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PUBLIC HEARING

before

THE SENATE SPECIAL COMMITTEE
ON AUTO INSURANCE REFORM

on

Auto Insurance Reform

March 26, 1986
State House Annex
Room 334
Trenton, New Jersey

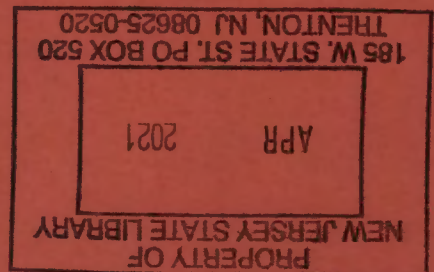
MEMBERS OF COMMITTEE PRESENT:

Senator Daniel J. Dalton, Chairman
Senator John A. Lynch
Senator Carmen A. Orechio

New Jersey State Library

ALSO PRESENT:

Laurine Purola
Office of Legislative Services
Aide, Senate Special Insurance Committee
on Auto Insurance Reform



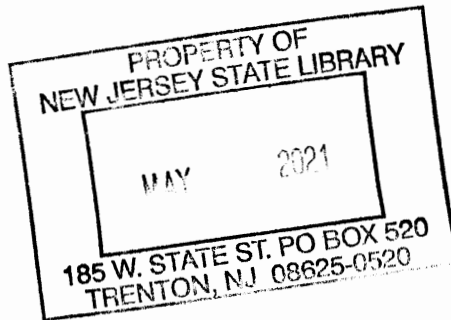
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SENATOR DANIEL J. DALTON (Chairman): We'd like to get the meeting started. There are a couple of members who indicated they couldn't attend, and I suspect there will be a couple of more that will be coming in very shortly.

At the last several sessions of the Committee we dealt with the whole issue of rate-making -- how rates are made, how rates are regulated. We did it from a State perspective, that is, taking a look at trying to get a handle on how we develop rates, and regulate rates here in the State of New Jersey. However, today we'd like to look outside of the State and take the opportunity to see how other states are dealing with this whole issue. And, as a result, we're fortunate to have today two gentlemen.

First of all -- and you can correct my pronunciation -- Mr. Harry Fargeter, Chief, Auto Rating Bureau of the Indiana Department of Insurance. And also, we have have Mr. Robert F. Heisler, Chief Assistant Deputy Director of the Consumer Bureau of the Illinois Department of Insurance.

First of all, gentlemen, thank you very much for traveling the distance that you traveled in coming here today, and trying to, hopefully, opening our eyes a little bit, and tell how things are done in your states.

Let me, first of all, apologize for my tardiness in starting the meeting this morning. What we'd like to do now is to start out with Mr. Harry Fargeter. Mr. Fargeter, you can come right up here. Welcome to New Jersey, Mr. Fargeter.

H A R R Y P A R G E T E R: It's nice to be here this morning.

SENATOR DALTON: I guess it's the button on your right. (indicating how to turn on microphone)

MS. PUROLA: It's all right. It's on.

SENATOR DALTON: It's on.

MR. FARGETER: It's on?

SENATOR DALTON: Yeah.

MR. FARGETER: Okay. Was I supposed to give a

presentation, or just answer questions?

SENATOR DALTON: You can give, I think, if you would, the rate-making process in Illinois.

MS. FUROLA: In Indiana.

SENATOR DALTON: In Indiana, excuse me. Don't do that in Illinois, do it in Indiana, and then we'll be able to-- Hopefully, that will engender some questioning.

MR. FARGETER: All right. Well, Indiana's rating statutes for general property and casualty lines, which includes private carriers, ought to be described as a file-and-use state. The carriers must file the rates before they're used. However, the statute does say they may become effective on the day mailed by registered mail, or filed in a delivery to the Department, or at a later date, as specified in the statute.

Now, the rate filings are subject to actuarial review. We have a fellow from The Casualty Actuarial Society, who we employ on a consulting basis, and he comes by once a week and reviews the filings, and they are also subject to what the -- what we call the "holy trinity" of rate-making. Rates shall not be excessive, inadequate, or unfairly discriminatory. And we have the statutory equipment to back a company off the rate-filing if we find them lacking in those three respects.

It's rare that we take any carrier to a hearing -- a hearing process -- on rates. Generally, what we are finding now is that most of the auto rate filings are inadequate. However, with the cash flow underwriting cycle that we've just gone through, and the intense competition, we are allowing companies to use those rates, because if they really took the magnitude of rate increase that is needed, there would be a big switch of business from one company to another. All of the good business would leave, and the risks, which have problems, would stay, and you'd have a quality problem to book a business.

Ah, we have over 200 insurance companies which write

some form of -- by passage of bill -- insurance in the state, and that includes about a dozen nonstandard, or substandard carriers, and that market is highly competitive.

We-- Rate filings are public records, and we have four to five people a day coming along examining other carriers, rates, or filings. We have a very competitive market, and we seem to have more companies applying for admission to Indiana on a daily basis. In a sense, this is probably due to the rate why this problem is.

We do require the companies, and we request their actuary, mostly, for additional information -- something they have not explained thoroughly in their direct filings. Now, what we receive is a detailed actuarial analysis and support for a rate increase.

So, I guess that is it for the automobile business in Indiana.

SENATOR DALTON: Okay. What-- I'd like to introduce you, if I could, to Senator Carmen Orechio, the President Pro Tem of the Senate, a member of this Committee. Senator Orechio, do you have any questions for Mr. Fargeter?

SENATOR ORECHIO: Not at the moment.

SENATOR DALTON: Okay. Let me, if I could, Mr. Fargeter, ask you a couple of questions about Indiana, and I suspect the first question is that your Department of Insurance-- How big is your Department? How many people? How many actuaries do you have that are looking at auto insurance submission filings, first of all?

MR. FARGETER: Well, I think our staff presently is 82 people; that includes our field examiners -- examination staff. We have one actuary, on a part-time basis, to review the possibility of late filings. He also reviews other property casualty rate filings -- for instance, fire insurance, commercial lines, homeowners, and so on.

We do have another actuary, but he's dedicated to life and health, and he's on a full-time basis.

SENATOR DALTON: Do you have an entity similar to ours, because we have what we call a Joint Underwriting Association here in New Jersey. Do you have a similar entity for, say for instance, nonstandard risks in the State of Indiana?

MR. FARGETER: No, we have an assigned risk plan, an automobile insurance plan. That is largely depopulated because of the competition of the nonstandard, or substandard carriers in the state, and any assigned risk plan is supported by all of the automobile insurance companies operating in the state, and they bear the losses. Well, they don't have to do that in Indiana because of the competition of the nonstandard, or substandard, carriers which seem to be writing a lot of business nowadays.

SENATOR DALTON: Yeah. What percentage of your drivers are in your assigned risk plan?

MR. FARGETER: I'd say a very small percentage.

SENATOR DALTON: Less than 10% you would say?

MR. FARGETER: Certainly. Less than five probably.

SENATOR DALTON: Less than five%?

MR. FARGETER: That's right.

SENATOR DALTON: Now, you have some urban areas in Indiana, is that correct?

MR. FARGETER: Certainly. Indianapolis is the largest urban area of about one million population.

SENATOR DALTON: Do you find that most of your assigned risk business centers on consumers in Indianapolis, or is it spread fairly generally throughout the state?

MR. FARGETER: Well, there's the greater -- a lot of population in Indianapolis, so it would be in the Indianapolis area where we have rather urban areas. The next largest would be the Lake County area of Hammond, Gary, East Chicago, and there's a lot of that substandard business there.

SENATOR DALTON: I guess what I was trying to find out is, is there a correlation between "urbanness," if that's a

word, and the number of people in the -- in your assigned risk program?

MR. FARGETER: Well, I think there would probably have to be because that's where you have the greater auto population.

SENATOR DALTON: Okay.

MR. FARGETER: And, of course, a greater accident frequency -- more cars, more accidents.

SENATOR DALTON: What is the rate differential between the regular market and the nonstandard market in Indiana?

MR. FARGETER: Well, essentially, they use the Insurance Services Office rates, plus the surcharge for the driving record. So, there really isn't much of a differential at all.

SENATOR DALTON: There's not much of a differential?

MR. FARGETER: That's based on-- They have surcharges, based on the convictions under the accident rate.

SENATOR DALTON: Period?

MR. FARGETER: Period.

SENATOR DALTON: Okay. Do you have a-- Well, let me ask you this: What are your rate levels, generally, in Indiana?

MR. FARGETER: Well, I'd have to ask you as compared to what? You ask--

SENATOR DALTON: What is the average rate? We know in New Jersey the average rate is in the area of \$500.

MR. FARGETER: Five hundred dollars?

SENATOR DALTON: Okay, what is the average rate in Indiana?

MR. FARGETER: Well, if you can excuse me for a moment, I brought something, our Insurance Services Office comparison.

SENATOR DALTON: Okay. Sure.

MR. FARGETER: It's right here. (short pause)

Okay. In the Indianapolis area, here's an example by Meridian Mutual Insurance Company, which is a reasonable carrier, and age 25 to 44, its liability, comprehensive, and collision is a total of \$590, and \$562 -- \$532. But, around \$550.

SENATOR DALTON: Okay. We're over \$600. I'm sorry.

MR. FARGETER: And here's another company, Hyatt Casualty (phonetic spelling). They're in the-- For the same thing, they want \$702. It depends on the competition.

SENATOR DALTON: So, you're talking solely Indianapolis, is that correct?

MR. FARGETER: Indianapolis, sure.

SENATOR DALTON: Do you have any statewide averages there?

MR. FARGETER: Ah, no statewide averages. I have several territories. Your rates in the metropolitan areas will be greater than in the rural areas, with the lesser population, because--

SENATOR DALTON: Sure. Yeah, our average is over \$600, but, I mean, you can-- Our average rate, I guess, for full coverage in Newark is over \$1000, so--

MR. FARGETER: Over \$1000? I don't think we approach that in Indiana. We're lucky.

SENATOR DALTON: Okay. What are some of the other, say for instance, less -- more rural areas? What do you have as far as an average rate?

MR. FARGETER: Well, here's Allen County, which is Fort Wayne, Indiana -- it's not as big as Indianapolis -- \$448.

SENATOR DALTON: Four hundred and forty-eight is the average?

MR. FARGETER: Yes.

SENATOR DALTON: Full coverage?

MR. FARGETER: Yes.

SENATOR DALTON: Okay.

MR. FARGETER: We have the comparison here for Indianapolis, East Chicago County, and South Bend -- rural

territories, but-- Oh, here's one for Bloomington, Indiana. It's the home of Indiana University. It's between \$495 for Muncie; \$458 for Bloomington; Vincennes, which would be in the southeastern part of the State, \$478.

SENATOR DALTON: Okay. So, they're roughly in the area of four hundred and some-odd dollars?

MR. PARGETER: Right. And the competition isn't usually that great.

SENATOR DALTON: Do you see a problem in your State with auto insurers being permitted to charge inadequate rates? Is there a problem?

MR. PARGETER: Well--

SENATOR DALTON: For instance, you have a different system than ours.

MR. PARGETER: Right.

SENATOR DALTON: We're a prior-approval system; you're a file-and-use system. Okay? What I am trying to get at is that in your system, which is-- You know, I suspect there's three systems, prior approval, file and use, and then there's the, I suspect, an open market situation like we find in California.

MR. PARGETER: Right.

SENATOR DALTON: Do you-- One of the-- I guess one of the basis for our system is to ensure that adequate rates are charged as well as -- to ensure the solvency of companies. Is the-- Do you find in a file-and-use system that you have a problem with inadequate rates?

MR. PARGETER: Not from the standpoint of company insolvency. We have a few insolvent carriers, but that's utter mismanagement mostly, not the rate levels.

But, as I've previously explained, most of the filings we see are -- according to the actuarial exhibits -- inadequate, but we let the companies do that. They're inching forward a bit at a time. They're moving in the right direction, and we would like them to remain in business in the

state, rather than withdrawal because of our demand. If they increase the rates instead of, say, 9% to 28%, on the other side of that coin is the consumer of insurance who doesn't want a 28%. I don't either. I buy insurance too, so--

SENATOR DALTON: So, you have a file-and-use system. You have a very minimal residual market.

MR. FARGETER: Right.

SENATOR DALTON: Okay. Of less than 5%. Ours is over 50%.

MR. FARGETER: Well, I understand that.

SENATOR DALTON: Yeah. And, you have, in fact, a fairly significant bit of competition -- a competitive situation going on in Indiana right now.

MR. FARGETER: Yes. We have a lot of freedom in the marketplace.

SENATOR DALTON: I've taken enough time. Senator Drechio?

SENATOR DRECHIO: Did you indicate that insurance is mandatory in Indiana?

MR. FARGETER: Indiana has a Compulsory Financial Responsibility statute, and it doesn't necessarily mean insurance. You can buy a liability bond, or post securities in the amount of \$60,000 with the Motor Vehicles, or provide an insurance policy. And, you just provide proof of financial responsibility at the time you purchase your license plates.

SENATOR DRECHIO: What percentage of your drivers don't have a bonding arrangement or carry insurance?

MR. FARGETER: Well, 9% or 10%, or more. I'm not sure. I know it's a rough estimate. I did a broad-gauge estimate some years ago, but I have to do it again.

SENATOR DRECHIO: Have the rates been stable? What's your loss experience been, for example?

MR. FARGETER: Well, the loss experience-- Like every other insurance carrier, you find that is on the increase, in inflation. Whenever you recover an economy, I

suppose it will go up. One of the theories is that the more disposable income, people travel more, they're involved in more accidents. So, these are the combinations of frequency and severity, and I suppose the experience is not going to improve any. It's going to get worse.

SENATOR DRECHIO: You're a fault state?

MR. FARGETER: I beg your pardon?

SENATOR DRECHIO: You're a fault state, right? Do you have no fault, or are you fault?

MR. FARGETER: Ah, no. No, we're not. We are-- In a Comparative Negligence statute, I think, over 50% you don't get anything, rather than contributory negligence.

SENATOR DRECHIO: Would you-- Is that working well?

MR. FARGETER: It seems to be. It seems to be. We're one of the few states that did not favor some sort of comparative negligence statute, and those that have a contributory negligence are in the minority now. So--

SENATOR DRECHIO: There's no subsidization of your drivers in your assigned risk, are there? Are there other drivers?

MR. FARGETER: No. No. Subsidy comes from the companies who pay the losses, and they can be--

SENATOR DRECHIO: In terms of your classification, and categorizing, you say one of the elements of the prerequisites is that it cannot be discriminatory.

MR. FARGETER: Unfairly discriminatory. Discrimination is the very essence of rating-making. But, the term is "unfairly discriminatory." You might describe that as-- Well, say they lived next door to each other, and they had the same kind of car, and they each had the same sort of a driving record, and they drove about, essentially, the same amount of mileage, and the same distance to and from work, so you charge one \$100 and the other \$200. Both present a similar -- the same exposure to loss. And, this is by the same insurance company, of course. That would be unfair

discrimination to charge one one rate and one another.

SENATOR DRECHIO: In terms of your rating system, what are the variables in terms of establishing rates, as they affect women, age, and so forth? Can you go into detail on that classification system?

MR. FARGETER: Well, it's experience. Insurance rates are based on the probabilities of groups. You don't know who in the group is going to have the accident, but out of each group you predict that so many is going to have the accident. This is an average cost, and you've got to protect this much from each. Each policyholder will pay the losses of the "feel." That's the way insurance works.

So, women, as a group, have less accident frequency. And for the girl young drivers, they get lower rates, and the boy young drivers, who are more aggressive and inclined to be more reckless and have the greater accident frequency.

Of course, when it comes to adults, women and men get the same rates. The difference is with the girl young drivers and the boy young drivers.

SENATOR DRECHIO: How do you treat a woman who's a college student?

SENATOR DALTON: I beg your pardon?

SENATOR DRECHIO: How do you treat a woman who's a college student in terms of her status?

MR. FARGETER: Well, you rate according to her age and her driving record. And, some companies-- It's up to individual company underwriting requirements. They want the parents' insurance also, and a young driver -- a female young driver -- who is the principal operator of the automobile, well, they don't have as much trouble with that as they do with the boy young driver, the theory being auto insurance companies who want parental control over the driver, and then you'll have a better risk. So--

SENATOR DRECHIO: In some states -- like ours -- women who are college students, for purposes of rate

classification, are treated as being married and, of course, the rate is less. What is your system in Indiana?

MR. FARGETER: I don't know of anybody, for the young female driver, who does that in Indiana. I said their age and their driving record, and those are the rates and the classification for about 16 through 20, and 21 through 24. Then those age groups have their own rate classifications and their own rates.

SENATOR DRECHIO: And then, over 25, of course--

MR. FARGETER: Over 25 generally are treated as adults.

SENATOR DRECHIO: Uh-huh. That's all for now.

SENATOR DALTON: Mr. Fargeter, we've been joined by Senator John Lynch, who is also the Senate Majority Leader. So we've got nothing but honchos up here, with the exception of myself, today.

Senator Lynch, do you have--

SENATOR LYNCH: Thank's a lot.

SENATOR DALTON: Okay.

SENATOR LYNCH: Good morning. I'm sorry that I was late. Do you have any type of fraud bureau out there?

MR. FARGETER: A fraud bureau -- probably the National Automobile Theft Bureau is the closest thing to it, not in state government.

SENATOR LYNCH: You don't have anything within the State agencies?

MR. FARGETER: Well, we have a Consumer Services Division with the Insurance Department, and two field investigators, and what we're largely doing is -- ah, after fraudulent agents. But, as far as the insurance fraud, per se, I think the industry handles that rather than the state. And, if there's any prosecution, I suppose there are sheriffs and appropriate county authorities to take it to court, but--

SENATOR LYNCH: Do you see prosecutions of body shops, and lawyers, and doctors?

MR. FARGETER: No great volume of it. I suppose individual cases, but I don't recollect anywhere in State government we have anything dealing with that. As a--

SENATOR LYNCH: You say that you had a form of a compulsory insurance. Is it a financial responsibility after your first accident?

MR. FARGETER: Well, it's--

SENATOR LYNCH: Or is it a proof of financial responsibility from the time you get a license?

MR. FARGETER: Actually, it's not compulsory insurance. It's a Compulsory Financial Responsibility statute. You show proof of that financial responsibility at the time you buy your license plates, and that could be an insurance policy, or a liability bond, or post cash as security with the Bureau of Motor Vehicles.

SENATOR LYNCH: Do you know-- Do you have any records of your average -- of your insurance companies' average payments on claims, the average personal injury claim?

MR. FARGETER: No. Well, we have some records by the Insurance Services Office -- the national statistics. But, each individual company will keep their own records on the bodily injury frequency, and bodily injury severity. And some companies have greater statistical ability than others.

SENATOR LYNCH: Are the numbers of uninsured motorists, or motorists who have not proved financial responsibility -- filed proof of financial responsibility at the time they got their tags -- is that on the rise?

MR. FARGETER: Oh, it probably is, as a part of the economic times. People get their license plates and they cancel their policy, or they let the thing lapse without payment. I suppose it is.

SENATOR LYNCH: Is there any statistical qualification of that over the last decade or so?

MR. FARGETER: Not that I know of.

SENATOR LYNCH: But your own perception of it is that

it would be going up?

MR. FARGETER: My own perception of it-- We used to get a broad-gauge measurement. You see, the National Association of Independent Insurers and the Insurance Services Office provided annual statistics, and we used to compare the earned car years -- that's a car insured on the policy for one year -- the number of earned car years, compared with the Motor Vehicle registration figures, and get a broad-gauge idea about approximately the number of uninsured motorists in the State. The last time I did that, it was nine or ten percent, but I think it's probably on the rise.

SENATOR LYNCH: The numbers in your assigned risk, while they're minimal at this time, are they rising?

MR. FARGETER: I think they're staying about the same.

SENATOR LYNCH: Would you say your rates in your assigned risk are comparable to the market rates?

MR. FARGETER: The Insurance Services Office-- I don't know who--

SENATOR LYNCH: How do you wind up with an assigned risk? He must be a pretty bad driver, right, to be an assigned risk?

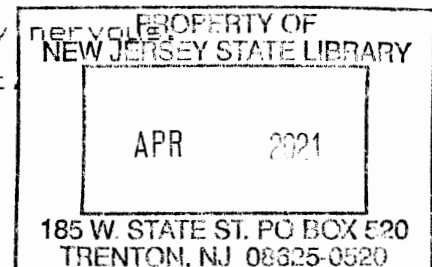
MR. FARGETER: Well, we have a very strong substandard, or nonstandard, market in Indiana -- 10 or 12 companies are very active, and it keeps the assigned risk plan depopulated.

But, yes, if you're bad driver, for some reason or another some insurance company doesn't want to insure you, so you go to the Automobile Insurance Plan and they've modernized that. You used to have to wait three days; now you can get immediate coverage.

SENATOR LYNCH: Would you get a little nervous if you had over 45 percent of your drivers in a residual market, like we do?

MR. FARGETER: We would be very nervous.

SENATOR LYNCH: I would suspect.



If you see a significant increase in your rate, which you don't control, would you expect a corresponding significant increase in the numbers of people ending up uninsured, or in the JUA -- I mean, the Assigned Risk?

MR. FARGETER: Well, I believe there probably would be. However, we do have a measure of control over the rates. We're a modified file-and-use State, and the carriers must file the rates before they can use them, and they're subject to actuarial review. We have the hearing machinery and we can back the company off of it.

SENATOR LYNCH: Are most of them in for rate increases now?

MR. FARGETER: Yes, and most of the rate increases we see are inadequate, but we let the carriers do that because the other side of the coin is the consumer, and they're inching forward in the area in which they need to be. And when you get the two largest auto insurance companies in the nation taking an inadequate rate increase, well, you begin to wonder why, but it is for competitive reasons in Indiana -- also the consumer -- and they're going in the right direction. Most of the companies are quite solvent and they can stand to take the losses. They have a large investment income.

SENATOR LYNCH: Thank you.

SENATOR ORECHIO: I have one other question. You indicated, Mr. Fargeter, that your assigned risk fits a very small category of drivers in your State. And, on the other hand, your average rate is almost comparable to New Jersey's, and, yet we have over 50% in that category. What I'm wondering is, what is the determining factor that establishes that you go to Assigned Risk, number one? Number two, how do you determine that threshold?

It appears to me that your rates -- average rates -- maybe could be reduced somewhat by having those in the assigned risk -- probably drivers that are presently not in that plan but who should be there because of their driving records, and

as a result, you may be bringing your average down -- I'm just wondering how you determine who is in the assigned risk?

MR. FARGETER: Well, generally, what determines if a man is -- applies for automobile insurance, is that he's been turned down by three carriers and he can't obtain insurance elsewhere; then we have a Market Assistance Program in Indiana. I refer the gentleman to the Assigned Risk Plan, and they find him an agent.

SENATOR ORECHIO: What is the termination for the rejection? I mean in terms of being able to comply with the nondiscriminatory--

MR. FARGETER: Well, driving record largely. It's driving record, or prior conviction for drunken driving, or whatever reason. A high-performance automobile and a young driver -- that's a good combination to stay away from with standard rates -- and, he's been turned down by three carriers, and he can't find insurance. He's searched the market on his own, and he calls the Department of Insurance. I send him to the Automobile Insurance Plan. That's the SSF standing criteria, and they apparently have a market for about everybody. Even the Automobile Insurance Plan can turn down a driver -- an application -- with a meeting of the Board of Governors.

SENATOR DALTON: Mr. Fargeter, do you have any figures as far as the number of suits that you have in the State of Indiana because of automobile accidents?

MR. FARGETER: I don't have. The Department doesn't keep such statistics. We have a homegrown trade association, called the Indiana Insurance Institute -- They might have some figures. I do not.

SENATOR DALTON: Would they have that broken down, do you think, into suits dealing with actual damages, and suits dealing with pain and suffering?

MR. FARGETER: No, I don't know. I don't even know if they have the statistics. They'd have to be collected on a

countywide basis, or in the courts in each county where they bring the suits. But--

SENATOR DALTON: Okay. We might want to reach out to them. Before you leave, we might want to get an address and phone number because I think we'd be interested in their statistics.

MR. FARGETER: Well, they're at 115 North Pennsylvania, 46204.

SENATOR DALTON: What is the role of ISO out in Indiana? Are they-- They just provide general actuarial information, or do they actually set rates out there?

MR. FARGETER: What we let ISO do in Indiana is provide loss costs, and the company adds its own factors to that, and builds their own rate out of that.

SENATOR DALTON: So in other words, their role is not to set rates but to provide information, is that correct? Trends?

MR. FARGETER: Provide information. We constantly ask for the companies' -- how they figure their loss cost multipliers. So, that's one of the favorite questions of the actuary.

SENATOR DALTON: Okay, so each company uses their own rates, in other words?

MR. FARGETER: Essentially, yes.

SENATOR DALTON: Okay. You don't have a, quote, "ISO Rate"?

MR. FARGETER: Not really. The Automobile Assist Plan -- I think that was actually a subsidiary. It's operated by ISO, and I think they do publish the rates. They have their own rating manual and forms.

SENATOR DALTON: Okay. Is there -- your market share -- any one company out in Indiana that is dominant as far as its share of the personal auto market?

MR. FARGETER: Yes, State Farm Mutual. I think number two is the Allstate Insurance Company. Number three is

the United Farm Bureau Mutual, which operates in Indiana.

SENATOR DALTON: State Farm and Allstate are direct writers?

MR. FARGETER: Right.

SENATOR DALTON: Is Farmers Mutual (sic) a direct writer?

MR. FARGETER: They are a direct writer and have several divisions. Let's see, Meridan Mutual was an original company. There's an American Agency System Company. Then, I think, next is probably American States. They have three companies -- American States, American Economy, and American Preferred -- in the auto market.

SENATOR DALTON: Roughly speaking, what do the -- say for instance, State Farm and your direct writers-- Your first five top writers, what share of the marketplace do they have, roughly?

MR. FARGETER: Oh, I could only guess on that. That figure is probably more than one-third.

SENATOR DALTON: More than one-third?

MR. FARGETER: Right.

SENATOR DALTON: Okay. Additionally, do you have an anti-rebate law out in Indiana for agents?

MR. FARGETER: Yes.

SENATOR DALTON: Okay.

MR. FARGETER: We have an anti-rebate law. I'll give you a copy of it before I go.

SENATOR DALTON: I'd be glad to have that copy. I don't have any other questions. Does anyone else?

SENATOR DRECHIO: I have another question. In the last 10 years, can you indicate how many new companies have come into Indiana to sell insurance, and how many have left?

MR. FARGETER: No, I can't, as a matter of fact. I can get the information for you, but I hesitate to even make an estimate.

SENATOR DRECHIO: Do you have many companies leaving

the State because they couldn't make money?

MR. FARGETER: Well, the companies that are leaving the State are withdrawing from the marketplace because they're bankrupt. That's--

SENATOR DALTON: Because they're what?

MR. FARGETER: Insolvent. And, that's largely because of mismanagement rather than rate inadequacies. There's quite a bit of that nowadays.

SENATOR DRECHIO: Do you license auto body repair shops in Indiana?

MR. FARGETER: Not the Department of Insurance. Not that I know of. They have a business license from the community, but as far as specific--

SENATOR DRECHIO: As far as the State's concerned though?

MR. FARGETER: As far as the State's concerned, no.

SENATOR LYNCH: What do you stack up with the tort states in terms of your rates? There may be 30 tort states. Do you know where you fit into that -- the rest of them on the basis of rates?

MR. FARGETER: No, I don't. I don't have any insurance information. The Insurance Information Institute in New York City can probably provide you with that information, very quickly.

SENATOR LYNCH: Now you say that you have, admittedly, substandard rates.

MR. FARGETER: Substandard carriers.

SENATOR LYNCH: Your rates are low, or the carriers aren't charging enough, or whatever.

MR. FARGETER: Well, they specialize in the risk, which presents a greater exposure to loss: People with the bad driving records, the teenager with the hot car, the drunken driving convictions, and so on.

SENATOR LYNCH: Your companies are losing money? Do you have inadequate rates, as you said?

MR. FARGETER: Well, the-- Not in the substandard market, no. They're not inadequate.

SENATOR LYNCH: Forget substandard. They're inadequate. How do you define inadequate?

MR. FARGETER: Well, it doesn't cover the losses or the expenses.

SENATOR LYNCH: And then you have-- How many of your companies that write major portions of your policies are strictly intrastate?

MR. FARGETER: Intrastate?

SENATOR LYNCH: Yeah -- your own companies?

MR. FARGETER: United Farm Bureau Mutual.

SENATOR LYNCH: That's pretty much it?

MR. FARGETER: That's it.

SENATOR LYNCH: The rest of them are national companies?

MR. FARGETER: Regional or national -- a lot of regional companies.

SENATOR LYNCH: So, all your majors are national, aren't they?

MR. FARGETER: All the majors are national, sure.

SENATOR LYNCH: So, if they have inadequate rates in Indiana and they're losing money -- they're not charging enough to pay claims and expenses -- somebody else is subsidizing them, aren't they?

MR. FARGETER: They're making enough investment income. If you have something with a \$69 billion investment portfolio -- why, you can do a lot with it, you know.

SENATOR LYNCH: But, you're saying that they have--

SENATOR DRECHIO: Charitable organizations.

SENATOR LYNCH: Then when you say that they have inadequate rates, you're not factoring in investments at all?

MR. FARGETER: No.

SENATOR LYNCH: Are you saying that, then, they should be-- Is your definition of adequate that they would be

able to have an underwriting profit?

MR. FARGETER: That's adequate, yes.

SENATOR LYNCH: That's adequate?

MR. FARGETER: That's the definition of adequacy, like we have a statutory definition of adequacy and inadequacy. But, in order to cover the loss -- maybe I'm too old fashioned, but they make it up in investment profit. So, overall, they come up with a company profit.

SENATOR LYNCH: Thank you.

SENATOR DALTON: What sort of profits can they make, Mr. Fargeter?

MR. FARGETER: Well, we don't have any unfair profit.

SENATOR DALTON: Do you have a percentage that you generally use as a guide?

MR. FARGETER: Well, normally, it's in the rate makeup. Normally, there's an allowance of five percent.

SENATOR DALTON: Five percent?

MR. FARGETER: Five percent. But, they're not making that.

SENATOR DALTON: Okay. Again, we certainly appreciate you taking the time to be with us this morning, and I hope you have a safe trip back. Thank you very much.

MR. FARGETER: Thank you.

SENATOR LYNCH: Maybe you can tell us before you leave, how many companies have gone out of business in the last four to ten years?

MR. FARGETER: I can't tell you that one, but in the last -- not too many in the last 10 years. It looks like there might be quite a few more in the next 10 on though, or the next five, because the property and casualty industry is in pretty rough shape after we've done all this cash flow underwriting and 21% prime interest rates. So, the chickens are coming home to roost.

SENATOR LYNCH: The mostly regional companies?

MR. FARGETER: Ah -- yes, regional. Some few are

national in scope, but generally the smaller ones.

SENATOR LYNCH: Thank you.

MR. FARGETER: Okay.

SENATOR DALTON: Thank you again, Mr. Fargeter.

MR. FARGETER: Okay. I'll see if I can find what I was going to give you. I'll try to give it to you in a moment.

SENATOR DALTON: The next person that I'd like to welcome to the State, and also the Committee, is Mr. Robert F. Heisler, the Chief Assistant Deputy Director of the Consumer Bureau, Illinois Department of Insurance.

Mr. Heisler, good morning and, as I said, welcome to this State, and thank you very much for coming to New Jersey today to provide us some information as to how your system -- rate system -- your rate regulatory system works in Illinois. So, the floor is yours.

R O B E R T F. H E I S L E R: Thank you very much, Senator. Good morning. On behalf of Director Johnny Washburn, I want to thank you for inviting the Illinois Department of Insurance to testify before this Senate Committee.

My name is Robert F. Heisler. I'm the Chief Assistant Deputy Director of the Consumer Division of the Illinois Department of Insurance. I've been employed by the Department of Insurance, in the Property and Casualty area, for almost 16 years.

As you may or may not know, the State of Illinois is the only State in the Union that does not have an insurance rating law applicable to almost all property and casualty lines. Prior to 1969, Illinois had a Property and Casualty Rating law, which is commonly referred to as prior approval. Effective January 1, 1970, Illinois adopted an Open Competition Rating law, applicable to all property and casualty lines, except reinsurance, ocean marine, aircraft, workers' compensation and employers' liability, and title insurance.

This Open Competition Rating law, referred to as

New Jersey State Library

Article 30-1/2 of the Illinois Insurance Law, was somewhat unique in that the law had a built in expiration date of August 1, 1971.

Article 30-1/2 was allowed to expire on its own terms, effective August 1, 1971. This left Illinois with absolutely no rating law applicable to property and casualty lines, except for workers' compensation, which was contained under Article 29 of the Insurance Law, which provided for prior approval of such rates and rating plans.

Since August 1, 1971, there has been legislation introduced and enacted to allow the Department of Insurance rate authority in the area of group inner marine, which was effective October 1, 1975, and medical malpractice, which was effective September 19, 1976. Both of these laws are of the open competition nature, which permit companies to commence using rates, provided they file such rates with the Department within 30 days of their effective date, and the Department maintains the authority to disapprove such rates if a competitive market does not exist.

In addition, the workers' compensation and employers' liability rating law was changed from a prior approval, effective January 1, 1983, to an open competition rating law, which permits companies to commence using rates. However, they are required to file such rates with the Department within 30 days of their effective date, and the Department maintains the right to review such rates. On all other property and casualty insurance, the State of Illinois does not have an applicable rating law, therefore making it the only State in the Union with a truly open competition rating atmosphere.

Subsequent to the expiration of Article 30-1/2 on August 1, 1971, the Department of Insurance implemented Rule 7804 -- and that is what I have passed out to you -- which has since been renumbered and is presently referred to as Departmental Rule 754, which allows the Department of Insurance to monitor the activities of property and casualty insurance

companies as they might affect the rates in Illinois. This rule requires the filing of rates and rating plans for private passenger automobiles, taxi cabs, motorcycles, homeowners -- including mobile homeowners -- dwelling fire and allied lines, and liquor liability.

In addition to these lines, insurance companies must file a form, referred to as an RF3, on any change it may have in a rating rule, or rates, for all lines of property and casualty insurance which will affect premiums in the State of Illinois. The RF3 simply requires the company to indicate the line of insurance which has been impacted by such change, and the percentage of increase or decrease that such change will have on the annual premium volume in the State of Illinois.

Effective July 1, 1980, Rule 754 was changed to require the filing of Form RF4, which is an automobile annual premium comparison form for private passenger automobiles, and a Form RF5, which is a homeowners annual premium comparison. These two forms were developed mainly to assist Illinois consumers in shopping for private passenger automobile, as well as homeowners insurance in the State of Illinois. A copy of these forms are maintained in the Department's Chicago office, as well as our Springfield office, and are available for public inspection any time during our normal working hours, to assist Illinois consumers to shop for their automobile as well as their homeowner premiums.

For your convenience, I have attached a copy of Departmental Rule 754, and you will note that this Rule requires the company to maintain the documentary data for rate level changes, and make such data available for review by the Department's Property and Casualty Evaluation Section.

I might add that the Department of Insurance does, in fact, conduct market conduct examinations, and undocumented deviations from the companies' rating manuals are cited and subject to examination reports, and often form the basis for the Department's administrative action, if any, as a result of

such examinations.

Although this is somewhat of a history regarding the status of rate regulation in Illinois, I'm sure your interest lies in an evaluation as to whether pure competition is working in Illinois. The remainder of my testimony will attempt to address this question.

In late 1970, the Illinois Department of Insurance authorized Doctor David R. Klock (phonetic spelling), of the Department of Finance of the University of Illinois, to study the effect of open competition in Illinois, as compared to prior approval situations prior to 1970.

While Doctor Klock's report entitled, "The Development in Pretest of the Methodology to Investigate the Competitive Status of Markets for Property and Liability Insurance," was in excess of 140 pages, I would like to quote from his conclusions and recommendations:

"The Illinois Open Competition Rating Law should be allowed to continue past its present terminal date of August, 1971. This conclusion is based on, one, a workable degree of competition exists within the test market; and, two, a return to prior approval would not provide consumers with any additional benefits. It would lead to a decline in automobile insurance availability."

In 1977, the Department of Insurance conducted its own rate study in regards to automobile insurance. This reported concluded, and I quote:

"In light of the data gathered in this study, and supported by the findings of others cited, perhaps the most significant conclusion one can draw is that competition is good in a viable marketplace. The prior experience, documented in the tables, certainly illustrates that the larger companies are competing on a nationwide basis.

"Further, **competition** among insurers in this state does, for the most part, exist, and Illinois automobile insurance rates do, in general, compare favorably with rates in

other states of similar size."

Also in 1977, the Illinois Insurance Law Study Commission authorized Doctor Robert C. Whitt (phonetic spelling), Associate Professor of Insurance and Actuarial Science of the Graduate School of the University of Texas, to conduct a study of the rate regulatory system in Illinois in regards to automobile insurance. In this report entitled, "The Automobile Insurance Rate Regulatory System in Illinois; A Comparative Study," Doctor Whitt concluded:

"It appears as if automobile insurance consumers in Illinois have fared relatively well in terms of average rates, as related to losses. Large states with competitive rate regulatory laws, such as California and New York, had slightly higher average loss ratios. However, Texas, which has a very stringent regulatory law, had an average loss rate which was slightly lower than the one in Illinois during this five-year period.

"Thus, it appears as if the unique, competitive rate regulatory system in Illinois has reasonably protected the interest of automobile insurance consumers in the State, because a relatively higher percentage of the premium dollars have been returned to them in the form of loss payments."

Again in 1979, the Illinois Department of Insurance conducted an update of their 1977 Automobile Rate Study. This report concluded, "In addition, automobile insurance rates for the State of Illinois, and for its cities and suburban areas -- for the companies surveyed -- in general, seem to compare favorably with other states involved in this study."

In 1981, the Insurance Research Associates published an executive summary, entitled: "The Illinois System of Insurance Pricing, Practice, and Attitudes of Selected Insurers," authored by John D. Long, CPCU, CLU, Professor of Insurance at Indiana University, and Robert I. Mear, PhD, Professor of Finance at the University of Illinois (phonetic spellings). This report concluded, and I quote:

"The Illinois market for automobile and homeowners insurance was strongly competitive for the period under study. The authors suspect that the other lines also were strongly competitive, but did not investigate them in detail."

Presently, the Illinois Department of Insurance is conducting a study of commercial rates in Illinois, compared to the states composing the NAIC Midwestern Zone. While this study is not complete, preliminary indications -- comparing rates applicable in Illinois with the participating states, and by comparing market shares -- indicate that commercial rates in Illinois are, in fact, competitive.

While most of the above captioned studies are voluminous, I did not bring copies of these studies with me; however, the Department would be more than happy to furnish copies of these studies to you, to assist you in your evaluations.

Another indicator of a competitive market, especially in automobile insurance, is the size of its Assigned Risk Plan. In Illinois, consistently for the past five years, our volume in the Assigned Risk Plan, by the number of cars insured in the voluntary market -- our Assigned Risk Plan is approximately one-half of one percent.

While I do not advocate the abolishment of any rating law, such as Illinois has done, which by mistake or by design-- But, we feel very comfortable now, after 16 years of experience, without a rating law. We feel we have sufficient studies to prove that competition does work, and does work on its own.

I wouldn't -- as I said before -- advocate the abolishment of a rating law, but I would recommend that you consider some form of an open competition rating law. I think the history on rating laws has proven that a Prior Approval Rating law is antiquated and you should be looking at some recommendations in regards to some form of open competition rating. Thank you.

SENATOR DALTON: Thank you, Mr. Heisler. Questions from the members of the Committee? John, do you have any questions?

SENATOR LYNCH: No, go ahead.

SENATOR DALTON: I'm going to basically stick to some of the questions I asked Mr. Fargeter. And I suspect the first question I asked him dealt with the whole issue of the regular market versus the nonstandard market. And your nonstandard market is almost nonexistent, is that correct?

MR. HEISLER: Almost nonexistent. I do have some figures, if you would like the figures. For the year of '82, we had 4,991,455 automobiles registered in Illinois. Our Assigned Risk Plan had a volume of 6,839.

In 1983, we had 5,060,842. Our population in the auto plan was 3,606.

In 1984, we had 5,216,942, and our population in the auto plan was 2,328.

SENATOR DALTON: Now, the-- I mean, Chicago is obviously the urban center, and I suspect-- Depending on who you talk to in Illinois, I know that's a constant debate, what is the-- If you can, give me some figures as to the average rate in Chicago. Do you have those in an urban area?

MR. HEISLER: No, sir, I don't.

SENATOR DALTON: Okay.

MR. HEISLER: What I could furnish you with that may give you some indication-- That RF4 Form that is attached to the material that I submitted to you, I could submit to you photocopies of some of those completed forms for the rates that are on file as of right now.

SENATOR DALTON: That would be fine. I would appreciate that.

You said you have been an open competition State for 16 years.

MR. HEISLER: Yes, sir.

SENATOR DALTON: Correct? And, I know you're not

that old, but what is-- You were a prior-approval State prior to that?

MR. HEISLER: Yes, sir.

SENATOR DALTON: Now, as a prior-approval state, did you have any residual market at that time, and, if so, what was it?

MR. HEISLER: We had the Automobile Insurance Plan. We had it for -- since approximately 1936 - '38, somewhere in there.

SENATOR DALTON: And, roughly, what percentage of the marketplace was the -- were the cars in the AIP while you were in the last year of your being a prior-approval state?

MR. HEISLER: I'm sorry, I don't know. But, I don't believe it has ever gotten above one percent.

SENATOR DALTON: So, it was never significant?

MR. HEISLER: No, sir.

SENATOR DALTON: Okay. Is insurance mandatory in Illinois?

MR. HEISLER: No, sir. We have a Financial Responsibility Law, which is an after-the-fact financial responsibility. If you are involved in an accident, you have to file with the Secretary of State proof of financial responsibility, which can be in the form of an auto insurance policy or a bond.

SENATOR DALTON: Do you see a problem, as someone who has an overview of the companies, with charging of inadequate rates in an open competition state?

MR. HEISLER: If a company is charging inadequate rates, they're doing it of their own volition. They're the only ones that are going to suffer the result of that. So, I don't have a feeling, one way or the other, that I would get terribly upset about that situation.

SENATOR DALTON: What about the flip side of the coin? What about excessive rates? Again, do you see that at all?

MR. HEISLER: I don't see it myself, personally. If a company in Illinois is charging excessive rates, they won't have that business very long, because the consumer will move.

SENATOR DALTON: You're a tort state as well, is that correct?

MR. HEISLER: I'm sorry?

SENATOR DALTON: You don't have no-fault?

MR. HEISLER: No, we do not have a no-fault.

SENATOR DALTON: Okay, if I get involved in an accident in Illinois and if I get hurt -- I mean, I utilize the courts as the remedy?

MR. HEISLER: Yes. As a result of a Supreme Court decision, approximately 2-1/2 - 3 years ago, we are a pure comparative negligence state.

SENATOR DALTON: What if-- Do you have any suit information in Illinois, vis-a-vis the personal auto?

MR. HEISLER: No, sir, I don't. And I'm not aware of anybody that brings suit information out on personal auto as opposed to any other type of liability.

SENATOR DALTON: The rationale -- the reason I'm asking -- for no-fault, obviously, is the elimination of suits. And I wanted to see, in a non no-fault state, whether you have jammed calendars. You know, how many suits do you have, and this--

MR. HEISLER: I can assure you we do have jammed calendars, especially in the Cook County area, where it's my understand that once a suit is filed -- a bodily injury suit -- it may take up to five or six years before it goes through the court system.

SENATOR DALTON: Do you-- What is-- Ah, ISO, I suspect, has no role in Illinois, is that correct?

MR. HEISLER: ISO is an advisory organization in Illinois. We do license them as an advisory organization. They-- In Illinois, they do publish pure loss information to their members. Then, to develop a rate, the companies that are

members of ISO then add their expense factors to that to come up to a rate.

SENATOR DALTON: The-- Senator Drechio was asking before of the gentleman from Indiana the whole issue of, you know, how many companies you have moving into the state and how many you have moving out. Do you have any type of information like that? I suspect-- I would assume that they would love to do business in Illinois, given it's an open competition state. Is that a generally correct statement?

MR. HEISLER: I don't have any specific information in regards to how many companies have been admitted over the past 10 years, or how many have left as a result of the last 10 years. I can get you that information.

SENATOR DALTON: And could you provide us with the number of failures?

MR. HEISLER: Oh yes, sir.

SENATOR DALTON: Okay.

MR. HEISLER: I can tell you that the last statistic I saw for the year, I think it was '83 - '84, there were 40 property and casualty company failures. The two years preceeding that, there were only 25, I believe.

SENATOR DALTON: How do you-- How does Illinois handle such a situation as a failure? I mean, do you come in and do you try to bail out the policyholders, or what do you do as far as losses and this type of thing??

MR. HEISLER: We have a Conservation Rehabilitation Division with the Department. We do take over companies that we feel are failing, and we do have to have a court order to do such. If we feel we cannot rehabilitate the company, then we move to liquidate it, and we do, in Illinois, have a Guarantee Fund so that if there are not sufficient assets in the company once it is liquidated, then we do assess the Guarantee Fund.

SENATOR DALTON: Is every policyholder in the state assessed a percentage that goes into the Guarantee Fund?

MR. HEISLER: The assessment goes against the

insurance companies. I would assume that that is some form of the rate-making.

SENATOR DALTON: So, the consumer never -- doesn't see it broken out in his bill, but I mean it's there, and it's passed along. Sure.

MR. HEISLER: It's there. I'm sure it's one of the expenses that go into making up the expense factor, I would think.

SENATOR DALTON: An Anti-Rebate Law -- do you have an Anti-Rebate Law in Illinois?

MR. HEISLER: Yes, sir. We do.

SENATOR DALTON: I have no further questions. Senator Drechio?

SENATOR DRECHIO: How do you compare your system with California's open competitive system?

MR. HEISLER: I am not at all familiar with California's open competitive system, sir. I'm sorry. I really don't know.

SENATOR DRECHIO: All right. Apparently, in Illinois the minimum age to drive is 16.

MR. HEISLER: Yes, sir.

SENATOR DRECHIO: Right? What do you have? Do you have a law that affects senior citizens? At what age threshold would they be treated the same for insurance rate purposes?

MR. HEISLER: Without a rating law, we don't dictate to the companies a rating system. But, the majority of companies, I think, are following anywhere from 55 to approximately 60 years old for a senior citizen, before they consider them senior citizens.

We also have in Illinois a law regarding senior citizens that pass a defensive driving course, that they receive a discount, and the qualifying age there is 55.

SENATOR DRECHIO: How often is that administered?

MR. HEISLER: The defensive driving courses?

SENATOR DRECHIO: Yeah, is that--

MR. HEISLER: There are certified schools -- schools that are certified by the Secretary of State, to give these defensive driving courses. And they're conducted almost daily throughout the State.

MR. HEISLER: What about a senior citizen, say, who's in their 80s? Is there any kind of restriction on them at all? You don't have a cap on one that can drive, do you?

MR. HEISLER: No, sir. As a matter of fact, they could be insured through the Auto Plan, regardless of their age, providing they have a valid Illinois driver's license.

SENATOR DALTON: Senator Lynch?

SENATOR LYNCH: What percentage of your drivers are uninsured?

MR. HEISLER: I can furnish you the information. We have done a study for the last four or five years, and I can furnish you that information. I don't have it right handy. It is approximately 10 percent, I believe, on a statewide average. The City of Chicago is much higher.

SENATOR LYNCH: What percentage of your accidents involve drivers who have -- who don't have insurance, which would then trigger them to have to file proof of financial responsibility?

MR. HEISLER: I don't know, sir. I don't know. I could try to obtain that information from the Secretary of State's office.

SENATOR LYNCH: Do all of your carriers provide uninsured motorist coverage, and underinsured motorist coverage, and so forth?

MR. HEISLER: The uninsured motorist is a mandatory coverage in the State of Illinois on any automobile liability policy.

SENATOR LYNCH: The uninsured motorist?

MR. HEISLER: The uninsured motorist. Now, we do also have--

SENATOR LYNCH: It's not mandatory to buy insurance,

but it's mandatory if you do buy it to buy uninsured motorist?

MR. HEISLER: Yes. It's mandatory that the policy contain the uninsured motorist coverage. Now, we do have a law that requires, if you select a limit in excess of the financial responsibility amount of 15, 30, and 10 -- if you select a bodily injury amount in excess of 15, 30 -- they have to offer you uninsured motorist up to the bodily injury amount that you carry. If you select a higher amount, or that higher amount, then you receive underinsured motorist coverage automatically, also at that same amount.

SENATOR LYNCH: What do you do to fund the claims against an uninsured motorist, strictly out of-- Suppose you have two uninsured motorists who have not filed, what happens?

MR. HEISLER: That's strictly between the two uninsured motorists.

SENATOR LYNCH: There's no fund administered by Motor Vehicle or anyone else to--

MR. HEISLER: No, sir. Their recourses are in the courts, mainly.

SENATOR LYNCH: How about if you have passengers in two uninsured motor vehicles?

MR. HEISLER: That would be-- Okay.

SENATOR LYNCH: And you have fatal, what happens to it?

MR. HEISLER: If the passenger had automobile insurance -- all right? -- their insurance would kick in, in regards to uninsured motorist coverage for the passengers. Other than that, the only recourse for the estate of a fatal -- fatally injured person would be the court.

SENATOR LYNCH: Bodily injury, fatal -- it doesn't make any difference what it is?

MR. HEISLER: It would be the courts. We don't have any kind of a fund at all.

SENATOR LYNCH: When you-- You have several major insurance companies that are domiciled in your State, right?

MR. HEISLER: Yes, sir.

SENATOR LYNCH: How many majors do you have? Allstate? State Farm?

MR. HEISLER: We have Allstate, State Farm, Economy Fire and Casualty, which is part of the Kemper Group.

SENATOR LYNCH: What portion of your market do Allstate and State Farm have?

MR. HEISLER: Of our automobile market?

SENATOR LYNCH: Yeah.

MR. HEISLER: Well, I don't have it broken down by company, but I can tell you that the top five companies write 56% of the automobile premium in Illinois.

SENATOR LYNCH: Who are the top five?

MR. HEISLER: Allstate has to be the top. Or, excuse me, I'm sorry, State Farm has to be the top, followed by Allstate, Country Mutual, Economy Fire and Casualty, and I'm sorry, I don't know who the fifth would be.

SENATOR LYNCH: Would you-- Would Allstate and State Farm have something close to 30% between them?

MR. HEISLER: Between them?

SENATOR LYNCH: Yes.

MR. HEISLER: Yes, I would think so.

SENATOR LYNCH: Would they have-- Were Allstate and State Farm the prime moving force to go to open competition?

MR. HEISLER: The type of open competition that we've got right now? I don't think there was any moving force at all from the insurance industry to do away with our open competition rating law.

SENATOR LYNCH: It was only 16 years ago when you went to open competition?

MR. HEISLER: That was a bill that was originally proposed by the Illinois Department of Insurance.

SENATOR LYNCH: Was it supported by Allstate and State Farm?

MR. HEISLER: I'm sorry, I don't know.

SENATOR LYNCH: They have pretty dominant presence there, don't they?

MR. HEISLER: Yes, sir.

SENATOR LYNCH: When you talked before about-- Let's clarify the uninsured percentages. You don't have any percentages on the numbers of drivers that are uninsured?

MR. HEISLER: I do have that. I don't have it with me. I can submit that information to Laurine.

SENATOR LYNCH: Is that-- Do you account-- Would you say that the fact that you have no compulsory insurance contributes to the fact that you have so few in the assigned risk?

MR. HEISLER: It affects it somewhat, yes. Even if we had compulsory, we would expect our auto plan volume to increase. But, I don't think it would be a significant increase.

SENATOR LYNCH: Do you have any idea of the frequency with which the public reviews those price shopping forms? Do they take advantage of them?

MR. HEISLER: Well, let me put it this way: We used to publish a buyer's guide, yearly, with rate comparisons within that buyer's guide. By the time we published it, it was outdated because the companies are continuously changing rates. So, what we have done, we still publish a buyer's guide, and it has a formula in there for a consumer to price his own insurance.

Now, we do maintain the rating forms in our Chicago office, as well as our Springfield office. I can tell you it is not as much utilized as we would like for it to be utilized.

SENATOR LYNCH: Could they be literally updated every day?

MR. HEISLER: It is updated every day. Effective the date that the company's rates go into effect, those rate comparison sheets go into that manual.

SENATOR LYNCH: But you don't publish them, in a

sense, for dissemination purposes on a day-to-day basis?

MR. HEISLER: No, sir.

SENATOR LYNCH: Or a week-to-week basis?

MR. HEISLER: No, sir. What we are looking at doing -- but we're simply looking at doing it -- is putting it on the State computer, so that it would be accessible through State -- other State facilities, hoping that might get more consumer activity, that the consumer wouldn't have to go that far to reach a State facility to be able to access or assess those rates. But, we're strictly looking at that. We have not gotten it into any kind of final form.

SENATOR LYNCH: You were asked earlier about the average rates in Chicago. Do you know your average rates, statewide?

MR. HEISLER: No, sir. But, I did say that I would furnish a copy of those comparison guides to this Committee.

SENATOR LYNCH: Do you have any guesstimates?

MR. HEISLER: Pardon?

SENATOR LYNCH: Do you have any guesstimates?

MR. HEISLER: No, sir. I don't. I think once you see the sheets as we submit them, you will see that the premiums are all over the ball park.

SENATOR LYNCH: Do you have a fraud bureau?

MR. HEISLER: No, sir. We do not.

SENATOR LYNCH: Is it frequent to see prosecution of people perpetrating fraudulent claims, be it lawyers, doctors, or body shops?

MR. HEISLER: We see it in Illinois approximately every two or three years, especially in the City of Chicago, where the NCPI, or ICPI, or Auto Theft Bureau will come across something and be able to put together a whole package. But, that's like every three, four, five years that we see something like that in Illinois. I have never seen it downstate.

SENATOR LYNCH: Do you see any investigative reporters or articles that indicate that it's easy to prosecute

a civil claim, to dummy up a claim, and that that is a regular practice in your State?

MR. HEISLER: I have not seen anything that would indicate it's a regular practice, no. I have seen it done, but I have not seen it as a regular practice.

SENATOR LYNCH: Thank you.

SENATOR DRECHIO: I have a question. How-- What's the degree of the drunk driving laws in Illinois? I mean, do you have intense and very effective drunk driving laws that would involve the revocation of licenses, and of course -- as well as take some of these drivers off the road?

MR. HEISLER: Yes, sir. We do have a very stringent drunk driving law. It is implied consent. I think the first conviction is six months suspension.

SENATOR DRECHIO: Second?

MR. HEISLER: The second offense? It goes up from there, and I'm not sure -- probably a year.

SENATOR DRECHIO: How about third??

MR. HEISLER: That I don't know, sir. But, it does have a provision for even imprisonment after second or third, depending upon the court.

SENATOR DRECHIO: Mandatory, or is it--

MR. HEISLER: It's an implied consent. If you refuse to take a breathalyzer, then it's implied that you are intoxicated and your license is immediately revoked.

SENATOR DRECHIO: In terms of the jail sentence, is that mandatory, or is that an alternative that the--

MR. HEISLER: No, sir. That's--

SENATOR DRECHIO: Can the judge give community service, for example?

MR. HEISLER: Yes, he can.

SENATOR DRECHIO: In New Jersey, a third revocation is 10 years. A third drunk driving conviction is 10 years. Is Illinois at that level do you think?

MR. HEISLER: I don't know, sir. I'm sorry. I don't

know the drunk driving law as well as I probably should know it. I'm sorry.

SENATOR DALTON: Is there a problem with-- Are you aware of any problems with Cook County consumers -- their ability to obtain auto insurance?

MR. HEISLER: No, sir.

SENATOR DALTON: Okay. It is available to them?

MR. HEISLER: It is available, and, like I said, even in our auto insurance plan the only qualification is that you be-- There's only two qualifications: One, that you be an Illinois resident; and, the second is that you have a valid Illinois driver's license, and you can obtain insurance.

SENATOR DALTON: Generally speaking, in your personal opinion, do you feel that the Illinois consumer is satisfied with your auto insurance system?

MR. HEISLER: That really depends upon the cycle. For the last four or five years, I would say, yes, they are -- or, yes, they have been.

As rates, or as premiums start to go up, then they become dissatisfied, not realizing, maybe, the benefits that they have received over the last four or five years by competition holding down premiums. But, as premiums start to rise, then we start to see more complaints in regards to our consumer section, yes.

SENATOR DALTON: Okay. Any questions?

SENATOR ORECHIO: Have your rates been stable, would you say, in the last 10 years?

MR. HEISLER: Ah, since-- In regards to automobile insurance, it's probably been since 1978, at least, that the -- I think the insurance consumer has been very well benefited by lower premiums, yes, sir.

SENATOR LYNCH: In your basic policy, what is mandatory -- 15, 30, uninsured motorist, some medical payments?

MR. HEISLER: We have no-- The only mandatory coverages are, liability in the amount of, bodily injury, 15,

30; property damage in the amount of 10; and then, on any automobile liability policy that is issued, the requirement of uninsured motorist coverage. No other coverage is mandatory.

SENATOR LYNCH: So, you have no mandatory medical payments at all?

MR. HEISLER: No, sir.

SENATOR LYNCH: And your-- What options do the companies offer, you know, the underinsured motorist? Do they offer medical payments? Do they offer death benefits? Do they offer--

MR. HEISLER: I would say 99% of the companies offer medical pay, towing, collision, comp, uninsured, underinsured -- the whole gamut.

SENATOR LYNCH: Death benefits? Survival benefits?

MR. HEISLER: Death benefits, yes. Uh-huh.

SENATOR LYNCH: Do they offer what we would have in the whole line of the no-fault areas?

MR. HEISLER: Some do offer PIP coverage -- personal injury protection.

SENATOR LYNCH: First-party coverage for everything?

MR. HEISLER: Yes, they do. We did have PIP coverage, a mandatory PIP coverage, in Illinois for every bit of three months before it was found to be unconstitutional. So, that has been carried over. Some companies still can--

SENATOR LYNCH: What year was that?

MR. HEISLER: Nineteen seventy-one.

SENATOR LYNCH: Did that go into effect the same time you went to open competition?

MR. HEISLER: It became effective, I believe, January 1, 1971, and our rating law went out August 1 of '71.

SENATOR LYNCH: So that was a package at the time? That was a reformation?

MR. HEISLER: I don't know that, but--

SENATOR LYNCH: Well, it must have been some reform movement at the time.

New Jersey State Library

MR. HEISLER: Yeah. I really don't know, sir.

SENATOR LYNCH: It would certainly be awfully coincidental if they occurred at the same time, wouldn't it?

MR. HEISLER: Yeah.

SENATOR LYNCH: You're satisfied with your system?

MR. HEISLER: Yes, sir. We are very satisfied with it.

SENATOR LYNCH: You're not on record as having made any -- suggesting any major changes in the system now?

MR. HEISLER: No, sir.

SENATOR LYNCH: Are there particular problems in your urban centers that need to be addressed?

MR. HEISLER: I can't think of any right off hand. Okay? I'm certainly--

SENATOR LYNCH: Were you finding more and more drivers in your urban areas winding up in the uninsured category?

MR. HEISLER: We were very much aware that our biggest problem with uninsured motorists is in the Chicago, Cook County area, yes.

SENATOR LYNCH: Isn't it likely that with-- In Cook County, the numbers of people driving prior to having had any accidents -- that the numbers of people driving uninsured, prior to having had any accidents has escalated drastically in recent years?

MR. HEISLER: No. Our indications -- and I can furnish you the last four or five studies that we have done -- have shown some decline in the number of uninsured motorists in the State of Illinois.

SENATOR LYNCH: Do you find that-- I'm not talking about the State of Illinois; I'm talking about Chicago, Cook County.

MR. HEISLER: I'm sorry. Even in Chicago and Cook County it has declined somewhat. But, you have to realize that these studies are not totally accurate because of the type of

information that you're trying to compare and the validity of that information.

SENATOR LYNCH: Do you find a lot of people are forced into the acquisition of insurance by virtue of having had an accident, in particular in your urban areas? So they drive uninsured until they have an accident, and then they have to file proof of financial responsibility, and they have to go out and buy a policy.

MR. HEISLER: That may very well be the case. I don't know for sure, but I could get you some kind of statistics in regards to filing for financial responsibility and the effects of that over the last couple of years.

SENATOR LYNCH: Do they have to pay anything additional to drive uninsured?

MR. HEISLER: No, sir.

SENATOR LYNCH: Thanks a lot.

MR. HEISLER: Thank you.

SENATOR DRECHIO: If a catastrophic injury arises as a result of an accident, is there any cap on the award that eventually may--

MR. HEISLER: No, sir, there isn't.

SENATOR DRECHIO: No caps at all?

MR. HEISLER: No, none at all.

SENATOR DALTON: What happens in a case -- I get in an accident with someone who's assets are minimal, and I get severely injured. I mean, what can I look to for assistance?

MR. HEISLER: The only thing that you can look for in assistance in Illinois is under your uninsured motorist coverage.

SENATOR DALTON: So, it's my own uninsured motorist that would have to respond?

MR. HEISLER: Yes, sir.

SENATOR DALTON: Those limits-- I would have to make sure those limits are--

MR. HEISLER: Unless you want to go on your own in a

court of law to try to attach any of his, or her, belongings, or whatever -- assets.

SENATOR DRECHIO: For anyone who's destitute, what happens?

SENATOR DALTON: Yeah, that basically was my question. This is the case of someone who's destitute, who--

MR. HEISLER: Your uninsured motorist would be your only recourse, sir. And, as I indicated, if you carry high limits, anything higher than 15, 30, they have to offer you uninsured motorist at your bodily injury limits.

SENATOR DALTON: Right.

MR. HEISLER: So, higher limits are available to you in Illinois.

SENATOR DALTON: Right. Are there any other questions? John?

SENATOR LYNCH: No. No, thanks.

SENATOR DALTON: Carmen?

SENATOR DRECHIO: No.

SENATOR DALTON: Mr. Heisler, thank you very much.

MR. HEISLER: Thank you for having us.

SENATOR DALTON: Good luck with your system, and good luck as far as your trip back is concerned. Thank you again.

MR. HEISLER: Thank you very much, and thank you for inviting us. And, I'll take credit for the weather today. I brought it with me.

SENATOR DALTON: Okay. The Eagles have Buddy Ryan now, so we have one of your greatest assets now. (laughter)

That should do it for today. Our next meeting will be April the 10th, and at that time we will have a review by the Committee -- a closed door review by the Committee of the information that we have obtained so far. So, thank you very much.

(HEARING CONCLUDED)