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PUBLIC MEETING

before

SENATE SPECIAL COMMITTEE ON AUTOMOBILE INSURANCE REFORM

on

AUTOMOBILE INSURANCE REFORM

February 27, 1986
Room 334
State House Annex
Trenton, New Jersey

:

MEMBERS OF COMMITTEE PRESENT:

Senator Daniel J. Dalton, Chairman
Senator Christopher J. Jackman
Senator Leonard T. Connors, Jr.
Senator Raymond J. Zane
Senator John A. Lynch

ALSO PRESENT:

Senator John F. Russo

New Jersey State Library

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

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Hearing Recorded and Transcribed by
Office of Legislative Services
Public Information Office
Hearing Unit
State House Annex
CN 068
Trenton, New Jersey 08625

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SENATOR DANIEL J. DALTON (Chairman): We're going to get the meeting started now.

If you will recall, at the last session the Special Committee on Auto Insurance dealt with the first step in the issue -- what we call the first step in the issue -- that is, how rates are developed. We received testimony from a representative of Prudential and a representative of ISO. Our purpose here today is to now take a look at the next step, and that is, now that you have a rate filing, how is that rate filing dealt with within the parameters of the Department of Insurance?

So with that, I want to welcome, and have come up to the desk here, Commissioner Hazel Gluck. Commissioner, first of all, I want to thank you very much for taking the time out from what I know is a hectic schedule to come here to educate us and to inform us as to the role of your Department with regard to this whole issue.

Do you have a prepared statement?

COMMISSIONER HAZEL FRANK GLUCK: No. First of all, I want to thank you for the opportunity to be here. Let me just say that I think this particular Commission's charge is a very interesting one, and I think it will be a very productive one because when it is over and done with, no matter what the outcome is, you will probably know more about insurance per se and the workings of the Department of Insurance than most of the other legislators. That can only inure to the benefit of the Department, to your benefit, and to the benefit of the people of this State. So, I want to thank you for the opportunity. We are very excited about having the opportunity to appear, not only today, but maybe in the future on other areas, you know, to help share some of the information we have with you.

Having said that, I will tell you that I have brought with me a lot of the staff of the Department of Insurance, and

I am going to briefly introduce them, if I may. They are here from the different disciplines in the Department in case any members of the Commission have questions that go to those particular areas, because these are the experts in the Department.

I'll start on my left. That's Jack Conover. He is an Assistant Commissioner. He is in charge of financial examinations in the Department. Tom Hooper is our Public Information Officer; Joe Kenney, Licensing and Enforcement, and Assistant Commissioner; Stan Tice, Director of the Division of Fraud; Clayton Cardinal, who is our Life and Health Actuary, who just came to see what the process is like, he's new to the Department; David Grubb, who is a Special Deputy Commissioner to the Commissioner; Bob Heckman, who is a Special Deputy Commissioner to the Commissioner, and is in charge of our very successful Workers' Comp Program in the State of New Jersey; Jasper Jackson, whom you all know, Deputy Commissioner of the Department of Insurance; Verice Mason, who is Assistant Commissioner for Regulatory and Legislative Affairs; and, Lew Roberts, who is the Chief Actuary of the Department of Insurance. It is Lew Roberts who I am going to ask to come up here as Chief Actuary, to explain to you what happens when a filing comes into the Department, how we proceed, and who all the people involved are. Then we will be happy to answer any questions you may have.

SENATOR DALTON: Very good. Thank you very much.

COMMISSIONER GLUCK: Lew, would you come up here?

L E W R O B E R T S: I would like to add my thanks to those of the Commissioner for being given this opportunity to address all of you.

When a filing is received in the Department, of course, the first thing is, it is logged in and then assigned to an analyst. The filing is reviewed to make sure that it is complete and, if not, it will be returned to the filer for

resubmission. If, for example, the filing does not contain a proposed effective date, in the case of a form, it is incomplete in that respect.

Sometimes a filing is sent to us just for informational purposes in advance, but in that event, it is not considered to have been filed at that point; it is just correspondence. The analyst next reviews the filing for compliance with statutory requirements and, in the case of a form, makes sure that the form is complete in providing the necessary coverages. He compares the form with other forms that are on file, and will then correspond with the filer if anything is amiss.

After the analyst is satisfied that the filing is satisfactory, it will be referred to the Supervising Rate Analyst. We have two Supervising Rate Analysts who concurrently serve, also, in the capacity of Chief of the Rating Bureau and Assistant Chief. The Assistant Chief, if it is in the commercial lines auto, will review it and initial it, if it is satisfactory, or will initial a disapproval -- or recommend a disapproval -- as an alternative, following which the Chief of the Rating Bureau will review it again. At the final stage, it is referred to me and I have the last word on it, unless I see a problem, in which case I will refer it to the Commissioner for a policy decision.

In the case of a rate filing, the process is more complicated from a mathematical standpoint because there are a great many operations that are performed on the data in order to arrive at the final rates. I think it would be instructive if we would take a little time to review the nature of these operations.

SENATOR DALTON: If I may just interrupt you for one second, could you please raise your voice a little bit. That mike is not a PA; that is for the recorder.

MR. ROBERTS: Oh, okay. The key calculation in the rate filing is the rate level determination, and that determines the average amount by which rates are increased. This is done by calculating what is called a "rate level loss ratio" and, if that is done, then it is compared with an expected loss ratio.

Now, this is done using premiums at present rates, rather than the actual collected premiums because it is the current schedule of premiums that are under review. The losses, also, are not the actual losses. They are the losses which have been adjusted in certain ways, which I will explain.

First of all, of course, it is not just the paid losses because the reserves that have been set up to provide for future payments on claims which occurred during the experience period must also be taken into account. These reserves are tested. On the basis of past experience, calculations are made as to the extent to which the reserves, and therefore the incurred losses -- which are the sum of the paid losses and the reserves -- change from the time they first go on the company's books until they are finally settled. The process whereby the losses change over time from the first time they reserve until they are finally settled goes by the name of "Loss Development," and the companies, in their filings, provide -- in the ISO, of course -- an exhibit which measures the amount by which losses change from the time they have first reported, second reported, and the third reporting, and to ultimate.

The amounts by which they change from one reporting to the next are the separate stages of the loss development factors. These are measured, usually by ISO, for three years, and different filers submit different amounts (indiscernible) numbers of years. Three is the most common. These are averaged together, and sometimes judgment is applied if any of the figures look out of line with the others.

The end result is a set of factors which can be applied to the losses to develop them to their ultimate value. However, the adjustment process is not yet finished because the losses, at that stage, represent their cost at the time represented by the experience. So they have to be trended and projected, which is to say, adjusted to the anticipated level of losses at the time for which the rates are being promulgated. So, for that purpose, there are trend factors which take into account both average claim costs and planned frequency. These are then estimated by means of fitting a curve, or a straight line -- as may be more appropriate -- to arrive at a trend and projection factor.

When the losses have been so projected and then divided by the premiums at present rates, we get the rate level loss ratio. That is compared with what is called the "expected loss ratio." The expected loss ratio is what is left after provisions have been made for expenses, such as chattel administration and commissions, what is called other acquisition, which is essentially part of the cost of production, but it's in the nature of a home office expense primarily, and is more akin to administration, and, of course, for taxes.

In the case of the provision for profit, or as ISO prefers to call it, "profit and contingency," there is an adjustment made in accordance with the Clifford formula. Now, that formula is probably well known to all of you, but I will just mention it for the sake of completeness, and that is, it is determined to be 3-1/2%, less the taxed investment income, and the balance of that adjusted to a pre-tax basis. When that is plugged in, along with the expenses, and subtracted from 100%, we have the percentage of the losses that are available for losses and loss adjustment expenses.

The loss adjustment expenses are in two parts. There is the part which is reported directly along with the losses,

and that is called "allocated loss adjustment." It includes such things as court expenses, x-rays, transcripts, and outside attorneys, but not staff attorneys, in the case of the ISO filings. Essentially, it is those costs which can always be allocated to a particular claim.

The unallocated loss adjustment expenses are all other loss adjustment expenses, such as staff attorneys, claim adjusters, and the general overhead of the Claim Department.

In the case of the NAI-- I should perhaps stop to explain these terms which I have been referring to by their initials, but you probably know them. The ISO, of course, is the Insurance Services Office, and the NAI is the National Association of Independent Insurers. The NAI has a slightly different definition of allocated loss adjustment, in that they permit the inclusion of claim adjustment expenses when done by an independent adjuster.

The unallocated loss adjustment is provided for by a loading onto the sum of the losses and allocated loss adjustment. Once the change in rate level has been determined, the next step is to distribute it by territory, and this is done on the basis of a credibility formula which gives weight to the indications of a particular territory in proportion to the amount of experience in that territory. And, we have the limitation there -- provided by our statute -- that a given territory's base rate should not be more than 35% above the average base rate for the State.

Then there are the adjustments by the distribution of the rates by classification, or by age, use, marital status, or other related factors. Specifically, there are the following use classifications: There is pleasure use, and then there is driving to and from work, which is subdivided into less than 10 miles and 10 miles or more. Then there is farm use and business use. As for the age and sex classifications, we have the group where there is no youthful driver, and then where

there is a youthful driver. If there is no youthful driver, there is the category of an unmarried female of 30 to 64, or if the person is 65 or over, and then there are all other.

Now, when there is a youthful driver, we have to divide them now into whether the youthful driver is the principal owner or principal driver, or whether he is not. Then, within each of those groupings, we break it down into age groups -- four age groups -- and then-- That is up to age 24, and then if-- There is a subdivision also as to whether there has been driver's training. For the age groups 25 to 29, it doesn't matter whether there is driving training or not.

Those are the primary classifications. Then there are the secondary classifications which go into the age and civil groups and into the number of safe driver points. These things are not normally reviewed in the case of a regular rate filing. Usually, a rate filing will go into the rate level overall and the classification relativities -- or rather the territorial relativities. Classification relativities are not reviewed routinely.

I think that fairly well summarizes what goes into the review of a rate filing, but at each one of these steps, you will see there is room for a judgment as to how the calculations should be made. For example, in the loss development--

SENATOR JACKMAN: Could I-- I hate to break anybody up during his line of thought-- Primarily, I sit here -- I don't know about my other colleagues -- and I know some of the stuff you are talking about because it is already in the written word, and I have read some of it. Okay? The things that we are hit with every day in the week by our people back home are: Number one, why are we paying the highest rate for insurance -- number one -- and number two, what can we do to reduce it, and still stay within the realm of having full coverage? Okay?

The thing that frightens me that is coming down -- and I know it's rough for you to even come up with some answers -- is, I see some of the awards that are coming down today where they are in the million-dollar class. You know, and I know, and I think the people sitting at this table know, that when you get an award of \$1 million, it doesn't come out of the air. It's got to come out of a fund of money. Somewhere along the line, if the money is not in there to give the million out, somebody goes into bankruptcy, or we close out the insurance company, or they leave and go someplace else.

What is our answer? What can we do legislatively? This is the thing. Please believe me when I tell you, I don't want to take your trend of thought because we have sat with you on a number of occasions, and you are a very learned individual, and you know how to put things together. But, I know that I would like to come up with some answers. I don't think the answers are going to come from just the conversation we're having here. Tell us what we can do legislatively. If we can put it into words, and then at the same time cover the insurance that we've got to cover for the people--

I hear -- and I am not being disrespectful, because some of my colleagues are lawyers-- You know, I get a little frightened when I hear about threshold, and this hold, and somebody else's hold, and all of a sudden I find out that when you go to court you are not covered. You know, you save \$50, but you lost \$100,000 because you weren't covered. That's what I want.

MR. ROBERTS: Well, sir, I want to thank you for getting me off of the technical details and getting us right into the heart of the matter.

SENATOR JACKMAN: That's what we like.

MR. ROBERTS: First of all, I would like to read you some figures that will shed a little light -- shed some light on the relative level of New Jersey rates as compared with some

other states. It is most instructive, I think, if we do it by coverage, so the first coverage we will look at is bodily injury liability. I'm reading some figures here for 1984 for the ISO voluntary business.

We find that in this case, for that coverage, the highest rate appears for, believe it or not, Maryland.

SENATOR ZANE: What?

MR. ROBERTS: Maryland--

SENATOR JACKMAN: Maryland.

MR. ROBERTS: --at \$128.45.

SENATOR DALTON: For what coverage is that?

COMMISSIONER GLUCK: Bodily injury.

MR. ROBERTS: Bodily injury liability.

SENATOR JACKMAN: Can we have copies of that?

MR. ROBERTS: Certainly, we'll have them made for you.

SENATOR JACKMAN: That's swell. Good, good. Go ahead.

MR. ROBERTS: And the second highest is California, at \$111.25. The third highest-- No, I missed the second highest. That was Pennsylvania, at \$128.19, and California was the third highest, at \$111.25. New Jersey comes in fourth at \$104.59.

I have here a total of two, four, six, eight, eleven states, the others being Connecticut, which is at \$83.57; Delaware at \$61.74; the District of Columbia -- which we counted as a state for these purposes -- at \$78.56; Florida, \$62.74; Michigan, \$32.20; New York, \$85.91; and Rhode Island, \$73.96.

SENATOR DALTON: How many of those are no-fault states?

COMMISSIONER GLUCK: Michigan--

MR. ROBERTS: Michigan is a no-fault state.

COMMISSIONER GLUCK: Florida, New York--

MR. ROBERTS: Florida, New York.

COMMISSIONER GLUCK: Michigan, Florida, and New York.

SENATOR DALTON: So, three of those states are no-fault states.

COMMISSIONER GLUCK: California is an open rating--

MR. ROBERTS: California is pure tort.

COMMISSIONER GLUCK: They're third.

MR. ROBERTS: We have five no-fault states. The five no-fault states -- and I will just read them again: New Jersey at \$88.55, the average rate from a different source.

SENATOR ZANE: Mr. Roberts?

MR. ROBERTS: Yes?

SENATOR ZANE: May I interrupt you for a second? I don't understand. You gave the numbers that pertained to these different states--

MR. ROBERTS: Yes?

SENATOR ZANE: But what does that translate into for coverage?

MR. ROBERTS: I'm not sure what you mean.

SENATOR ZANE: Well, if someone in Maryland is paying \$128.00, what are they getting? If someone in Delaware is paying \$61.74, what are they getting for it?

MR. ROBERTS: All right. Now, all we are talking about--

SENATOR ZANE: I am assuming we're matching the same type of coverage.

MR. ROBERTS: --is the bodily injury liability -- the residual bodily injury.

SENATOR ZANE: Well, what do you mean?

MR. ROBERTS: Well, it's what it cost to be covered for tort liability.

SENATOR ZANE: And, how much coverage?

MR. ROBERTS: This is basic limits coverage.

SENATOR ZANE: Which is what, 15 and 30?

MR. ROBERTS: Fifteen/thirty, yeah.

COMMISSIONER GLUCK: Fifteen/thirty here.

SENATOR DALTON: How about the other states? Is it 15/30 in the other states? I think that is what Senator Zane is getting at.

MR. ROBERTS: All right.

SENATOR ZANE: Is it apples and apples?

MR. ROBERTS: I'll give you the way it goes for California; it's also 15/30. For Florida, it's 10/20; for Maryland, it's 20/40; for Michigan, it's 10/20; for New York -- the figures here are not really comparable because they were--

SENATOR ZANE: What was Delaware, sir?

MR. ROBERTS: Beg your pardon?

SENATOR ZANE: What was Delaware?

MR. ROBERTS: I don't have the Delaware.

COMMISSIONER GLUCK: Do you mean this, the bodily -- \$61.74 was the average premium.

SENATOR ZANE: Yeah, I understand, but for what kind of coverage?

SENATOR DALTON: What is their base BI limit?

MR. ROBERTS: I don't have that with me.

COMMISSIONER GLUCK: We can supply it. As a matter of fact, if you want, we can take the average BI premium-- We can take that, and put next to it the limits, and anything else that you want us to follow out in each of these states. We can put it onto a chart, if you want, to make it easier.

SENATOR DALTON: That would be fine.

SENATOR JACKMAN: That's it; that's fine.

COMMISSIONER GLUCK: Okay. We can do that for you; that would be no problem.

SENATOR ZANE: May I ask -- just a little modification to that. New Jersey is 15 and 30, correct?

COMMISSIONER GLUCK: Right.

SENATOR ZANE: Could that be equated so that we are not looking-- For example, when you originally said that Maryland was the highest at 20 and 40, well, that is also more coverage. So, if I were someone from Maryland, I would say, "You're not being fair to me."

MR. ROBERTS: You're absolutely right. We can make that adjustment.

SENATOR ZANE: So, I would rather see you take that, if you can, and equate that -- 15 and 30--

COMMISSIONER GLUCK: To make the adjustment to 15/30? Yeah, we could -- not me, they could do it.

SENATOR ZANE: As close as you can to that.

MR. ROBERTS: Yes, we can do that, added to the increased limits factors.

COMMISSIONER GLUCK: The actuaries can do that.

MR. ROBERTS: I just want to mention that Pennsylvania is 15/30 and Rhode Island is 10/20.

COMMISSIONER GLUCK: We can do that either way. If they are lower, Senator Zane, and you want us to make it comparable-- If it's 10/20 and you want us to make it 15 and 30, or if it's 20/40 and you want us to make it 15/30-- We can show you it straight and we can show you it with the adjustment made. We can give it to you both ways, on the same chart, if you want that. There are some states that are covered less and paying more.

SENATOR DALTON: Now, there is also another factor that you are obviously aware of, and that is the threshold factor. In order to go apples to apples, you not only have to look at limits, but you have to look at the threshold question as well.

COMMISSIONER GLUCK: Right; that's right, and we can put that in, as well. I mean, we can say which states are no-fault, which are deregulated, if you want, and just, you know-- If you would like that, we can do it and carry it all the way through.

SENATOR DALTON: Yeah.

COMMISSIONER GLUCK: It will make it easier for you to look at because, you know, it's a very complicated kind of thing to try to equate out. But if you can look at it -- at least it would be easy for me -- look at it across on a chart--

SENATOR DALTON: Sure.

COMMISSIONER GLUCK: --it would probably be easier for you. We'll give you whatever you want on that.

MR. ROBERTS: If you would like, I can go through the other coverages. The surprising thing is that when you take it by coverage--

SENATOR DALTON: Are you going to provide us with that, Commissioner -- that information, the other coverages in that breakdown that Mr. Roberts is referring to?

COMMISSIONER GLUCK: Yes, we can provide all the information for you. The reason why-- When you said this session was on how rates were made in New Jersey--

SENATOR DALTON: Right.

COMMISSIONER GLUCK: I know-- I mean, I am not an actuary, and I have heard Lew tell me this at least 10 times -- okay? -- and I know how tough this is. But what we wanted to assure you of was, this is, one, a very complicated problem that is full of formulas that only actuaries really have the wherewithal to deal with. Okay? And two, after we get all finished with that in the State of New Jersey, then the Public Advocate has the right to intervene, and he usually does intervene. So there's a second check, and the Public Advocate goes out and hires his own consultants, and they do their own evaluation.

So now you've got the Department of Insurance and you've got the Public Advocate's office, and then we go, usually, to a contested hearing at the Office of Administrative Law. So there are three distinct things that happen before a rate finally gets O.K.'d by the Commissioner of the Department of Insurance.

SENATOR DALTON: Yeah. I think what I would like to do now, based upon the fact that you are going to get us that information on the coverages, and the correlations within the coverages-- I want to turn to Senator Connors -- if you're finished Chris--

SENATOR JACKMAN: Sure, sure.

SENATOR DALTON: --for some questions.

SENATOR CONNORS: I had a question, a couple of questions I wanted to ask, going back to what was introduced earlier. We were talking about filings. On average, how many filings are made per year?

MR. ROBERTS: Well, I have some runs here to give some recent figures on that. If you will just bear with me for a second, I'll turn them up.

COMMISSIONER GLUCK: While Lew is looking for that, may I just say that Lew is the Chief Actuary of the Department. We are in the process of bringing another full property casualty actuary on board, and there is a possibility of maybe getting a third. That's really excellent for a Department of Insurance because they are very difficult people to hire into State government and away from the industry, because their salary is almost double in the industry than they would usually get in a Department of the State.

SENATOR JACKMAN: Yeah, but look, there is a public service here. That's very important.

COMMISSIONER GLUCK: Well, believe it or not, a lot of people feel that way at a certain point in their lives.

SENATOR JACKMAN: That's true, honest; honest.

COMMISSIONER GLUCK: Not just you, Chris.

SENATOR DALTON: While Mr. Roberts is trying to answer Senator Connors' question, how many actuaries do you have now?

COMMISSIONER GLUCK: We have-- Lew is the Chief Actuary -- full-fledged property casualty. That's passed all the tests and everything.

SENATOR DALTON: Right.

COMMISSIONER GLUCK: We have Lew Roberts, one coming on in March, and we--

SENATOR DALTON: So, it's one.

COMMISSIONER GLUCK: One.

SENATOR JACKMAN: You only got him?

COMMISSIONER GLUCK: One, that's all. We use consultants.

SENATOR DALTON: I'm sorry, Senator Connors. Please go ahead, Mr. Roberts. I thought I could sneak that in real quick.

MR. ROBERTS: We usually have in the area of about 2000 filings that come through in a year.

COMMISSIONER GLUCK: On auto?

MR. ROBERTS: Not on auto. On auto, they are not that numerous. I have before me now what we have received in auto.

SENATOR CONNORS: I should perhaps reframe my question. I really meant, how many are on auto, because that is really what we are talking about.

COMMISSIONER GLUCK: ISO filed last year -- before I got to the Department -- and the filing was rejected. We have had none, other than ISO, since maybe, I don't know, '83, but--

SENATOR CONNORS: Do you consider ISO as one filing, or, representing 200 insurance companies, as 200 filings?

COMMISSIONER GLUCK: They represent about 80% of the market.

SENATOR DALTON: So it's one filing?

COMMISSIONER GLUCK: Yeah, but you only have to deal with one for all those people who belong to the service -- to the rating organization.

MR. ROBERTS: That pertains to the major filings. We get a large number of minor filings. For example, so far this year, we have approved 84 filings, 19 that were closed for one reason or another without either approval or disapproval.

COMMISSIONER GLUCK: Well, when you say filings, I don't know if that's--

SENATOR CONNORS: Yeah, I don't know if we're talking the same--

MR. ROBERTS: These would be minor filings, such as a form--

COMMISSIONER GLUCK: The Senator is talking about--

MR. ROBERTS: But a real major filing--

SENATOR CONNORS: Insurance companies are going for the rate increases?

COMMISSIONER GLUCK: Major filings affect the rates -- rate increases.

MR. ROBERTS: Right. We haven't had one to prove since 1983. We had one in '84, which was disapproved. So--

SENATOR DALTON: So, there was only one filing?

MR. ROBERTS: Then last year, of course, we had a large number of complaints, but they are not the normal work load.

COMMISSIONER GLUCK: They are not rating problems. Let's not confuse them.

SENATOR CONNORS: Getting back to my question, how many filings, on average, does the Department handle in a year, a filing being an insurance company or an organization representing an insurance company?

COMMISSIONER GLUCK: On auto?

SENATOR CONNORS: On auto only.

MR. ROBERTS: I would say the average couldn't be over half a dozen, probably.

SENATOR CONNORS: Per year?

MR. ROBERTS: Right. You'll have the ISO, and then you'll have independent filers, and we might get nine or so of them, or we might not get any.

COMMISSIONER GLUCK: On average, how many-- In 1983, 1982, do you have any statistics as to how many -- on average?

MR. ROBERTS: We could count them, but we have not calculated that average, no.

COMMISSIONER GLUCK: It's not enormous because ISO represents the bulk of the insurers -- automobile insurers.

SENATOR CONNORS: That gets to my next question. Since ISO represents a number of insurance companies, as I understand it, and then they make a filing to the Commissioner for a rate increase, what makes the determining factor as to what the lower companies -- whether they are losing money, or the higher companies are making money? Do you understand what I mean?

MR. ROBERTS: I'm not sure I do, but let's see. If I am off the track, let me know.

SENATOR CONNORS: Go ahead.

MR. ROBERTS: The rates that are filed by ISO are intended to be for the average company, so since some companies have a better book of business than others, they will make more money than is provided on the average, and some of them will, by the same token-- It will be the other side of the coin, and they will be losing money.

SENATOR CONNORS: Okay. Taking that, we're striking then an average-- We'll say 50% of them are companies that make more and do a better job, and 50% of them are below that, so they have struck an average now for a rate. Am I correct in assuming that?

MR. ROBERTS: Yes, sir. I would like to rephrase it a little bit, though. The ones which are doing a better job in making money are not necessarily doing a better job for their policyholders. So, that has to be considered, too.

SENATOR CONNORS: Well, how do you make a determination when you only make one filing?

MR. ROBERTS: We don't make that determination. I just mentioned it as something that is a fact of life.

SENATOR CONNORS: So it's a fact that we can't handle anyway?

MR. ROBERTS: Well, only through standards for performance owned by the companies.

SENATOR CONNORS: But that would be a different area other than rate?

MR. ROBERTS: Yes, sir.

SENATOR CONNORS: What I'm saying then -- maybe trying to arrive at some conclusion -- is, it would seem to me that with the companies that are above that average, the consumer really doesn't have the benefit of having that lower rate because the ones at the lower end of the spectrum are picked up in that average rate. Am I--

MR. ROBERTS: I think I see what you are driving at. The companies with better experience are charging a higher rate than they really need.

SENATOR CONNORS: Yes.

MR. ROBERTS: And virtually those with the worst experience are charging the lower rates.

SENATOR CONNORS: Yes.

MR. ROBERTS: Yes, that's true.

COMMISSIONER GLUCK: Now, to that end, so that you know, we have proposed a regulation to break up ISO, so that anybody who has 2% or more of the market is going to have to file individually, and will no longer be able to file with the bureau.

SENATOR CONNORS: Where is that regulation now?

COMMISSIONER GLUCK: It has been promulgated.

SENATOR CONNORS: It's in force?

COMMISSIONER GLUCK: Yes. It was just done this year.

SENATOR DALTON: So ISO-- So what you have done has effectively broken ISO up?

COMMISSIONER GLUCK: Well, we haven't done it yet; they're suing us. But, we're on our way, I hope.

SENATOR DALTON: I'm sorry, Senator Connors.

SENATOR CONNORS: The next question I have is-- It is my understanding that--

D E P U T Y C O M M . J A S P E R J . J A C K S O N :
Just a moment, Senator. May I explain the regulation? Pursuant to the current statutory regime in New Jersey, any

company licensed to do business in New Jersey can be a member of an insurance-rating organization, which is what the Insurance Services Office is. They can have that rating organization file rates in their behalf. However, because of the problem that you were just discussing with the Commissioner and Mr. Roberts, and because there are companies which are utilizing the bureau to obtain higher rate levels than their own experience would otherwise justify, we have promulgated a regulation -- as the Commissioner just expressed -- which would require those companies with a 2% or greater market share to file separate loss and statistical information at the same time the bureau makes a filing. But because of the way in which the statutes are currently drawn, we cannot demand that those filers withdraw from the bureau and make independent rate filings. All we can require is that when the bureau makes a rate filing, they also file the separate loss and financial data of certain companies so that we can review that concurrent with the other -- with the bureau filing. Then if we believe there is a significant differential between their loss experience and the aggregated loss experience of the bureau, the Commissioner would have the discretion of determining whether or not they should be permitted to use the overall bureau rate, or some other rate which would be based upon their own experience.

COMMISSIONER GLUCK: However, if the statute were not written the way it is, we wouldn't have to go through quite the machinations that we have had to propose in order to get to that end that you're talking about, and that is, to look at them individually.

SENATOR CONNORS: My next question then along those lines would be: How many companies in the State-- It is my understanding that there are something like 252 carriers in automobile insurance in the State, something in that neighborhood, 250 carriers?

COMMISSIONER GLUCK: Which write automobile?

SENATOR CONNORS: Yeah, which write automobile.

DEPUTY COMM. JACKSON: Approximately.

SENATOR CONNORS: Approximately.

DEPUTY COMM. JACKSON: It fluctuates because--

SENATOR CONNORS: Using the 2% of the market share, how many would be broken out of that 250 or so?

DEPUTY COMM. JACKSON: We estimate somewhere between eight or nine.

COMMISSIONER GLUCK: They have a larger share of the market now.

DEPUTY COMM. JACKSON: But they have the larger share. One of them would be Allstate, for instance, which has a 20% market share.

COMMISSIONER GLUCK: They have a 20% market.

DEPUTY COMM. JACKSON: And, all other things being equal, to give you an explanation, the bureau is a mixture of what you call "stock agency companies," which utilize agents to produce the business for them, and those agents are paid a commission -- companies like Allstate, which, although it is a stock company, is also a direct writer, meaning that it utilizes company employees to produce the business for them. Those employees get a salary, as opposed to a commission. Therefore, all other things being equal, their losses are somewhat lower than the average high ISO company. So, by utilizing a bureau rate, once again with all other things being equal, that the loss levels are the same and all other expenses are the same, other than agents' expenses and the salaries of those producing the business, Allstate would not be able to justify the bureau rate. But their one file would be 20% of the market.

New Jersey Manufacturers, which is a New Jersey-based company, has about a 10% market share. Liberty Mutual has something like an 8% or 9% market share. Our problem was

breaking out the companies that we believed might have a significantly different loss experience than the average bureau company, but also limiting the number that we break out because of the resources we have within the Department. We do not have the resources to look at 200 individual filings, or 65 individual filings, when you couple that with the other responsibilities we have. Outside of the automobile insurance area, we get somewhere between 2500 and 3000 filings per year -- commercial rate filings, form filings, and everything else.

SENATOR DALTON: How many was that again?

DEPUTY COMM. JACKSON: Somewhere between 2500 and 3000. It fluctuates depending upon the (indiscernible).

SENATOR CONNORS: Of the eight or nine companies that comprise this 2%, what percentage of the whole market do these eight or nine companies take up?

DEPUTY COMM. JACKSON: I don't know, but we can supply that information to you. I would estimate that those eight or nine companies would probably represent somewhere between 35% -- maybe 35% or 40% of the market.

SENATOR CONNORS: It would seem to me, at least at a glance, that by permitting one company to represent large blocks, or a large group -- and I compliment the Commissioner, the Insurance Commissioner, for at least taking that step-- It would seem to me that by even allowing groups of companies to get together, we're really subscribing to mediocrity here, and that there is no competitiveness or incentive here. We're really based on the average of what everybody is doing, rather than encouraging those people, or those companies, to do a better job, to get after their claims, to get after their business, and to tend to it properly. Wouldn't you think that would be a casual observation?

MR. ROBERTS: We agree with you on that, Senator, and there is another factor to it too. That is the expense element. The ISO rates are based upon the expenses of

nonparticipating stock companies, and these are the most expensive companies there are. So, if the companies that have lower expenses, such as mutual companies, for one example, were to base their rates on their own expenses, of course it would be lower.

COMMISSIONER GLUCK: Senator, let me add something to that so you understand because we met with ISO not too long ago. We were talking about trying to increase competition in the State of New Jersey, which is what you're talking about. ISO, I guess, exists in all the states. They can be joined as an organization, as a rating organization, in any state in the Union. The states where most companies belong are New Jersey and, what is it, North Carolina, Jasper?

DEPUTY COMM. JACKSON: Well, it varies by state.

COMMISSIONER GLUCK: But, the point they made -- I don't know whether you heard them that day -- was the reason why -- they say -- the membership is so high in New Jersey, and this one other state which I believe is North Carolina--

FROM AUDIENCE: South Carolina.

COMMISSIONER GLUCK: --New Jersey and South Carolina, is because those are the two states in the country that have an advocate's office, and because of that, it costs them so much to file individually. They join the rating organization so they don't have to have the horrendous expense of filing individually.

We don't accept that, but that was said to us recently, this past week at a meeting, that that is why-- And, if you look at the rest of the states, you will see that the membership level is much lower for the number of companies which write automobile insurance (indiscernible) any other state, than it is in New Jersey and South Carolina, and they state that as their reason why, you know-- We don't think that holds water, but--

DEPUTY COMM. JACKSON: I would like to add one caveat to that. Prior to the advent of the Public Advocate's office in this State, the Attorney General's office used to assign an outside counsel or would itself perform the rate counsel function. In other states in which the bureau does operate, such as the States of New York and Massachusetts, and other states around the country, the Attorney General's office also performs that function. In a State such as South Carolina, and even in the State of Maryland, they now have a public counsel, or an office of rate counsel, that is specifically into (indiscernible) and rate cases, whether it is in the insurance or the utility area.

The Commissioner is correct. That was the representation that ISO made, but it doesn't hold water, for a host of reasons, because the rate counsel -- the public rate counsel expense in any state, when you compare it to the expense provision proposed by ISO, or even an independent filer-- The public rate counsel expenses would show up at a far removed decimal point. It wouldn't even represent 1% of whatever the expense loading is, unless it was a very small filer.

SENATOR CONNORS: It seemed to be the consensus of the people who gave testimony at our last session here, that if we had, such as California, an open filing system, it would dramatically lower the rates here in the State. Do you agree with that?

DEPUTY COMM. JACKSON: No, I don't.

SENATOR CONNORS: You don't?

DEPUTY COMM. JACKSON: I do believe that ultimately competition may be the best regulator of rates, but to go -- to repeal the prior approval law now and go to open rating competition would be catastrophic for a number of reasons. One, if you look at our residual market, our residual market is about 45% of the total volume of the business in the entire

market. If you repeal the open rating law, the rates are going to go through the roof for 45% of the driving public out there. Then there are other barriers to what I would describe as real competition, in my opinion, and one of them would be the existence of the rating bureau.

As Mr. Roberts described, the rating bureau makes rates that are supposed to be an aggregate -- that are supposed to produce average rates for all of its members. But the reality is that when the rating bureau aggregates its data, it also makes certain judgments as to what data to include and what data to exclude. And, also, given all of the other problems in the rate-making cycle, of necessity it must make other judgmental assumptions. My experience has been -- and this is solely my opinion-- I believe that when the bureau proposes a rate, it is proposing a rate that would be sufficient for its least efficient member.

SENATOR CONNORS: I could keep going on--

SENATOR DALTON: I would like to stay on that, if I may, that very issue. I would like to get into ISO, if I could, and that rate-making process.

You indicated, Commissioner, that you are presently obtaining information from companies that have over 2% of the market.

COMMISSIONER GLUCK: We will be.

SENATOR DALTON: You will be?

COMMISSIONER GLUCK: We will be.

SENATOR DALTON: The car insurance market?

COMMISSIONER GLUCK: Yes.

SENATOR DALTON: As a result of pulling out that type of information, it will provide you then with the discretion to make a judgment that this filing is acceptable or unacceptable for certain companies.

COMMISSIONER GLUCK: Exactly.

SENATOR DALTON: Is that correct?

COMMISSIONER GLUCK: Yes, sir.

SENATOR DALTON: But then you went on further to allude to the fact that -- and I don't want to put words in your mouth -- it is still difficult, given the statutory--

COMMISSIONER GLUCK: We had to do it this way given the way the statutes are worded now. We had to do it this way because-- We had to do it through regulation because that is the only way we could approach the problem so that we could get to the data that we need to then decide whether or not a filer really should get that rate or it should be lower.

SENATOR DALTON: Okay.

COMMISSIONER GLUCK: So, that is the way we came up with in this Department to do it.

SENATOR DALTON: Do you feel that the problem outlined by Deputy Commissioner Jackson provides for certain insureds in this State -- for the present system of paying too much, as far as premium dollars?

COMMISSIONER GLUCK: We suspect so.

SENATOR DALTON: Okay. Given that, and given the way the statute is set up, why didn't you, or the Commission, come before this Legislature to support a bill that I have had in for the last two years to break out companies that have over 2% of the automobile market in this State from the ISO organization?

DEPUTY COMM. JACKSON: Well, since my tenure in the Department of Insurance, I have never -- we have never observed that bill as being listed for a hearing in any committee.

SENATOR DALTON: But the thing is, why didn't the Department take a more aggressive role, via the Governor's office or whatever, in advocating a statute such as that? Given the fact that you have admitted that the present system causes an inequity -- okay? -- and you admitted that the present statutory system provides you with problems as far as getting this information, why wasn't the Department more

aggressive in promoting this type of legislation through the Governor's office?

DEPUTY COMM. JACKSON: Well, I am not going to question--

SENATOR DALTON: Now, I am not trying to sandbag you.

DEPUTY COMM. JACKSON: I understand that, but I am not going to question the wisdom of one of Hazel's predecessors.

SENATOR DALTON: Okay.

DEPUTY COMM. JACKSON: But the thinking was, they did not want to engage in a legislative battle over that issue. After conferring with the Attorney General's office, although the Commissioner did not have the power to demand that certain companies withdraw from the bureau, the Commissioner did have the power to demand separate loss and other financial data from companies that were members of the bureau. The feeling was that as long as the Commissioner had that power and we could do it that way, it was better to avoid a legislative battle and just promulgate a regulation.

SENATOR DALTON: Now you are in a judicial battle.

DEPUTY COMM. JACKSON: Pardon?

SENATOR DALTON: Now you are in a judicial battle.

DEPUTY COMM. JACKSON: Exactly.

SENATOR DALTON: The Commissioner just indicated that that now is being challenged in the courts -- that regulation.

DEPUTY COMM. JACKSON: Yes, but we are confident that we will prevail. (laughter)

SENATOR DALTON: Believe me, in this Legislature, if the Governor were on board, and I was the Democratic sponsor -- I think Senator Zane had a similar bill in; Senator Laskin had a similar bill in -- I think you would have prevailed.

COMMISSIONER GLUCK: Suffice to say, Senator, that if this bill had come up during the time that I have been at the Department of Insurance, we would have come in and supported it, and pushed for it. You know, I don't think there is any

question about that. I can't-- I think Jasper-- You know, what he said is correct. I can't speak to what happened, as to why that was never taken up by the Administration. Maybe everybody thought it was easier to do this way, and maybe they were wrong.

SENATOR DALTON: Putting your public policy hat aside, and putting your technical hats on now, what is the average time lapse between an initial rate filing and the ultimate disposition of the filing?

DEPUTY COMM. JACKSON: Automobile?

SENATOR DALTON: Correct.

MR. ROBERTS: Well, it's quite a few months.

SENATOR DALTON: What's quite a few months?

MR. ROBERTS: Well, we see-- They may come in in the beginning of the year, they may continue right on toward the end of the year, or even run into the next year. The reason for this is, they frequently go to hearings. You'll have the Public Advocate's intervention, and that's what delays it. We think it ought to be possible to expedite this process.

SENATOR DALTON: Presently, as I understand it, just within the parameters of the Department there are five steps -- or excuse me, four steps that have to be taken before the Public Advocate becomes involved. The rate filing is logged by a rate analyst within the Department, which is step one. The filing is sent first to the Assistant Chief of the Rate Bureau, which is step two, and then to the Chief of the Rate Bureau, which is step three. The filing then goes to the Chief Actuary, which is step four. Is that correct?

MR. ROBERTS: Not exactly.

SENATOR DALTON: Okay.

MR. ROBERTS: The rate analyst does more than log it. The rate analyst analyzes it.

SENATOR DALTON: Well, I mean, there are four steps; that's what I'm saying.

MR. ROBERTS: Essentially as you have counted them, yes.

SENATOR DALTON: Okay. Now, how long do those four steps take?

MR. ROBERTS: Well, it will vary from filing to filing, but it can take several months in some cases.

COMMISSIONER GLUCK: If it's high itself.

SENATOR DALTON: If it's high itself, okay.

MR. ROBERTS: Now, the Public Advocate has 10 days within which to announce his intention to intervene after a filing is made.

DEPUTY COMM. JACKSON: May I elaborate a little more on another point? One of the difficulties in reviewing a filing, whomever makes it within the Department, in the past has been -- and it's a historical problem -- that since previous Commissioners have not felt it necessary, or for whatever reason did not promulgate rules which specify the dated information that the Department desired to have filed with it when an insurer sought a rate increase or a rate change, even if it was a decrease-- One of the problems, and what protracts the period of time it takes to review a filing adequately, is, regardless of what they file, there is a constant going back and forth between the Department and the filer or between the Advocate and the filer, seeking additional information.

As Mr. Roberts explained, when a company makes a filing, what they have done -- they have taken their actual loss experience and made -- massaged it in a particular manner to predict what their costs were going to be at a future time period. As a necessity, they must make all sorts of judgmental assumptions. Most filers, when they make a filing, do not indicate what the judgments were, where the judgments are, or in what ways they have manipulated the data. So of necessity, the Department must ask those questions, and it takes time.

SENATOR DALTON: Do the companies adjust their data, given the time for the filing? In other words, you have a length of time that has taken place between you getting it, the Public Advocate -- you exchanging information with the Advocate and you having your rate analyst look at it, so a fairly significant amount of time-- Now, does the company, during this lapse -- because economies change during this period of time, their data changes during this period of time-- Do the companies supplement the data from the initial--

MR. ROBERTS: Sometimes they do, and sometimes not. Often there is such a dispute over the basic figures that were offered, that the solution, or the resolution of the filing, falls within that parameter rather than something later on.

COMMISSIONER GLUCK: May I add something?

SENATOR DALTON: Sure.

COMMISSIONER GLUCK: The standards that the Deputy Commissioner is talking about, that subsequently have not been promulgated by the Department of Insurance, are going over to the Office of Administrative Law to be promulgated March 10. So, we will have standards which we think will help to cut down on this time lapse.

I think -- and everybody else in the Department thinks -- that if it takes a year it is too long. It's real simple. I couldn't agree with you more. What we are going to try to do is get this down, and the only way we can get it down is by doing some of these -- picking up some of these pieces that been kind of left hanging, and the promulgation of those standards is one of them. So that should be on board as well.

SENATOR DALTON: A fast question before I turn to Senator Russo, who has some questions. This whole issue of car insurance, and our car insurance system-- My concern is that the focus of this whole issue in the past has been solely threshold. Okay? And as Christy would say, I don't care what sort of hold you're talking about, whether it is a monetary

hold, whether it is a verbal hold, or whatever. Okay? The bottom line, however, is, there are other components that need adjusting within this present system that would assist, as far as dollar savings to the consumer. Would you agree with that?

COMMISSIONER GLUCK: I would say that you could change the unlimited medical benefits we give the consumer in this State -- that you could make them less. You could make a minimum amount that someone would have to buy. I am told from the insurance industry, and particularly from Prudential, that that would amount to maybe 20% of a PIP portion of the package that runs anywhere from \$84 to \$110. So, we're talking about-- You can figure it out -- \$20, or whatever it is. You could do that. There is no question about it. There was discussion about that sort of an approach, whether-- I think you-- That is a whole other discussion. Whether or not you would want to do something like that, how that would affect the average working man and woman in this State, and whether or not you would want to do that is a discussion that, you know-- It's kind of a policy discussion. But you can do that.

SENATOR DALTON: But just staying on the issue that we have been talking about this morning, Commissioner -- okay? -- about the present rate-making system, the present way rates are made via ISO or other rate-making organizations, and the inefficiency and inequity it may cause because you are cutting an average rate -- the more information you get by breaking companies out from ISO, you could save dollars. Is that correct?

MR. ROBERTS: Well, Senator, that is true for the policyholders who insured with the lower cost insurers. But what would remain--

SENATOR DALTON: But you could save dollars -- okay? -- for some consumers who are now paying higher rates because their companies belong to ISO, and ISO is cutting an average rate that cannot be justified for all companies belonging to that rating bureau. Correct?

MR. ROBERTS: That part is correct. I just wanted to add that--

SENATOR DALTON: So what I'm saying is, there are dollars to be saved for consumers, just looking at the present rate development system. Is that correct?

COMMISSIONER GLUCK: By having everybody at ISO.

SENATOR DALTON: Pardon?

COMMISSIONER GLUCK: By having the majority of the filers in ISO, yes. I don't know if it would be the kind of savings that you--

SENATOR DALTON: Okay.

COMMISSIONER GLUCK: --are thinking about, but, yes, there would be some dollars.

SENATOR DALTON: Okay. Senator Russo?

SENATOR RUSSO: Thank you, Mr. Chairman. I appreciate the opportunity to raise a couple of points, if I may, that I don't think will necessarily provide any specific answers or solve the problem, but perhaps something to pursue. They may have been pursued somewhat already.

I suspect the first question has been talked about this morning, directed to the Commissioner. I gather you discussed this morning the fact that apparently some people criticized the Department for rate making, when the fact is, the Department does not have sufficient staff to do the job the way you feel it should be done, and I think that is what you were addressing this morning. Am I correct?

COMMISSIONER GLUCK: Yes, we-- What I was addressing, Senator, was this year we have, through the Administration and the Legislature, been able to hire some people. As a result of that-- There are some departments of state that don't have a Lew Roberts, at all. I mean, there are some insurance departments that don't have a chief actuary at all. As a result of that, by the end of this fiscal year we ought to have three full actuaries on board. Now, that makes a difference, no question about it, with regard to being able to analyze things.

As far as our rate analysts are concerned, we feel at this point we have enough rate analysts. There are other areas of the Department, such as the promulgation of regulations and market conduct teams, and situations like that, where we still need more staff.

SENATOR RUSSO: Well, in order to do, effectively, the kind of job that everyone is asking you to do, including the Legislature, could I ask that you provide us with what specifics you are going to be needing in the way of additional manpower and help, and let's see if we can provide it? Because I think if we can't, and you legitimately need it, it's going to be difficult to criticize that Department for not doing its job if you don't have the manpower.

COMMISSIONER GLUCK: We appreciate that. I'll be happy to supply it to you; the members of the Department will be delighted. Let me assure you that the excess profits that have been given back to the Department as excess money has been used to hire consultants to do whatever the work is that we couldn't get done because we were short-staffed within the Department.

I don't want you to think for one moment that those issues were not addressed, even if they had to be addressed on a consulting basis. Thank you, I appreciate that.

SENATOR RUSSO: The next thing I'd like to ask you about, is, of course, in your capacity as Commissioner, you know, you're aware of what's going on in the other 49 states, and I'm sure there's a lot of interaction between your office and the offices of the insurance departments in those other states. Is it not basically correct that this crisis, quote unquote, in the insurance industry, both automobile and others, is a crisis that exists in all 50 states, not specifically just New Jersey?

COMMISSIONER GLUCK: That's not true, I don't think, in auto. But I do-- It's true all across the country in liability in general, yes.

SENATOR RUSSO: What makes it--

COMMISSIONER GLUCK: The reason why it's not, maybe, a crisis in Massachusetts, or Michigan, or Arkansas is that they're not number one, supposedly on the average of the highest automobile insurance premiums in the country. And I--

SENATOR RUSSO: Let's stay with that just a moment so we can dispose of it, and get back to this question.

COMMISSIONER GLUCK: All right.

SENATOR RUSSO: When you say we have the highest rates in the country, am I correct -- and I may not be -- you don't mean we pay more for a similar type of coverage than consumers in other states of similar urban environment do, do you?

SENATOR JACKMAN: Yes.

SENATOR RUSSO: She does?

SENATOR JACKMAN: Sure.

SENATOR RUSSO: No, I don't think she does, because-- I don't think she does.

COMMISSIONER GLUCK: No, no. When I say an average, I'm talking about what Best put out -- A. M. Best, which is the rating -- a financial services report -- that comes out and talks about the average premium and ranks them, okay, in the 50 states. That's the average that they use. That's as of 1984.

DEPUTY COMM. JACKSON: Of course, that average does not take into account that coverage is provided,--

COMMISSIONER GLUCK: Right.

DEPUTY COMM. JACKSON: --and the amount of coverage.

COMMISSIONER GLUCK: Right. They don't do apples and--

DEPUTY COMM. JACKSON: It's not a comparison between apples and apples, it's a comparison of apples, oranges, and watermelon.

COMMISSIONER GLUCK: Exactly.

SENATOR RUSSO: In other words, if we were to publish another ranking, which state has the best coverages -- the most

coverages -- we'd rank first, wouldn't we, in automobile insurance?

DEPUTY COMM. JACKSON: Yes.

SENATOR RUSSO: We would. In other words we're getting, basically--

SENATOR JACKMAN: I'd like to see that documented.

SENATOR RUSSO: That's a fact, Chris.

SENATOR JACKMAN: You know, everybody's making quick statements, and so far I haven't-- You know, this is, to me is -- all I know is when I get hit with people back home, they want to know how much is this going to cost us. They're paying \$800 and all of a sudden it went up to \$900, they had no accident, they had nothing, and then we're telling them we got the best coverage. Best coverage of what?

SENATOR RUSSO: Well, let me see if I can pursue it, Chris. I think maybe I can, you know, help clarify it, and see if there's anything else.

I think, basically, what we're saying, if I'm not mistaken, is that because of the unlimited medical, and PIP coverage, and so forth, New Jersey's drivers receive the highest benefits, and for which they pay the overall highest rates, probably of any state.

SENATOR JACKMAN: Stop there. We were told before there were three other states that were paying higher rates. Now somewhere let's go back in retrospect.

COMMISSIONER GLUCK: That portion of the policy, Senator.

SENATOR DALTON: If I could interrupt, and I do that at my own peril, given to the fact that to the far right is the Senate President, but the-- One of the things that I wanted to do today, and what the Commission -- the Committee -- wants to do, is this whole Committee was set up to go on a step-by-step component-by-component approach to the problem. And if I could, with the Committee's permission, I'd like to keep the

line of questioning on the component that we're dealing with today, and that is rates and rate development in the State of New Jersey. If that's okay?

SENATOR RUSSO: At the risk of being -- I'll try to frame my question in accordance with the Chair's ruling, or be ruled out of order. Of course we, you know, maybe we should have a different Chairman of this Committee. (laughter)

SENATOR DALTON: I don't want to put that up for a vote yet. (laughter)

SENATOR RUSSO: Let me see if I can complete these thoughts that I have within the framework, Dan, of your rulings, and if I don't I really don't mind being ruled out of order, and I'll hold it for another time.

On rate making, I did want you to clarify, first of all, you know, what the problem is -- and just one last thought; I'll say it real fast before Dan catches me on it -- at the National Conference of State Legislators, the legislators of every state in the country were up in arms with the same type of thing we are here. You know, what do we tell our people? And my question now, Mrs. Gluck, is when we talk about rate making -- and I think this is within the framework of what we've got -- we talk about addressing a problem. And, at least from what I can see, rate making becomes a problem, and rates become a problem, cyclically -- cyclically. In 1975/'76 -- don't hold me to the year -- we had the same crisis, quote unquote, we have today. Rates were escalating, and tort reforms were cried out for, and then all of a sudden rates went down, and then everybody became quiet, okay. And it seems as though -- and help me if I'm wrong -- that it's all related to the interest rates; the amount the carriers can make on their investments. When the interest rates were 18% and 20%, premiums came down because they wanted the bucks to get in 'cause they could invest it when they were--

My question is on rate making. Are we not really facing a problem that almost has to be handled on the federal level, perhaps through the Federal Trade Commission, rather than to try to handle it piecemeal in each state when crises develop because interest rates go down and the carriers now have to jack-up the cost of insurance?

COMMISSIONER GLUCK: Senator, I really think that some of this should be handled on the federal level, which is probably not what a lot of other commissioners might say, or even the industry. Or maybe the industry would say it at this point, I don't know. There are no national -- you know, other than McCarran-Ferguson Act, I guess -- there really are no acts that have anything to do with insurance, per se. For instance, there are -- and I'm speaking as a consumer as well as the Commissioner of Insurance -- there are no standards -- and Jasper and I have talked about this -- for reinsurers. There just are no standards.

Now, if you're going to wait for-- If New Jersey were to go ahead and promulgate standards for reinsurers, everybody would say, you know, that's a crazy State. Which is what they say anyhow, because of some of the things we do. It can't be done on that level. If you're going to have broad reforms, state by state level is probably some of the most difficult way to go, because each state's going to come up with a different package, first of all.

Second of all, there's also no question in my mind that a lot of this goes to their inability, their lack of capacity to write commercial liability or liability of any sort across the country. Some of them have big problems, because they engaged in what you were talking about, that cash flow underwriting, and now they're in trouble. Other companies that didn't do that have the ability to write, and they are writing in New Jersey. I want you to understand that they are writing in New Jersey. But this is a very difficult time for the

industry and they have to make themselves whole, and until they do make themselves whole and have the capacity to write, if they kept on going the way they had been in previous years, there's a chance that there would be a lot more insolvencies in this country.

So, you know, as the Commissioner of Insurance, you walk a very fine line, because if the company goes insolvent that insures you, it's not going to do you, or any of the other policyholders, a hell of a lot of good.

That's part of the problem. There are certain things that we can do in a state; within the confines of a state. We can ask for the breakup of ISO in the State of New Jersey. We can have the appellate decision, that was remanded to us, on classification. We can set up the Committee to deal with that, which has to do with the territories which haven't been touched in this State for 40-some odd years, and the classification in automobile insureds that goes to geography, and age, and gender, and marital status, and all that stuff -- that we're going to deal with. It's going to take time. It was held up in the courts. I mean Jim -- when Commissioner Sheeran left, that wound up in the courts and was in the appellate division for almost four years.

There are things that we can do here, and there are things that we can do that will make a difference. Some people think that there is tort reform that can be accomplished on the State level that will make a difference. For instance, for DEP and DOT to hold contractors to a standard of negligence instead of the strict liability standard who are working on public works. Well, people feel that that's something that can be done and needs to be done in the State of New Jersey given our commitment to the billions of dollars we have in public works programs.

SENATOR DALTON: Commissioner, respectfully--

COMMISSIONER GLUCK: Sorry.

SENATOR DALTON: Respectfully, the issue is automobile rate development, okay. Now we're trying to solve the liability -- commercial liability -- crisis in this State. What I'd like to do is stay on the issue.

COMMISSIONER GLUCK: He's not your Senator, he's my Senator, so I had to answer. (laughter) Sorry about that. I'm sorry, Senator.

SENATOR DALTON: Yeah, I mean, this Committee is the Special Committee on Auto Insurance, not the Special Committee on the liability -- commercial liability crisis, which is an apple/oranges type situation. So, I want to-- We only have you -- because the Senate President is so punctual these days -- we only have you for another half an hour; Senator Zane has been chomping at the bit here for a while to get a question -- his question responded to. So, Senator?

SENATOR ZANE: I think these-- I hope these questions, Dan, will go to rates. Somehow, I'm sure that they will apply. I'd like to ask one. In the rate making process, whatever the cost is that is ultimately approved for PIP, is there a different cost within each class of driver, or are all drivers, regardless of their classification, territory, or whatever, charged the same rate for PIP?

MR. ROBERTS: No, it varies.

SENATOR ZANE: It does vary. Okay. Let me ask you one other. The awards -- and by that I don't mean, necessarily, the judicial awards, I mean payments by insurance companies for claims for losses -- on a per capita basis, or whatever other barometer you might use to measure it, has there been a significant increase in awards, either directly from companies or that possibly came through a court, or whatever? Has there been a significant increase in those over the past few years?

MR. ROBERTS: There has been an upward trend. We would be glad to supply you with this data.

SENATOR ZANE: Do you have a feel for -- 'cause obviously that goes to determining what our rates should be, right? That's their loss experience?

MR. ROBERTS: Yes. I have some trend data right here.

SENATOR ZANE: Is that item broken out separately?

MR. ROBERTS: Yeah. I have a little chart with me, just by chance, which gives us the average costs in the claim frequencies and what's called the paid pure premium, which is the cost per car, for the no fault, which is the PIP by--

SENATOR ZANE: Now, excuse me, I'm all through the PIP part. I'm off the PIP part; I'm discussing liability at this point.

MR. ROBERTS: We have it in the liability area too. For example, for the year ended 6/30/82, the 15,000 -- 15/30 bodily injury -- average claim cost was \$5864. And coming up to the present, through the year ended 3/31/85, it was \$6507. There's been a steady progression in between.

Now, what I just gave you was the average cost per claim. Now, the other component of the cost per car is the claim frequency, and that--

SENATOR ZANE: Let me tell you what I'm asking you. If I'm in an auto -- if I was in an auto accident -- 'cause somehow I imagine that you have an average for those years -- if I were in an auto accident in 1980 and I had a -- whatever -- facial scar, whatever it might be -- I'm just using that by way of an example -- and I had the same in 1985, based upon figures that you possibly have available, would I receive more in '85 than I would have for that type of an injury than I would have in 1980?

MR. ROBERTS: More.

SENATOR ZANE: Is it significant?

MR. ROBERTS: Significantly more.

SENATOR ZANE: Do you have any idea how much the percentage increase is in average type of awards?

MR. ROBERTS: Well, the average annual change in bodily injury claim costs was 3.3% per year from 1982 through 1985.

COMMISSIONER GLUCK: Are we talking about-- Are you talking about awards or claims?

MR. ROBERTS: I'm talking about claims. Some of these claims will involve a lawsuit--

COMMISSIONER GLUCK: You're talking about awards. That's different.

MR. ROBERTS: --and award, and some of them will be settled without claim court. We don't have separate data on cases that go to--

SENATOR ZANE: I understand that. Commissioner, you seem to understand what I'm driving at.

COMMISSIONER GLUCK: I know what you're driving at, but I'm not sure we have that breakup for you. I mean, this is what it costs to pay a claim. This is not necessarily what it costs if they go to court.

DEPUTY COMM. JACKSON: And this is averaged on a per car basis. For instance, there are 5.5 million cars in New Jersey, so these costs are per car.

SENATOR ZANE: Fine. If there are five point million cars--

DEPUTY COMM. JACKSON: I mean, sorry, there are about 4.5 million cars.

SENATOR ZANE: Okay, 4.5. I don't care what it is. If there are 4.5 million, how much money was paid out in 19 let's say '80, as an example, for pain and suffering?

COMMISSIONER GLUCK: We don't have that.

SENATOR ZANE: How much was paid out in 1985 for 4.5 million cars?

DEPUTY COMM. JACKSON: Our figures are not broken down that way, but you-- (all witnesses speaking at once) But you may be able to obtain that data from the Administrative Office of the Courts.

COMMISSIONER GLUCK: Of the courts--

MR. ROBERTS: And then, we do have a special study by the all industry research committee, which does--

SENATOR ZANE: Many claims never get to the court. Ninety-five percent of all the claims end up settled. Five percent ultimately get to the court. So, therefore, that seems to be something that should be available, or a figure you have--

COMMISSIONER GLUCK: Well, it may be because we got a statistic that said there were 61,000 cases heard in superior court in 1985, of which 38,000 were automobile cases. So, I mean if that statistic is available, and if that is accurate, then we ought to be able to know what the rest of what you're asking about, because we don't have it, but--

DEPUTY COMM. JACKSON: We don't get the data in that detail. We may be able to secure from you the Rand Corporation -- which is the same thing, research institution -- does research in that area. But it's research based upon what's occurring-- They do it on particular states, but it's usually based on nationwide data. So we can give you nationwide data in that detail, but we cannot give you data on that detail with respect to those type of awards--

SENATOR ZANE: Do you know what I'm troubled by?

DEPUTY COMM. JACKSON: --because we don't receive the data in that detail.

SENATOR ZANE: Let me tell you what I'm troubled by, and if you suspect it's because, in part, I'm a lawyer, you're right. We're constantly hearing about tremendously high awards, and that that's an ingredient. Chris Jackman is absolutely convinced that that's a major element of why insurance rates are going high. And you people deal full time with insurance. Where does the story begin that awards are going way up? Where does it come from?

COMMISSIONER GLUCK: Where does it come from? The industry.

DEPUTY COMM. JACKSON: Senator, it comes from the industry, but Senator the problem--

SENATOR ZANE: And doesn't the industry have to supply you with information like that in making a rate? I mean, isn't that part of--

DEPUTY COMM. JACKSON: But Senator, the problem -- the problem--

SENATOR ZANE: Excuse me, just one second. Isn't that part of what goes into striking a rate?

MR. ROBERTS: Certainly, Senator. We get these data prior to every rate filing, and it's in the form of average cost per car, in the form of average claim cost and the cost of claim frequency, which is the number of claims per cars.

COMMISSIONER GLUCK: It's not in-- It's not in the form that you're asking for. It comes in the form that the actuary is telling you. It comes in those various segments, but it's not in the pure form that you're asking for. And the place I think you can get that, probably, is the courts.

SENATOR ZANE: Well, sir what was the figure--

DEPUTY COMM. JACKSON: Before you go on to the next question, can I add something to the answer? The problem in this area is not necessarily high jury awards. It's the ability to sue; there are a lot of garbage cases in the system. If you look at the automobile insurance premium, each property casualty company -- even the most efficient ones -- spend about 30-some cents out of every dollar on expenses. A large portion of those expenses are claim related expenses, and those expenses are in the system, regardless of whether or not -- of whether there's a jury award or not. The problem with our current no fault system is that there's supposed to be a trade-off in medical benefits and the ability to sue. And because of the low tort threshold and the unlimited medical benefits, our rate payers are being zinged both ways. In other

words, they are getting their medical benefits paid, but that many suits, particularly garbage suits, are not eliminated from the system.

SENATOR JACKMAN: What do you call a garbage suit? I'm interested in that.

DEPUTY COMM. JACKSON: A garbage suit?

SENATOR JACKMAN: Yeah, yeah.

DEPUTY COMM. JACKSON: A garbage suit is where you have a threshold of about \$200 or \$1500.

SENATOR JACKMAN: And the guy sprains his wrist.

DEPUTY COMM. JACKSON: I don't know about you, but every time I go to my doctor's office it costs me \$85 just for a visit. If I have a minor incident, and I go to my doctor's, it doesn't take very many visits for me to reach the threshold where I then have the ability to sue. The problem is, is that there are too many suits running the system, and there's a lot of fraud in the system because of the low level of the suit threshold.

SENATOR RUSSO: A garbage suit is what happens to the other guy.

SENATOR DALTON: Okay. I get the feeling we're really getting into it now. (laughter) But, Senator Zane still has the floor.

SENATOR ZANE: One other point. The cost that you gave for -- you said in June 30, 1982, you gave me a number of \$5864, and you said June 30 of '85, \$6507. And what did those numbers represent?

MR. ROBERTS: They represent the average basic limits paid claim cost for--

SENATOR ZANE: So, of every claim made in this State in June of 1982, the cost was -- to settle it, to resolve it, whatever -- \$5864.

COMMISSIONER GLUCK: To pay the claim.

SENATOR ZANE: Is that correct?

MR. ROBERTS: The-- Some of it, of course, costs more and some less. But if you take the total cost--

SENATOR ZANE: Average.

MR. ROBERTS: --and divide by the number of claims, you get what we call the average, and that was \$6507 for the year ended 3/31/85.

SENATOR ZANE: Okay. And three full years prior to that it was about \$650 more than that -- or less than that per claim.

MR. ROBERTS: Right. It was 5800 and-- \$5684 -- 864.

SENATOR ZANE: Therefore, the average cost of a claim in this State for whatever goes into a claim, has increased by roughly \$650 over three years?

MR. ROBERTS: That's about right.

SENATOR ZANE: Which translates to about 11% over three years, or an average of a little over 3% per year.

MR. ROBERTS: Right. Three point three percent.

SENATOR ZANE: Okay. And the rate of inflation is -- has been, until this past year -- greatly in excess of that, hasn't it?

MR. ROBERTS: That's correct.

SENATOR ZANE: So wouldn't that suggest that the awards have not significantly increased if these are the numbers, where the cost to the insurance companies for claims? Wouldn't that suggest that? Wouldn't it suggest that on the average the awards are somewhere's in the neighborhood of a little bit more than 3% per year increasing?

COMMISSIONER GLUCK: No, no. No, and I'll tell you why. This is what cost pay--

SENATOR ZANE: I think Mr. Roberts is saying yes.

MR. ROBERTS: I didn't think to at all, Senator.

SENATOR ZANE: Did you say yes, Mr. Roberts?

MR. ROBERTS: All I would have answered is that this is basic limits. So it doesn't take into account the total

cost of the awards. However, the increased limits factors, which are intended to provide for these higher cost awards, have not been changed for this period. And the other thing that we want to take into account is the claim frequency has been going up at the same time. Now, Commissioner--

COMMISSIONER GLUCK: I thought he said before that the awards, the amount that it costs a company for litigation, shows up not just here, which is payment of claims, but in several different categories which they report to the Department of Insurance.

SENATOR ZANE: Commissioner, correct me if I'm wrong, but I understood him to say that, in essence, to settle a claim or whatever -- to resolve it -- the cost per company per claim in 1982 was a little in excess of \$5800 and in 1985 it was \$6500. That's what I understood Mr. Roberts to say.

COMMISSIONER GLUCK: To pay the claim.

MR. ROBERTS: Now this is bodily injury, you understand?

SENATOR ZANE: I understand.

MR. ROBERTS: But, those are the figures.

SENATOR ZANE: Now, let me ask you this, sir. What were the costs of PIP coverage in 1982, if you have that, and what is the cost of PIP coverage for the same period in 1985?

MR. ROBERTS: All right, for the year ending -- it's not quite the same period as before, but it's the year ending -- 6/30/82, the average cost for the basic PIP coverage was \$2174; and for the year ended 3/31/85, it was \$2974.

SENATOR ZANE: So, PIP, within that same period of time, the cost to resolve that went up by a third?

MR. ROBERTS: About that, yes. And, the claim frequency dropped a little bit for that same period. If you take the cost per car, which is illuminating to look at, we find that that went from \$62 in 1982 -- 6/30/82, the year ended -- to \$83 for the later period.

SENATOR ZANE: So, if these numbers -- if I understand these numbers as you present them, bodily injury, in order to resolve that, increased approximately 3% per year, and the cost of PIP increased approximately 11% per year during the same, corresponding period of time, on the average?

MR. ROBERTS: Approximately. Over the last nine quarters, the increase was 11%, and over the last twelve quarters, it was about 13%.

SENATOR ZANE: Does that suggest to you that part of what is contributing to the additional increase to insurance, that in proportion, the PIP is having a greater effect on the increased cost than is the cost to an insurance company for bodily injury, on a percentage basis?

MR. ROBERTS: That is what appears from these figures, sir.

SENATOR ZANE: Thank you.

SENATOR DALTON: Christy?

SENATOR JACKMAN: Just one. The rate setting -- let's get, I want to get it clear in my mind. A young man living in Newark, black, 19 years old, drives a 1981 Dodge. Same thing, individual, 19 years old, living in Saddlebrook, driving the same car, do they both have the same rates?

MR. ROBERTS: No, they'll have different rates.

SENATOR JACKMAN: Why?

MR. ROBERTS: The rates, sir, vary by territory, depending upon the experience of the territory.

SENATOR JACKMAN: This man -- young boy -- 19 years old, had no accidents, good, safe driver, same with the guy in Saddlebrook, you mean because of residency that is a criteria for the setting of rates?

MR. ROBERTS: Well, indirectly. The rates are tied back to the place where cars are garaged. If a car's garaged in Newark, on the average cost, cars garaged in Saddlebrook, then the Newark insureds are charged more.

SENATOR JACKMAN: So that young boy would be better off saying he lives in Saddlebrook, and he gets a lower rate even though he lives in Newark. Is that what we're talking about?

MR. ROBERTS: That's what we are talking about. It's where the car's garaged, not where he lives.

SENATOR JACKMAN: The other thing I'd like to know, and I don't mean to be facetious, and please believe me when I say this, I'm hoping this is all now in plain language.

COMMISSIONER GLUCK: Which?

SENATOR JACKMAN: What we're talking about in the policies and everything else from now on.

COMMISSIONER GLUCK: Well, on my desk is a plain language automobile insurance policy -- the first draft, Senator -- and--

SENATOR JACKMAN: Okay.

COMMISSIONER GLUCK: --you know that we are committed to doing this at the Department, so the people can understand what it is they have or haven't got.

SENATOR JACKMAN: You know, your rate setting -- the thing that, you think when you go back home, threshold, no fault, all of these other things, the average person is very confused. I want you to know that. The average person sitting back home, all they know is they go down the corner to the agency and they're told, "your insurance for your youngster is \$871." Well, the car's worth 2000, but that's the price if you want to drive, okay. And that's why I'm afraid to say this, there's a tremendous amount of people out there that don't have insurance as sure as God made little apples. And, somewhere along the line we're going to get-- The frightening thing is going to come back.

You see, legislatively we sit here, and everybody we got -- you know, we got some ideas -- the only ideas we can get is from the people we listen to like you. You're the experts.

What can we do to go back to our people and say to the people, "here, you're not going to pay that much more anymore, but you're going to have the same coverage,"? That, I think is what's coming up. This is the thing the people want to know back home.

COMMISSIONER GLUCK: Senator, I want to tell you. I don't believe that you can have the same coverage in this State for less money. I don't think we're ever going to drop down to 10th or 15th with the kind of coverage we have here. As consumers we got to make up our mind, either we're going to reduce the coverage and reduce automobile insurance in this State, or we're going to pay for it. And I think the people don't want to pay for it.

SENATOR RUSSO: Touche.

COMMISSIONER GLUCK: Okay?

SENATOR JACKMAN: Okay.

COMMISSIONER GLUCK: And I think we've got to reduce it.

SENATOR JACKMAN: I'm done.

SENATOR DALTON: Okay. Senator Lynch, do you have any questions? (Senator Lynch indicates negatively)

DEPUTY COMM. JACKSON: They don't want to pay for it, but they want the coverage.

COMMISSIONER GLUCK: Yeah. They don't want to pay for it.

SENATOR DALTON: (Responding to Senator Lynch's indication that he doesn't have any questions) Okay, you're having too much fun. (laughter)

Can I ask a couple--

DEPUTY COMM. JACKSON: They also don't want reduced coverage.

COMMISSIONER GLUCK: I don't think that's true.

SENATOR DALTON: Okay, now, can I get into just a couple of questions? We have 15 minutes left, and I know Senator Connors has a couple questions, too.

The prior approval system in the State -- that is rates having to be approved by yourselves before they're promulgated -- is that the most efficient system of rate regulation?

COMMISSIONER GLUCK: As long as we streamline it, and make it efficient, it can be an efficient system. If you want-- What do you want to compare it to, the Commercial Deregulation Act?

SENATOR DALTON: No. What I'm saying is there's several systems of rate regulation -- automobile rate regulations. They include open -- totally open -- competition, prior approval, file and use. What are-- What is, to your mind, comparing this system to those other systems, the most efficient?

COMMISSIONER GLUCK: I think that file and use or prior approval can be efficient and -- an efficient system if you have the staff with which to handle it.

SENATOR DALTON: Do you have-- Do you feel that presently the Insurance Department has adequate staff, Commissioner, to--

COMMISSIONER GLUCK: For rates?

SENATOR DALTON: Yes.

COMMISSIONER GLUCK: Yes.

SENATOR DALTON: Okay. Do you feel that one actuary, presently, is sufficient?

COMMISSIONER GLUCK: Yeah, some of the Departments don't have any. Yeah, and we're getting a second one in March.

SENATOR DALTON: Some departments don't have any doesn't mean that--

COMMISSIONER GLUCK: Right.

SENATOR DALTON: --that you don't need more folks.

COMMISSIONER GLUCK: We are bringing on two more. Okay?

SENATOR DALTON: Okay. Yes, okay.

COMMISSIONER GLUCK: Which is terrific, actually.

SENATOR DALTON: The format, just-- I wanted to get into, also, the format of rate filings, because that's always intrigued me to a certain extent. The public advocate in 1983 made recommendations that the format for rate filing should be standardized.

COMMISSIONER GLUCK: Right.

SENATOR DALTON: And that is, that there should be -- we should have -- some basic information from all companies that we're presently not getting.

COMMISSIONER GLUCK: That's correct.

SENATOR DALTON: Now, is that part -- given that fact-- In other words, what you're dealing with is you're dealing with some very sophisticated components here, okay.

COMMISSIONER GLUCK: You're right.

SENATOR DALTON: You're talking about such things as investment income, which is very very difficult to define, and I suspect you would define it differently than the companies would define it, and given the fact that you have a non-standard format now, okay, wouldn't you think that we should be going to a standard format from companies?

COMMISSIONER GLUCK: Yes.

SENATOR DALTON: Is that part of your regulations?

COMMISSIONER GLUCK: And we are. And that's the one that will be at the OAL -- the Office of Administrative Law -- on March 10. And we also are promulgating the regulations for the excess profits law. Okay? So that will be oper--

SENATOR DALTON: Okay, so you're going to a uniform format?

COMMISSIONER GLUCK: Yes, sir.

SENATOR DALTON: Okay. The Public Advocate also suggested in the same report that the Clifford formula for allowing process is outmoded. Okay, would you agree with that?

COMMISSIONER GLUCK: In discussions in the Department that we have had, we have said that we think that it should be changed. We haven't set down what the change is going to be yet, but we have had discussions about changing it.

SENATOR DALTON: I agree. And--

COMMISSIONER GLUCK: And he's sitting on the bench, so it doesn't make any difference.

SENATOR DALTON: Okay. But I--

COMMISSIONER GLUCK: Yeah, it is.

SENATOR DALTON: And all of these components, again -- all of these components, again -- have a dollar cost attached to them. Okay?

COMMISSIONER GLUCK: Absolutely.

SENATOR DALTON: Okay. Senator Connors?

SENATOR CONNORS: In our last session we touched upon the residual market equalization charge, and where we are with that with regard to the JUA. We went over some figures, and I'll just spin some of them off as I recall them. Roughly 4.5 or 6 million motorists in the State or automobiles in the State to be insured; 700,000 of them are not insured or do without insurance; and one and a half million of those are in the JUA, and there's not enough money to cover those one and a half million motorists and the differential in it. And right now, we've been warned -- warned -- by the industry that this is a ticking time bomb, that it right now represents a cost to all of the motorists in the State who are insured of about \$75 to \$79, and will escalate to about \$150 within the next few years.

COMMISSIONER GLUCK: Okay, I know you had testimony from Prudential last session to that effect.

SENATOR CONNORS: Yes.

COMMISSIONER GLUCK: I'm going to answer two ways. One is that I hope you will have us back to talk about the JUA, and I'm going to ask, and I've already spoken to the Senator who Chairs this Committee that we talk about it behind closed

doors. To be candid, we are being sued, and we can't discuss everything in public with regard to the JUA.

With regard to the RMEC, Senator, I can only tell you that when you have recommendations for a RMEC, they run from \$150 to \$130 to \$99 to zero dollars, to assess the policyholders from the State of New Jersey for figures that nobody's quite sure what's going to make them whole, or if any of that is needed, or if zero is too little, or whatever. We have set out on what we think is a very responsible course of action to find out everything that we can about the reserving, the way the JUA is reserving, about servicing carriers, what they're doing or not doing. It's a very complicated problem. I would expect the Department to have their arms wrapped around that problem by this summer. We have a lot of experts and consultants working on it, as well as our own financial examination teams in there.

When we come to you as a Department, if in fact a RMEC is needed, we want to know what we're talking about. We can't guesstimate it.

Now, a ticking time bomb is something that I think that the industry likes to put on it because then they say because of that ticking time bomb they just can't write automobile insurance in the State of New Jersey. I happen to think that they have a concern, because they didn't want to be saddled with whatever that deficit is going to be. But, they know full well that this Department is trying to address that problem, and they know full well that within the next few months we will have it addressed.

I don't think it's a ticking time bomb. I think it's a problem that we have to get our facts about, and then we have to have the courage to face. And we will.

SENATOR CONNORS: Commissioner, the question was not put forth as one that was blaming the--

COMMISSIONER GLUCK: No, I know.

SENATOR CONNORS: --Insurance Commissioner.

COMMISSIONER GLUCK: I understand that. But what I'm saying to you is, don't let that expression of a ticking time bomb become involved in these-- It is part of these deliberations of overall cost, but what I am saying to you is it is going to be resolved. And I think there are many times that the industry has used the JUA as an excuse.

SENATOR CONNORS: Well, I remember this, that it was the Legislature that passed legislation, because--

COMMISSIONER GLUCK: Yeah.

SENATOR CONNORS: So, if there's any fault that, in this matter, it's the Legislature that did it by passing the bill.

COMMISSIONER GLUCK: It's better than the assigned risk, Senator.

SENATOR CONNORS: Okay.

COMMISSIONER GLUCK: And it's got a lot of potential.

SENATOR CONNORS: That's not my question. My question was, initially, are those figures right?

COMMISSIONER GLUCK: We don't know.

SENATOR CONNORS: You don't know?

COMMISSIONER GLUCK: No, that's why we won't assess the people of this State.

SENATOR CONNORS: Well, why would the insurance company's actuary -- Prudential's actuary; the top actuary -- know that, and our actuary not know it? I don't mean that in a bad way.

COMMISSIONER GLUCK: Because there are ways-- There are different methods of accounting: standard accounting procedures, gap accounting. By their own admission, if you use one accounting method the assessment was \$150 a car, and if you used another accounting method, the assessment was \$99 a car. Now that's a hell of a difference for the consumer. So, what we're doing is we hired a consultant to go in and look at the

reserving process; you know, maybe they're right, maybe they're close to right, maybe they're not close to right, all right. And, are financially--

SENATOR CONNORS: Either way, whether it's \$150 or \$99, it's still terrible.

COMMISSIONER GLUCK: But we don't know what we're talking--

SENATOR CONNORS: Even if it's \$50 it's terrible, or \$25 in the residual market equalization charge, because it's apparent that the system is not working. That really is the heart of the question.

COMMISSIONER GLUCK: Well, I don't think that that's the case.

DEPUTY COMM. JACKSON: Once again, Senator, I think we'd be better off discussing this topic behind closed doors, because it depends upon what you mean by the system and in what way is it not working. The fact is, the industry talked about a subsidy, and in every state in this nation there's a residual market--

SENATOR JACKMAN: They cry on the way to the bank.

DEPUTY COMM. JACKSON: --and there's a subsidy on the voluntary market side for all of those residual markets. The question is-- The, the, the-- The question is what type of system do you have -- and whether -- and why do you have that system, and whether or not you want to stay with that system. But the reality is, regardless of what system you have, there's going to be a subsidy in it.

SENATOR CONNORS: It just doesn't seem right to me.

DEPUTY COMM. JACKSON: And the question is, what is going to be the amount of the subsidy, and whether or not that subsidy is justified.

SENATOR CONNORS: It just doesn't seem right to me for the law-abiding citizen who buys automobile insurance in this State, pays a very very high premium for that automobile

insurance, has to purchase through that automobile insurance and finance the underinsured and the uninsured motorists liability fund for the -- because the State's responsibility to make sure that all of the motorists drive with insurance, but we have 700,000 of them are running around without insurance--

SENATOR JACKMAN: What's the answer to get the 700,000?

SENATOR CONNORS: That there's a million and a half drivers that are in the JUA out of the probably 4 million drivers that are-- That's terrible. I think those statistics are just awful. So, the motorist who's insured gets waxed several different ways. So, one thing is the underinsured and underinsured motorists liability fund he's paying so that when he gets run into by somebody who doesn't have insurance, he gets protected that way.

SENATOR JACKMAN: Do what--

SENATOR CONNORS: Then he turns around and the residual market equalization charge, because the guy who would have been an assigned risk is no longer in the assigned risk, he's got to pay for that, if he--

DEPUTY COMM. JACKSON: But Senator, that's a-- Senator--

SENATOR CONNORS: There's not enough money to do, to have the bad drivers paid--

SENATOR DALTON: There's a question in here, somewhere. (laughter)

DEPUTY COMM. JACKSON: Can I say one thing? I know there's a question there somewhere. The problem is, Senator, that's a problem in every State, regardless of the size of the residual market. You're talking about the uninsured drivers, the uninsured motorists and the cost. I submit to you that in New Jersey, the motorists they are better in this State, with respect to that problem, than most every other State.

Right now, the amount that a motorist in New Jersey pays for the uninsured driver or motorist is somewhere in the

area of about \$25. It may be less than that. In some states it is in the hundreds of dollars. I mean, that's not a problem -- that's not a problem-- That's not a residual market problem, that's a problem of compelling the purchase of insurance.

SENATOR CONNORS: Well then, maybe we shouldn't have compulsory insurance.

COMMISSIONER GLUCK: That's public policy.

SENATOR CONNORS: And let people buy what they want to buy, and those people who don't want to buy anything, the person who wants to be insured can protect himself both ways, because he's doing that now -- it's what he's doing right now in the State -- for one -- or rather 15% or 17% of the State's running around with no insurance.

DEPUTY COMM. JACKSON: Yeah, but Senator--

SENATOR CONNORS: Despite the fact that we got a law that says you have to buy it.

DEPUTY COMM. JACKSON: But then you're going to have another problem, because then you're going to have to take funds out of the general treasury to pay for all the awards to the State who are injured in automobile accidents because motorists have no insurance.

SENATOR JACKMAN: That's right, and you have about 5 million--

SENATOR DALTON: What I'd like to do now, is we have about three minutes left, Senator Lynch hasn't asked -- posed -- any questions yet, and I'd like to give him that opportunity.

SENATOR LYNCH: I just want to follow up on this last discussion. And I don't know whether you call it a ticking time bomb, I don't know whether or not you have to, you know, every state has some form of subsidy for the residual market.

DEPUTY COMM. JACKSON: I didn't say they have to, they do.

SENATOR LYNCH: They do. But you indicated before that it doesn't make any difference as to the percentage of those in the residual market. Well, it seems clear to me that where you have a situation in New Jersey and 45% of your insureds are in the residual market, and the system we have fostered gives us every reason to expect that the trend is going to continue upward, and soon we're going to have one insured in the residual market for every insured in the voluntary market, that that is very significant when you're talking about subsidies. Because it's one thing for three motorists in the voluntary market to subsidize one motorist in the residual market, and it's a whole different thing for one motorist to be subsidizing another motorist on a one-for-one basis.

Now, I don't know whether you call that a ticking time bomb, but if you look at the curve, it's going all the wrong ways, and ultimately, that's going to come back to haunt us. Now, there's nothing in the system now -- I should say, maybe there's everything in the system now, to literally push people into the residual market.

COMMISSIONER GLUCK: You're right.

SENATOR LYNCH: And there's everything in the system now for people who are writing -- agents, brokers, what have you--

COMMISSIONER GLUCK: You're right.

SENATOR LYNCH: --to push people into the residual market. And there's no reason for anyone to be pulling them into the voluntary market. And the companies seem to be gliding along saying, well that's not too bad either, because we're kind of getting the cream of the crop and it's all kind of working out, but maybe someday we're going to have to pay the piper. It may not be a ticking time bomb, but there is another description for it. I'm not sure what it is, but I know we've got to get into it.

COMMISSIONER GLUCK: Well, you're right, and I can assure you we're trying-- We're coming up with a depopulation plan to try and depopulate the JUA. We have a problem with what has been called unearned commissions. That was in the law. We can get into that when we talk about the JUA. The ticking time bomb that was referred to was the deficit that was expressed, supposedly that exists in the JUA. And, what the companies want is to have all of the money up front so they can put it somewhere and collect interest on it.

SENATOR LYNCH: But what I'm suggesting is it may not be a ticking time bomb, but if it does come down and that window does close, who's going to pay for it? Not three motorists to one, one-for-one.

COMMISSIONER GLUCK: You're right, and that's why we've got to depopulate. You're absolutely right.

DEPUTY COMM. JACKSON: All motorists pay for it. But you have to understand something-- Well, maybe we -- as I said once before -- we'd be better behind closed doors. The question, you know, the question of residual market is not the size of it is a problem but the public policy question is one of equity to the motorists who are compelled to buy the product. And at what price should they become--

SENATOR LYNCH: Compelled is the right word. Why are they being compelled to be in the residual market? Why are 45% of our motorists in the residual market in New Jersey, and not nowhere close anywhere else?

COMMISSIONER GLUCK: I'll tell you why.

DEPUTY COMM. JACKSON: But it also depends on how you define -- one defines -- residual market.

SENATOR CONNORS: Because insurance companies don't want to.

SENATOR JACKMAN: I defended for you before, with that young boy who comes out of Newark and the guy lives in Saddlebrook. That's the frightening part. You know that's the

answer. I mean, if you're going to -- if we're going to stop-- We call a spade a spade. With me, I look at the subject matter. When that young kid comes to me and lives in Jersey City, and he's got a bill for \$725, and he's going to college and he happens to meet his friend who comes from Saddlebrook, and he's paying \$495, it don't make sense. It don't make sense. And how do you try to answer that to these kids?

Now, I'm not coming back and saying you're at fault, but somebody's got to be given some answers. Because he's black and he lives in Newark, and he drives a car better than the kid in Saddlebrook, don't make any difference. That's the part that I don't like. And I want some answers for that.

SENATOR DALTON: Senator Zane has the final set of questions today. I swear. (laughter) You don't have any questions? (laughter)

SENATOR ZANE: I did. (laughter) I still do.

I think you -- it was in a general discussion, but I think you indicated that you felt that one of the problems in New Jersey, and it was in part some questions, I think from Senator Russo, and you said one of the problems that we have is that people in this State really do not want less coverage. Is that--

COMMISSIONER GLUCK: I don't think that's true.

SENATOR ZANE: You don't? You think they do?

COMMISSIONER GLUCK: I think that if they could reduce their automobile insurance costs, that they would opt for less coverage. And I hope to be able to support that belief, and if I'm wrong it will be fairly obvious. We did some marketing research. We went out and telephoned people that we had telephoned once before, and we will have the results of that very soon, and I will make that available to you.

SENATOR ZANE: Deputy Commissioner, I think you differed on that. Didn't you express your thoughts that you

felt one of the problems is the people of this State do not want less coverage?

DEPUTY COMM. JACKSON: Well, I did say that, but I believe that that's probably true in one area, and that's the bodily injury area. There's a problem. People want to have their medical bills paid, but they also want the ability to sue people.

SENATOR ZANE: What you're saying is then, in the bodily injury area, they do not want less coverage?

DEPUTY COMM. JACKSON: I think that I would not describe it that way. I think that what they want is the ability to sue for what they believe is a wrong done to them.

SENATOR ZANE: And in a broad sense of terms, isn't it true that with verbal threshold, an insured would, in fact, have less coverage?

DEPUTY COMM. JACKSON: Well, their ability to sue would be restricted.

SENATOR ZANE: So, that would be contrary to what you personally happen to think the average motorist wants. Isn't that correct?

DEPUTY COMM. JACKSON: Yes.

SENATOR ZANE: Okay.

DEPUTY COMM. JACKSON: But I think government has a different responsibility.

SENATOR ZANE: I understand.

COMMISSIONER GLUCK: I happen to think that the average consumer would take that. Would take the restriction on their right to sue, would even take a restriction on the medical coverage bill -- less, of course.

SENATOR ZANE: Okay. Getting to less cost -- and, hopefully, this will be my last question -- there are projected savings by giving up that additional coverage that they have. And I would imagine, Commissioner, that you were probably involved in some of those projected savings. The highest

figure that I have heard batted about is, for that less coverage, an \$80 savings. Did that figure come from your Department?

COMMISSIONER GLUCK: No.

SENATOR ZANE: Do you happen to believe the savings would be \$80?

COMMISSIONER GLUCK: I think for the young man in Newark, that Senator Jackman was talking about, it's going to be more than it is for the young man in Saddlebrook. And I don't know what the average would be.

SENATOR ZANE: You have no idea what the savings would be?

COMMISSIONER GLUCK: On average?

SENATOR ZANE: Yes.

COMMISSIONER GLUCK: No, but I would say that that's as good a number. I think it would be about 50% of, even though the companies testified at an Assembly committee hearing that it would be about 35%, I think it would range between 45 and 50% off the bodily injury portion of the premium.

SENATOR ZANE: And what's that translate to in dollars?

DEPUTY COMM. JACKSON: On average?

COMMISSIONER GLUCK: What would that translate to? We're about 35% off now with the \$1700 option, for those who chose it. What did that translate to? (speaking to Mr. Jackson) Well, what would 45 or 50% translate to? (Commissioner and Mr. Jackson confer at this point)

SENATOR ZANE: Is someone-- Do you have a number?

MEMBER OR AUDIENCE: No.

SENATOR ZANE: I think you were-- Weren't you just suggesting that it's not \$90 to \$100?

COMMISSIONER GLUCK: No, I wasn't sure I heard him right. I was trying to hear what he said.

SENATOR ZANE: Oh, okay.

DEPUTY COMM. JACKSON: I believe the average rate on a total limits basis is in the neighborhood of \$200. So, if the average rate on a total limits basis is \$200, if the Commissioner's direct 45 to 50% would translate into \$90 to \$100.

SENATOR ZANE: I thought the Commissioner said 35%.

DEPUTY COMM. JACKSON: No, she said--

COMMISSIONER GLUCK: It is 35% now for the \$1700 threshold option.

DEPUTY COMM. JACKSON: But that's only--

COMMISSIONER GLUCK: I think if you went from that, okay, up to a verbal threshold, or from \$200 to the verbal threshold, it would be more like 45 to 50%.

DEPUTY COMM. JACKSON: But we're still talking about a different 35%. The 35% that you get off of the selection for the \$1700 tort threshold now, that 35% credit is only applied to the basic limit portion of the rate, which is the limits that are compelled by the purchase (word inaudible) If you go to a verbal threshold, the 35% that Allstate testified to, or the 45 or the 50% that the Commissioner is now referring to would come off total rate.

See, in other words, if the average rate is now about \$200, I believe the average basic limits rate is somewhere around \$100, so the 35% credit translates into about \$35. Where it was on the total limits basis, the 35% credit would translate into \$70, on a dollar basis.

SENATOR ZANE: You understand it far better than I do. Are you suggesting then, that the average savings would be around \$35?

DEPUTY COMM. JACKSON: No, I'm saying the average savings now, if you select the \$1700 tort threshold--

SENATOR ZANE: Yes.

DEPUTY COMM. JACKSON: --is around \$35.

SENATOR ZANE: But on the verbal threshold, what would it be?

DEPUTY COMM. JACKSON: Well, if it was 35%, and done on a total limits basis, it would be \$70.

SENATOR ZANE: So, \$70 is what you feel is probably the savings?

DEPUTY COMM. JACKSON: No, that's what Allstate feels is the savings.

COMMISSIONER GLUCK: And if they feel that's the savings, I'm telling you add another 10%. Okay? And if they say it's 20% if you reduce the medical package, it may be more, but it could also be less.

SENATOR ZANE: I have no further questions.

SENATOR DALTON: Commissioner, I want to thank you very much.

COMMISSIONER GLUCK: Thank you for having us.

SENATOR DALTON: Okay. And I know you -- all of you -- have helped us a great deal in trying to solve this problem.

COMMISSIONER GLUCK: We will get to you that information for you that was asked for. And I hope you'll invite us back for some of the other discussions. All right?

SENATOR DALTON: Okay. Thank you again.

(HEARING CONCLUDED)

