each insurance company for every year is audited not-- If there's a lag time, of course, we can't do the audits immediately as received, but there is an audit performed on each premium tax return to verify the amounts reported on that return.

SENATOR KOSCO: Yes, but if the right hand doesn't know what the left hand has in it, and the left hand doesn't know what the right hand has in it--

MR. SCHNEIDER: Well, the money that we collect from fire premiums from foreign insurance companies, I mean, that's a published number. I think it goes into the Division's Annual Report, indicating how much we collected from foreign fire insurance premiums, which would be the net of the total tax less the credits that the companies claimed on the premium tax return.

SENATOR KOSCO: Don't you think a procedure that would bring all the money into one place would be better, easier, more efficient?

MR. SCHNEIDER: It sounds like it would be more efficient, but I really am not involved in all of the aspects of how money is disbursed from the relief associations or anything like that, so I really wouldn't be able to-- You know, off the top of my head, it seems like it would, but I don't--

SENATOR KOSCO: So we've established now that we really almost use the honor system as far as reportings are concerned as to what -- as the money that's coming in, and we don't really know, unless we go and do an audit of that company.

MR. SCHNEIDER: Which we do.

SENATOR KOSCO: You do it yearly?

MR. SCHNEIDER: The audits are done -- that's why I say, it's a joint audit between the Department of Insurance, and they certify to the Division of Taxation the information that should have been reported on their premium tax return. And if that's -- that's what we compare, the return to that information, and if that information matches then, you know--

SENATOR KOSCO: So then probably a reasonable observation would be that, except for some minor suggestions that might be made about how the money is collected and brought into one location and then distributed, and maybe a better, more sophisticated auditing process that could take place, we think we're getting the right amount of money in.

MR. SCHNEIDER: I would say, yes, based on the audits that we're performing, in which subsequent to the filing of the premium tax return, we get the information.

SENATOR KOSCO: Now, I have an interesting thing here that I've been reading that started from a legislative joint committee of legislators -- the Legislature and Firemen's Association back in 1914. We were just kids then. (laughter)

There's a whole lot of little writing in here, so it's been taking me quite some time. I started this about a month and a half ago, but I come upon one section that I can't find anything that really tells me to the contrary. And it tells me here, "General Act of 1867 provides--"

If it's a law, it does not make any difference when it was written. If it's the law, it's the law. Right?

It says, "Companies to pay \$50 and 2 percent on premiums." Has that, to your knowledge, ever been changed? And if not, boy, we're owed an awful lot of money.

MR. SCHNEIDER: The general premium tax statute-- I mean, I can't say that I can trace the legislative -- back to that.

SENATOR KOSCO: It says, "\$50 plus 2 percent."

MR. SCHNEIDER: There were major changes in the premium tax statute in 1981.

SENATOR KOSCO: I see Senator Parker shaking his head. Has that been changed?

B A R R Y T. P A R K E R (Speaking from audience): Yes, that was changed to the statute you now have, 17 and 18. Actually, if-- I have done research in the archives, and I have gone all the way back, I believe, to 1825, and then it was changed three or four times. But the 2 percent goes all the way back to almost Colonial times, when you had various associations.

SENATOR KOSCO: As of 1914, it was \$50 plus 2 percent.

MR. PARKER: It has been changed and the new statute, if you go back through it, it's very difficult to follow, because there's gaps in it.

SENATOR KOSCO: Okay.

MR. PARKER: But it goes to-- The new statute, 54:17 or 54:18 are the changes, and required the tax stamp. So that was a predecessor, as I understand at this point.

SENATOR KOSCO: Okay, then that doesn't cut late-- That other piece that you have would supercede this.

MR. SCHNEIDER: Yes.

SENATOR KOSCO: You see, there's no doubt that I think that most of the people that I have spoken to from the Association and from the different departments in the State, that because this is such an old piece of legislation, and because it provides such an important service to the people of

the State of New Jersey, and to the volunteers, and to the firefighters and their families, that there are changes that should be made to update it.

When this was written, obviously, back in 1887-- I'm not so sure, first of all, how many people there were in the State of New Jersey, how many out-of-state companies there were that were doing business in the State of New Jersey, and back in 1887, I don't know how many people really were concerned about having fire insurance.

SENATOR GIRGENTI: I missed that session. (laughter)

SENATOR KOSCO: Okay.

Now, from then until now -- and how many firefighters there were? From then until now, I would say virtually everyone has fire insurance. There are companies that divert themselves so much, that there are many, many, many out-of-state companies doing business in the State of New Jersey.

We have so many communities and such an increase in population in the State of New Jersey and so many, many more firefighters that I think this whole thing has to be really studied, researched, and brought into the 21st Century, so that we know what's going on, and how we could best protect those people down the road with this money, and make sure that it's properly controlled.

We're looking at ways to make it good, make it better, and make it simple to follow. And one of the things that we've been looking at and talking about is the possibility of reducing the number of associations, so that we can better control what is happening.

Also, the possibility of having all the money come into one account, rather than going separate ways and have whoever is going to apply for those dollars to come into a central location to make that application. Do you have any thoughts towards that?

MR. SCHNEIDER: Well, I don't deal directly, in my function, with the Firemen's Relief Association, so it's hard for me to comment on it. As we said before, it might be beneficial to have a central location. But I think that's something we'd have to study -- the firemen's relief associations, how they operate and how they do make disbursements?

SENATOR KOSCO: From the standpoint of the dollars that are taken in, right now, the money is coming in-- I'm wondering if the money that is coming in, right now, into the Treasury-- I probably should ask Frank this question. Do you think that there would be any increase in personnel, etc. needed if all the moneys came into that Department instead of what is coming into that Department?

MR. SCHNEIDER: I would imagine if you were going to then make disbursements to individual relief associations -- I mean, that's just off the top of my head -- if you were then going to, you know, the OMB was then going to have the responsibility for disbursing as needed to individual relief associations, which there's 500 and something-- That's what I'm hearing today that the-- There would-- Yes, the work load would be increased. Apparently, they would have to have some personnel, I would assume.

SENATOR KOSCO: You see, I'm concerned about looking in one place and cutting and then adding into the other places. So I'm looking at both sides of a picture, not just saying, "What are we going to do here."

In other words, I don't want to do something for the sake of doing it. I want to do it for the sake of increasing, getting more out of the system that we could possibly do. So if we're thinking, in terms of eliminating "X" number of departments, and then suddenly another department comes to me and says, "Well, now because you did this, we're going to have to add 25 more people, "then we've defeated the purpose of what we're trying to accomplish.

MR. SCHNEIDER: That would be a consideration, I would say, yes.

SENATOR KOSCO: Any other questions from the Senators?

SENATOR GIRGENTI: The only thing I would say is that I know what you're saying, but I think if they got all this money into one pot, or one area, and then it went to the State Association to let them disburse it to their own people.

I mean, once it's been verified and checked out, you know, I don't know if there's a need to do away with all the different locals, because I think that's, like, a tradition and a history, in terms of local relief. But if we got it into one pot and then gave it the State Association, which is Ernie and so forth, and then let them distribute it down, you know, it's a possibility. I don't know how the volunteers would feel about that.

SENATOR KOSCO: Well, we're looking-- Our concern is to make an efficient--

SENATOR GIRGENTI: No, but I don't know if they can handle that, that's what I'm saying.

SENATOR KOSCO: Yes, our concern is to try to make an efficient, super efficient operation. And if we can come up with some plans that are going to benefit the firefighters over the next 50 years, then there's no way that anybody is going to be opposed to it, as long as we're looking in the same direction and going for the same purpose.

Does anyone have any other questions? (no response)

Okay, thank you.

Senator Parker.

MR. PARKER: Mr. Chairman on behalf -- I think if we could address two or three of those issues, Mr. Greenwald and I can maybe clear up--

SENATOR KOSCO: If there is anyone else who has heard some comment that they would like to talk about, just raise your hand and we'll recognize you. This is an informal

hearing. We want to listen to and get all the information that we possibly can get so we can make good decisions.

MR. PARKER: Mr. Chairman, I wrote four issues that I think need to be addressed, and the first had to do with the insurance agents, the coding, the 999, and I can address that because I was involved in it before Mr. Greenwald became President.

The other is no relief being paid in some areas, and we'll explain, and Mr. Greenwald can explain the application procedure, the qualification procedure, and the need for maintaining the system on the firemen, and who maintains all of the records for the firemen.

The other is, will the Firemen's Home get in the red? That is a very serious question. We have looked into it very deeply, and he will comment on that.

And the other is a central location, and maybe the two of us can answer, because I was involved in that aspect and can give you the history.

Now, if I can, I'll address the issue of coding, the 999, and the local associations. This has been a problem. The statute reads that the 2 percent money is to go, basically, directly to the local. In order to centralize it, as you have indicated, over the years, as more and more have come into the State Association -- the municipalities adopted an ordinance, and gone through the relief procedure. Each one is designated by the, I believe, Department of Insurance with a code. Mount Holly, for instances, is one. Lumberton is two. Paramus is three. Oradell is four, etc.

We have met with the agents. Back in the '70s, there were a lot of complaints for towns such as Woodbridge, Edison, Hamilton Township, here in Trenton. Hamilton has five little municipalities, Whitehorse, Monmouth Junction, various different little places, but a Trenton post office. And money was-- There were real problems in trying to trace the premium

that was written on an individual's house, whether it was Trenton, had a Trenton post office, but actually it was in Hamilton Township.

We met with the agents -- independent insurance agents. We met with the PIA -- the professional, the mutual agents. We worked with them over a long period of time, and I believe the Department of Insurance was involved in it with us. We met with them trying to identify-- So rules or an understanding was agreed upon -- I'm not sure whether it's a rule in the Department or not -- that now, when the insurance agent wrote the policy for Barry Parker's house in Mount Holly, he would have to put not only a code number, but he would have to put the address where it's located, and the municipality to try to make sure we were doing this properly. Whether there's an improvement in the system in order to do it -- anything can be improved. And we welcome any thought in that regard, and I'm sure the agents would, because it becomes a problem.

What happens is, when the agent doesn't put the number on, sends it in and it's an out-of-state, and they know they have to pay the premium, they'll just put 999. So what is happening is the 999 is artificially growing, or inflated, because the key coding system is a manual system done by the agent writing the policy. And some of these, you know, it's a difficult problem in doing that.

Over the years, instead of having the money go to each local association, through the Department of Insurance, it was set up for the Insurance Services Organization, and it all went through ISO, and they would collect it all and send us one check.

ISO started to run into problems. We also have other associations such as the manufacturers. We enter into contracts with them and they send the money to us. There are some other groups other than ISO that were collecting some of the money.

Now, all of that money for each of the locals, with the approval of the Department of Insurance, comes into the State Association. The auditing process that you're concerned about is all done by Taxation, and we don't have any independent audit. But when it comes to us, the audit trail comes. We know we get exactly "X" dollars from the 2 percent that comes to us, and we have "X" dollars, the Department of Insurance knows we have "X" dollars; they audit it, verify that so that we know at least on the premiums that that's what we get.

The 999 could very easily come to us. The 999 is just a catchall that has gone into Treasury, and it would be easy to send that to us also. But that is also verified by the Department of Insurance and by the Department of Taxation and so--

SENATOR KOSCO: So what you're suggesting is the opposite of what I was thinking. You were thinking instead of all the money going into the Department of Treasury and then distribute to the Association, that the money could also go into the Association in the first place.

MR. PARKER: It can. Yes, it can.

SENATOR KOSCO: And then they could report to the Department of Treasury.

MR. PARKER: And that's the way the statute, really, now reads, strangely enough.

And that takes men in-- Let me address this, and Mr. Greenwald can address it maybe better than I.

The fund for the Firemen's Home: If you look through the history, and I can maybe dig it up, there obviously was no Firemen's Home when the Firemen's Relief Association was set up. The Home really came about sometime around 1905, and some of the legislative things that you read about in 1914, on through, set up the procedure for the Home.

All of the money for the Home was voted at the annual convention of the New Jersey State Firemen's Association. So basically, the primary function for funding the Firemen's Home is the New Jersey State Firemen's Association. We created the Home; we got the legislation passed; and so the Home is an integral part of the Firemen's Association.

The annual conventions which we have, we elect the managers annually at the New Jersey State Firemen's Convention. Their budget is presented annually at our Association meetings. So the general overall supervision and background is that the Home came out of the Relief Association.

Now, Ernie, you may want to address that.

SENATOR GIRGENTI: Just one-- Barry, one minute.

The money that Frank was talking about, in terms of it has been allocated, now, this year, what was it, \$3 million -- so forth.

MR. PARKER: Right.

SENATOR GIRGENTI: Now, that was voted on at your last Convention? How did that--

ERNEST GREENWALD: No. What they do is this, Senator. In my position, I'm also an automatic member of the Board of Managers, and I serve on the Board. They prepare their budget for 1995, but they must have it to the Governor's office by January of 1995. So that their 1995 budget is not approved at our convention. They don't work on it until after the convention. The budget that they present to us has already been approved by the State of New Jersey. You heard Frank say, 1994. That's the budget they'll present to us at convention.

SENATOR GIRGENTI: But yet, you were involved in the makeup of that.

MR. GREENWALD: Yes.

And one of the big concerns that I've had since I've been President, and I've preached this to the Board of Managers, and I think you heard Frank speak to that today.

I have, since I've been the President, watched the fluctuation of the funds in the now famous 999 account. And the figures that Mr. Haines gave you today were right on, the \$3.7 million and the \$4.9 million.

As a matter of fact, in your packets that you've got there, you'll see a graph in there of the funds, how they have gone up and down. And we know, for a fact, that somewhere down the road that those funds are not going to be sufficient to operate the Home.

For example, the Home just received permission from the licenses of the State of New Jersey to add six additional long-term care rooms, and they took those six additional from the general population because they don't have-- They don't really have enough applicants to fill those rooms. So that that budget with this next year is going to increase remarkably again. And because we have been very concerned, and one of my big concerns has been the funding of the Home, we have had joint meetings with the Board of Managers.

The Board of Managers operates the Home, like the Executive Committee operates the New Jersey State Firemen's Association. They're the governing body. We've had joint meetings with them, and I'll be very happy to supply you people with copies of those minutes. We have tentatively agreed that if that fund runs dry, that the New Jersey State Firemen's Association will be -- will make positively sure that they will have enough money to run that Home. We will assess the local associations. That's already in agreement. And we intend to work very closely with the Board of Managers.

If there's one thing that we don't want to see -- and I agree with you, Senator Kosco -- we want to keep that Home operating. We want to help those people as much as we can. And it is going to grow, and it will eventually exceed the amount that's in the famous 999.

What I've attempted to do, and I think, if you'll check the testimony of the last hearing, I believe I mentioned to you people that we have asked for a list of those insurance companies that have paid into the 999 account. We don't feel that those companies have taken the necessary action to properly code the money. They're following the Code; they're following the law; they're paying the 2 percent, but they're just sending it into the State of New Jersey.

I've done a recent study on those 30 municipalities, or 37 municipalities that did not have a relief association, and most of those associations or communities that have a population -- and some have a population of 25, 26 -- and the biggest population in the 37 that do not have a relief association is something like 10,000 people. So it's very evident that the ratables are not in those 37 municipalities.

I agree with what you're saying, the figures do not add up, and there is definitely a problem in that system. And we have asked and are willing to deal with the insurance companies -- and that's one of the things that I have been working with Mr. Dytyniak, and they said, "Yes, they would support us" -- to go after these insurance companies and to see why they're not properly coding the insurance as it should be. We feel there is a problem with the coding system with those insurance companies.

And I'll give you an example. Since we have taken over the collection of what the ISO used to collect, we have established a file for each individual insurance company. And the one thing that I urge this Committee and your staff, please come into our office so that you will have a much better understanding of how we handle the moneys that are collected. At the end of that collection, we supply -- and I think Mr. Dytyniak will verify this -- a complete printout of those insurance companies that we've received moneys from. It includes the total premiums of the insurance that is written by those companies and the 2 percent that they pay to us.

Also with that submission that we get from the insurance company, is a complete breakdown for where the moneys are supposed to go according to the codes that were set up with ISO and are now in the ISO rating book. So that I can show you that anytime, of those insurance companies that respond to us-- And we've got something like, I believe, 275 that we deal with, and I have a file on each one. So that we work very closely with the Commissioner of Insurance. We supply them with the necessary reports that we feel are necessary and they feel -- and as we go they say, "Well, we'd like to have a different report," and we give them the report and the type that they want in the manner that they want.

So that, yes, we feel there is a problem, and we're more than willing to work with you people and with anybody else to try to straighten that mess out.

SENATOR GIRGENTI: Mr. Chairman.

Yes, Ernie, just a-- It seems like a lot of the functions you're doing, you know, with this collecting -- wouldn't that really be-- I'm asking your opinion now, let the State handle that, get the money coming in and disburse it through your Association. And therefore, not the concerns of eliminating the locals, but the fact is that your Association would get the money after the State collects it, and you would disburse it.

MR. GREENWALD: I'm glad you asked that question, because the system that we had before ISO decided that they would help us and collect the money-- The first year that ISO did the collection and made the distribution there was very -- there was hardly a relief association in the State of New Jersey that didn't see a remarkable increase in the amount of moneys that they were getting. We felt, and we always have felt that many times--

I'll give you a perfect example of what I received from one insurance company. They sent me a submission with

just zip codes, and in looking at the zip codes, most of them aren't even in the State of New Jersey. So then I called the insurance company back and said, "This is not acceptable." They said to me, "This is the way we've been doing it for the last 15 years."

So I have no idea how that money was distributed. And I'm not saying anybody took the money; don't misunderstand me. But I don't think it was properly handled, where we have an opportunity-- And we have an obligation to our people to make sure that this money is properly coded and is properly distributed.

I personally feel the system that we now have, which has been developed since 1988, is a much better system, as far as the firemen are concerned. I feel that we have a better handle on it, and there isn't a time that the Insurance Department doesn't call us that we can't come up with an answer to what their problem is. I think it has worked much better.

I guess I'm patting myself on the back because it happened during my administration. But the feeling in the field is that they're getting a better accountability of the moneys today than they've ever got, and the only one sore subject is the one that I just spoke about, the 999 account. I personally feel that can be handled if we're given the information that we need.

I think we can go after these insurance companies and give you people a much more precise report on the 2 percent than what we're presently giving, particularly in the 999 account.

MR. PARKER: I think one of the other reasons, in going through this, is that the Department looked upon some difficulty, staff-wise bulking up to get this information. We've put the computer system in, now, totally, and we do it through the office. It's all audited, all certified, it always is. I think that was one of the reasons that we're now doing that function, as opposed to the Department of Insurance.

Ernie, I don't know whether you want to comment on that, the system that we have and how it operates?

MR. GREENWALD: I've heard you, Mr. Chairman, mention many times, one relief association per county. I strongly urge you and your staff to please, sit down with us to get a better understanding of what it takes on the local level to operate a relief association and get us the information, or get the information that is required for us, so that the firemen that you're so concerned about -- and I am, too -- get the proper benefits.

There are many, many things that have to be done on the local level, and I don't think could be done if it was one central office per county. I think we would have a difficult time in trying to get that information on individual firemen, and that is what is so important with us, in order to keep the records, so that when there is-- When Lou Kosco's records come into our office, we want to make sure that's correct. And if there is a problem, we've got to contact the local people.

It would be very difficult for us to get the information on Lou Kosco from Paramus, if we had to deal with one office, with the information that is necessary, in order to make sure proper credit is given to the proper firemen. Proper information is received particularly from the widows. As we deal with and we're concerned about the relief, I certainly agree with you, there is not enough relief paid, and we're trying our darndest to get that.

Our biggest problem with relief -- and this deals with widows, this deals with firemen, this deals with everybody -- they look at the application which the court said we had to use, and they say, "They're too personal, and we don't want to answer those questions." But those questions were put there for a reason. And I think you, Mr. Chairman, would be the first to say, you're not just to give that money out, unless there is a need shown. And these people don't want to do that.

It's shameful; I feel sorry for them. But we're mandated by the courts to follow that procedure, and if these people will not fill out the application, there is not much we could do about it other than keep urging them. I guess it's called, Senator, pride, I guess, but sometimes, I think we all have to swallow our pride.

I agree with you, I think there are areas that we probably need some change. There's no question about that.

SENATOR KOSCO: Do you think, and I'm going to play the devil's advocate because that's part of my job--

MR. GREENWALD: Fine, that's fine. And I'm going to try to answer you.

SENATOR KOSCO: Do you think that myself going to my next door neighbor and saying, "Hey, look, Mary, I knew David for a long time, and he passed away. If you fill out this application, I can get you \$1500." And she's going to say what you said, that she doesn't want to fill out all that personal, private information and give it to the next door neighbor. Now,--

MR. GREENWALD: Okay.

SENATOR KOSCO: Just let me finish.

MR. GREENWALD: Sure.

SENATOR KOSCO: That same person gets an application in the mail from Trenton saying, "Fill out this application, and we'll send you \$1500." It's done.

Now, you have to agree that if you came to me and asked me for the information that the Tax Department asked me for, I'd tell you to go scratch. I wouldn't give it to you. But because it comes from Trenton, it's official, nonpersonal, nobody down there knows who I am. Now, I'll fill it out, and now, I don't have that pride factor involved. Does that make sense to you?

MR. GREENWALD: No, it does not, and I'll tell you why.

SENATOR KOSCO: Tell me why.

MR. GREENWALD: You get an application in Trenton from Paramus, you don't know Mary Smith from Mary Jones.

SENATOR KOSCO: Correct.

MR. GREENWALD: How do you know, at that point, that Mary Smith is telling you the truth on that paper?

SENATOR KOSCO: Well--

MR. GREENWALD: That's the purpose of the local associations, sir. They get the application, and it is their job to--

SENATOR KOSCO: If this same person has so much pride that they don't want to tell you their personal information, I don't think they're going to lie to the State.

MR. GREENWALD: Senator, if I needed a loaf of bread on my table, I wouldn't hesitate to answer any question they wanted.

SENATOR KOSCO: Then why don't they? If you tell me that these same people--.

MR. GREENWALD: The only thing I can tell you, it's pride.

SENATOR KOSCO: See, now, you're just-- See, it's a contradiction.

MR. GREENWALD: Sure, it's a contradiction.

SENATOR KOSCO: I don't agree with that concept. I think that the problem that we're having-- I don't think that's a good reason not to -- there might be a lot of other goods reasons not to--

MR. GREENWALD: Then are you advocating that we just give them relief because they ask for money?

SENATOR KOSCO: No, no, no.

MR. GREENWALD: Then how do we do that without some sort of an investigation?

SENATOR KOSCO: I'm not advocating anything yet. I'm asking questions so that later on I can advocate.

MR. GREENWALD: Okay. I'm trying to answer them.

SENATOR KOSCO: I'm asking questions so that later on, at the proper time, I can make suggestions after sitting down with you and the people that are involved in it.

MR. GREENWALD: I would like that very much.

SENATOR KOSCO: That's what's going to happen.

MR. GREENWALD: Fine.

SENATOR KOSCO: I think I've been saying that right along. But the only way I can get answers to the questions and I don't know the-- Believe me, I don't ask questions that I know the answers to. I don't do that. I have no time for that. I ask questions because I don't know the answers. I knew absolutely nothing about this firemen's fund.

MR. GREENWALD: Well, there's a lot of other people--

SENATOR KOSCO: Now, I'm going tell you something: I was a Fire Commissioner in my town that I live in, for 35 years. I was a Fire Commissioner there. I was never informed about this, and I never inquired about it.

MR. GREENWALD: Well, unfortunately--

SENATOR KOSCO: So maybe we have a very, very serious problem, and maybe the reason is that maybe more of the firemen know about the convention that's taking place than their wives know about the benefits that are available to them after that guy checks out.

MR. GREENWALD: Okay, I'm glad you brought that up.

SENATOR KOSCO: So maybe we have an educational problem here.

MR. GREENWALD: When I came into office, I came in from an old regime. In those days the relief association was a secret organization. You daren't ask a question about anything in the relief. The philosophy of my forefathers was, "Don't tell them nothing, unless they ask, and only give them what you have to, when they do ask."

Since I've been the President, I think you've seen the manuals that we've sent out. We try very hard to educate our

people, and it's an ongoing thing sending our people into the field. We now have the individual Executive Committeemen holding various county caucuses, educating them to the system, the statutes, the rules and regulations. It is working. I'm not telling you it's going to work overnight. I think you've been in government long enough, it doesn't work that easy.

But we agree with you. Education is the key, and we're attempting it in our infinite way of giving them that, and trying to better understand -- have them better understand our organization and that, yes, it's there and we certainly encourage relief.

SENATOR KOSCO: If creating 800 associations would show me next year, that instead of spending -- only giving out \$4 million for benefits and \$10 million for other uses, if that would switch around by creating 800 associations, I'll do it.

MR. PARKER: Can I--

SENATOR KOSCO: So what I'm looking for, out of all these hearing, what I'm looking for, the bottom line is to do whatever we can: a) to decrease the amount of money that we're spending on administrative costs; b) eliminating the amount -- lowering the amount of money that we're spending on personal uses; and--

MR. GREENWALD: What do you call personal uses?

SENATOR KOSCO: On conventions and that type of a thing that has been a thorn in the side of this Association since 1914. Because every single report I read goes back and criticizes the same thing, but-- I'm not saying eliminate it, because I understand the necessity for it, but we keep adding more, and more, and more, and more, and more, and more people that are eligible.

MR. GREENWALD: Sure, they're life members.

SENATOR KOSCO: Okay. So I think that what we have to do is control that cost, but increase the amount of money that we're giving to the needy people. And I'm not saying just go out there and find people to give it to.

MR. GREENWALD: I think that's an excellent goal.

SENATOR KOSCO: I'm saying to fight, to let the people out there know that it's available, and that they're not telling any family secrets if they'd like.

MR. GREENWALD: Okay, we're now doing that.

MR. PARKER: If I can just address that issue. The statute now says, "indigent" firemen or families, etc. And then, in another section, it says, "in need." All right? In determining that, Judge Lesserman addressed that issue, and we went back with the Department of Insurance and with the Attorney General afterwards to draft procedures, application forms and in order to demonstrate that.

Now, prior to Ernie becoming President, relief was given to somebody coming in and saying, "I need some money, and he's got a lot of medical bills" or what have you, and we'd give it to him. Come in and say, "I need a mortgage." We still have mortgages that are outstanding that haven't been paid off. Money was used to help firemen buy their homes. There are a lot of different uses that were incident prior to this.

The Executive Committee terminated all of those things. Mortgages are being paid off. We still have some. We've tried to live within this framework of "indigency and need".

There are firemen out there, regardless of whether they have -- they don't want to disclose it to one of their friends or not, or to anybody, or their pride, or what have you. But there are a lot of firemen out there, that have extensive medical bills that are not covered by -- a problem -- just are down and out, or they're widows and families are down and out, they have a handicapped child, or some other thing. And the standard that really is now being utilized is, basically, the county welfare standard.

SENATOR KOSCO: Would you have specifics?

MR. PARKER: And that may be too stringent for what our purposes are.

SENATOR KOSCO: Barry, would you have specifics--

MR. PARKER: And why a lot of them don't give money out.

SENATOR KOSCO: Would you have some specific recommendations on how to change that? What different criteria-- I'm not concerned about -- I wouldn't want to tie it into the welfare system. I think this is something totally different. Would you have some specific ideas so that this Committee can--

MR. PARKER: We can provide something for you.

MR. GREENWALD: We certainly can.

SENATOR KOSCO: We would like that.

MR. GREENWALD: The system that we're presently operating under, Senator, was, as a result of this Szabo case. We were ordered by the courts that we had to develop a system. If you'll check, and I have it in the office -- the court made it very clear. There are welfare people that can help you set up this system. We tried very hard, and we did, I think, not fall completely into that category. But the system that we're presently operating under -- and I don't want to do anything that we're going to come back later and say, "You're now in complete violation of the court order." The system we're now using was by order of the courts, and by agreement by the Attorney General's office, and also by the opposing attorney in the Szabo case, and that all had to be approved and that's why we got -- before you just had--

SENATOR KOSCO: I would like to sit with you and come up with some ideas.

MR. GREENWALD: Be very happy to.

SENATOR KOSCO: Because, you see, there's no way you can use the criteria that they talked about with the welfare--

MR. PARKER: It's very difficult.

MR. GREENWALD: We agree with you.

MR. PARKER: And that's why Wayne or Paramus don't get any relief.

SENATOR KOSCO: It's very simple. First of all, somebody that is on welfare is probably not able, because of the time commitment, to be involved in a fire department, first of all.

Second of all, someone that's-- Let's say someone's involved in the fire department and you're making \$50,000 to \$60,000 a year, which automatically eliminates you from the criteria used in welfare.

MR. PARKER: Absolutely.

SENATOR KOSCO: Now, if you're living -- if you're making \$50,000 or \$60,000 a year, and living that way, as a person that's making \$50,000 to \$60,000 a year, then you come up on some really bad, hard times.

MR. PARKER: Kid with a cancer or something like that.

SENATOR KOSCO: Whatever, your medical reasons, or something happens, something -- some reason -- something happens that you have a large expenditure of money -- you utilize all your savings, and now you're in trouble.

MR. PARKER: We can't help that guy.

SENATOR KOSCO: That's the type of a person we should be able to help here.

MR. GREENWALD: We totally agree with you.

We had one case, where the income of the gentleman read \$60,000, and you look at it on the surface, there's no way this man should get any kind of relief. But then he came in and showed his bills for a \$1 million for a child that-- And they're the kind of people that we want to help. I totally agree with you.

SENATOR KOSCO: Okay, these are the types of things that we're trying to get to the bottom of with these hearings.

MR. GREENWALD: I totally agree with you.

SENATOR KOSCO: And how can we accomplish that?
Senator?

MR. GREENWALD: I think we can accomplish that.

SENATOR GIRGENTI: Ernie.

MR. GREENWALD: Yes.

SENATOR GIRGENTI: When did you take over, you said?

MR. GREENWALD: I was elected in 1983, and until I got away from my other job, I actually didn't get into the office on a full-time basis until March 1, 1984.

SENATOR GIRGENTI: So in your opinion, I mean, from what we hear here, it's changed even of late, in terms of changes being made to be more sensitive to these type of problems?

MR. GREENWALD: I personally feel, Senator, that there are areas that Senator Kosco has mentioned in his opening statement, and you've had the question. I personally feel those areas can be addressed, and I think that there can be an agreement between us of which way we go. I really feel there are areas that we need to tighten down on, we may need to loosen up on, and I think there are areas we can reduce some of the spending, as well.

SENATOR GIRGENTI: Well, the form that you came out with that you showed at the last hearing.

MR. GREENWALD: That's now being mailed with every check that goes out for the burial claim.

SENATOR GIRGENTI: And that's an effort being made to educate--

MR. GREENWALD: Every widow now receives that little card you've got, that we showed you; that when their burial check is issued that card is in the check informing them that there is additional relief out there for them.

SENATOR KOSCO: I think something could also be established, when a person becomes a new member of the fire department, that we can give them something so that their family would know that this is down the road.

MR. PARKER: We do have that.

MR. GREENWALD: We do have that. We have a--

SENATOR KOSCO: Okay, anyone have any other questions?

SENATOR GIRGENTI: Just one more thing, Lou.

SENATOR KOSCO: Because we're running over our time.

SENATOR GIRGENTI: The State firemen -- the one thing that I looked at here, you know, you say, "What is need," and you have to define need. Is this something that's-- Is it different in different areas? For instance, could somebody be eligible for assistance in one local relief association and not in another with the same standards?

MR. GREENWALD: They shouldn't be. I'll have to put it that way.

SENATOR GIRGENTI: Who oversees it? Do you? Does the State?

MR. GREENWALD: The initial overseeing is done by the Board of Trustees who make the initial investigation, and then the Board of Representatives. When we see the financial report come in-- For example, if an association comes in, everything in relief is \$500, there's something wrong there. We immediately put the flag on it, go out and do a reinvestigation, and that's what we've been doing here in the last three to four months.

SENATOR GIRGENTI: All right, so there are uniform standards?

MR. GREENWALD: Yes, there are.

SENATOR GIRGENTI: Okay, and you enforce them.

MR. GREENWALD: Yes, we do, and we can document everything that we've enforced.

SENATOR GIRGENTI: All right. Okay. Thank you.

MR. GREENWALD: We thank you very much.

MR. PARKER: Thanks very much.

SENATOR KOSCO: I think what we've managed to do here today was, we brought in the Department of Taxation; we brought in the Department of Insurance. We brought in the Budget

Committee and the Association into this Committee. And what we've got is, now-- We now have developed some kind of dialogue and everyone, we think, if we have some discussions or some questions, I think we can all discuss it with each other.

From now until after our break, we'll be discussing some more of this with you. I'll be meeting with you--

MR. GREENWALD: Anytime.

SENATOR KOSCO: --and trying to come up with some criteria. This Committee will, before it does anything, before any action is taken, this Committee will sit down with those people who have been to these hearings and discuss it at least one more time--

MR. GREENWALD: Fine.

SENATOR KOSCO: --in a public session, so that we can effectively come up with some solutions, let the public know and for whatever it's worth, the press know that things are okay. We found this wrong, we corrected it, and we can specifically go back to the people and let them know, because there are a lot of questions being asked; there are a lot of questions that have been generated from articles that have been written, and the purpose of this legislation is to find out if those things are correct. If they are, let's fix it. And if they're not, let's let the people know that they're not correct. So that's the goal; that's what we're going to accomplish.

MR. PARKER: Thank you very much.

MR. GROSS: We thank you, Senator.

SENATOR KOSCO: Thank you very much.

(HEARING CONCLUDED)

APPENDIX

OPENING STATEMENT OF DEPUTY COMMISSIONER ED GROSS

Chairman Kosco, members of the committee, I am Deputy Insurance Commissioner Ed Gross. With me today are Gale Simon, Assistant Commissioner, Marc Buro, Director of Legislative Affairs and George Dytyniak, Executive Assistant. I would like to thank you for giving the Department of Insurance the opportunity to discuss this issue with you and present to you our thoughts as to how to improve the system.

We hope to be able to address your areas of concern as respects the issue of the Fireman's Relief Association. As you know, this program was initiated well over 100 years ago as a means to provide the families of volunteer firemen with financial assistance where a firemen died in the line of duty.

A lot has changed over these past 100+ years and perhaps it is appropriate to examine these very important issues with an eye toward how to make the system work better and more efficiently.

Let me take a moment to briefly go over some of the history of this issue.

In the 1988 Court decision and the judgment which implemented the decision, the Department was given the

responsibility for ensuring that auditing of the financial reports of the local and state fire relief associations be conducted to make sure that the funds held by these associations were being used for public rather than private purposes. At that time, the Department provided its expertise to the State Association by cooperatively developing rules and guidelines for monitoring and supervising the local associations. Included in the guidelines were financial reporting requirements which established a 15% cap on administrative expenses.

Under these rules and guidelines the auditor of the State Association is required to examine the financial reports and expenditures of the local associations and provide quarterly and yearly summary reports to the Department. In addition, the independent certified auditor of the State Association must perform quarterly and annual reports of the State Association which must also be submitted to the Department. Oversight of the associations is further afforded the Department through its receipt of copies of the State Association Executive Committee minutes and the convention handbook both of which contain outlines of the financial reports and analysis of all of the associations.

The rules and guidelines currently in place have enabled the Department to determine that the funds held by the associations are being used for public rather than private

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purposes. The Department is currently drafting regulations which focus upon its function to oversee the Fire Relief Associations and which further ensure that the funds that they hold are being used for public purposes.

These changes reflect the Department's desire to make the system operate more efficiently. We can do better and the promulgation of this new regulatory framework will mean a big step in the right direction.

We look forward to working in a cooperative manner with the legislature to review additional changes to the current system. We stand ready to further our review and analysis to make additional improvements to the system to increase the efficiency of state oversight of this important area of public policy.

Again, thank you for inviting us to participate in this hearing. We would be glad to answer any question which you might have.

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